

**CORCORAN CITY COUNCIL,
JOINT POWERS FINANCE AUTHORITY,
SUCCESSOR AGENCY FOR CORCORAN RDA,
& HOUSING AUTHORITY
AGENDA**

**City Council Chambers
1015 Chittenden Avenue
Corcoran, CA 93212**

**Tuesday, November 14, 2017
5:30 P.M.**

Public Inspection: A detailed City Council packet is available for review at the City Clerk's Office, located at Corcoran City Hall, 832 Whitley Avenue.

Notice of ADA Compliance: In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerks Office at (559) 992-2151.

Public Comment: Members of the audience may address the Council on non-agenda items; However, in accordance with government code section 54954.2, the Council may not (except in very specific instances) take action on an item not appearing on the posted agenda.

This is the time for members of the public to comment on any matter within the jurisdiction of the Corcoran City Council. This is also the public's opportunity to request that a Consent Calendar item be removed from that section and made a regular agenda item. The councilmembers ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome.

After receiving recognition from the chair, speakers shall walk to the rostrum, state their name and address and proceed with comments. Each speaker will be limited to five (5) minutes.

Consent Calendar: All items listed under the consent calendar are considered to be routine and will be enacted by one motion. If anyone desires discussion of any item on the consent calendar, the item can be removed at the request of any member of the City Council and made a part of the regular agenda.

ROLL CALL

Mayor:	Raymond Lerma
Vice Mayor:	Sidonio "Sid" Palmerin
Council Member:	Patricia Nolen
Council Member:	Jerry Robertson
Council Member:	Jeanette Zamora-Bragg

INVOCATION

FLAG SALUTE

1. PUBLIC DISCUSSION

2. **CONSENT CALENDAR (VV)**

- 2-A. Approval of minutes of the meeting of the City Council on October 24, 2017 and the Special Meeting on October 25, 2017.
- 2-B. Authorization to read ordinances and resolutions by title only.
- 2-C. Approve and authorize the City Manager to sign the agreement with Gary V. Bufkin Computer Consulting and Associates to upgrade the existing permits program and to create a transit program.
- 2-D. Consider approval of Resolution No 2908 approving participation in California Office of Emergency Services (Cal OES) for Fiscal Year 2016-2017.
- 2-E. Approve Resolution 2890 and 2892 to a signed agreement with The County of Kings to purchase Tax default properties 418 Benrus Avenue and 1630 Brewer Avenue.

3. **APPROPRIATIONS (VV)**

Approval of Warrant Register dated November 14, 2017. *(Ruiz-Nuñez) (VV)*

4. **PRESENTATIONS** – None

5. **PUBLIC HEARINGS**

5-A. Public hearing to introduce and approve Ordinance 636 regulating personal cannabis use and cultivation. *(Tromborg)*

- A. Open public hearing
- B. Staff report and presentation
- C. Accept written testimony
- D. Accept oral testimony
- E. Close hearing
- F. Council Discussion
- G. By motion approve/approve with changes/deny proposed ordinance.

5-B. Public hearing to introduce and approve Ordinance 637 banning all commercial cannabis activities within the city limits. *(Meik)*

- A. Open public hearing
- B. Staff report and presentation
- C. Accept written testimony
- D. Accept oral testimony
- E. Close hearing
- F. Council Discussion
- G. By motion approve/approve with changes/deny proposed ordinance.

5-C. Public hearing to introduce and approve Ordinance 638 approving and regulating commercial cannabis activities and establishing land use policies. *(Meik)*

- A. Open public hearing
- B. Staff report and presentation
- C. Accept written testimony
- D. Accept oral testimony
- E. Close hearing

- F. Council Discussion
- G. By motion approve/approve with changes/deny proposed ordinance.

5-D. Public hearing to introduce and approve Ordinance 635 outlining revisions to Chapter 4, Public Health and Safety of the Corcoran Municipal Code regarding Sub-Standard Buildings and time regulations on boarded properties. *(Tromborg)*

- A. Open public hearing
- B. Staff report and presentation
- C. Accept written testimony
- D. Accept oral testimony
- E. Close hearing
- F. Council Discussion
- G. By motion approve/approve with changes/deny proposed ordinance.

6. **WRITTEN COMMUNICATIONS** – None

7. **STAFF REPORTS** – None

8. **MATTERS FOR MAYOR AND COUNCIL**

- 8-A. Information Items
- 8-B. Staff Referral Items - *Items of Interest (Non-action items the Council may wish to discuss)*
- 8-C. Committee Reports

9. **CLOSED SESSION**

9-A. PENDING LITIGATION (Government Code § 54956.9). It is the intention of this governing body to meet in closed-session concerning:
Conference with legal counsel – ANTICIPATED LITIGATION (Government Code § 54956.9(d)).

Initiation of litigation (Government Code § 54956.9(d)(4)).

Number of potential cases is: 1 .

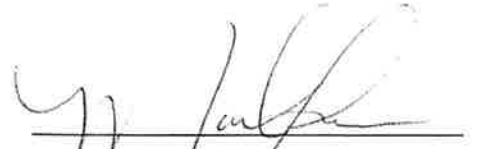
9-B. PERSONNEL (Government Code § 54957(b)). It is the intention of this governing body to meet in closed-session to:

- Consider the discipline, dismissal or release of a public employee.
- Hear complaints or charges against a public employee.
- Consider public employee appointment/employment for the position of:

- Consider public employee performance evaluation for the position of:

10. **ADJOURNMENT**

I certify that I caused this Agenda of the Corcoran City Council meeting to be posted at the City Council Chambers, 1015 Chittenden Avenue on November 9, 2017.



Marlene Lopez, City Clerk

**MINUTES
CORCORAN CITY COUNCIL,
JOINT POWERS FINANCE AUTHORITY,
SUCCESSOR AGENCY FOR CORCORAN RDA
& HOUSING AUTHORITY
REGULAR MEETING
Tuesday, October 24, 2017**

The regular session of the Corcoran City Council was called to order by Robertson, in the City Council Chambers, 1015 Chittenden Avenue, Corcoran, CA at 5:30 P.M.

ROLL CALL

Councilmembers present: Patricia Nolen, Sidonio Palmerin and Jerry Robertson and Jeanette Zamora-Bragg

Councilmembers absent: Raymond Lerma

Staff present: Jennie Barkinskaya, Joseph Faulkner, Rick Joyner, Marlene Lopez, Kindon Meik, Reuben Shortnacy, Soledad Ruiz-Nuñez and Kevin Tromborg

Press present: None.

INVOCATION

Invocation was presented by Nolen.

FLAG SALUTE

The flag salute was led by Zamora-Bragg.

1. PUBLIC DISCUSSION

Public comment was made during Item 7-D.

2. CONSENT CALENDAR

Following Council discussion a **motion** was made by Palmerin and seconded by Zamora-Bragg to approve Consent Calendar. Motion carried by the following vote:

AYES: Nolen, Palmerin, Robertson and Zamora-Bragg
NOES:
ABSENT:
ABSTAIN: Lerma

3. APPROPRIATIONS

Following Council discussion a **motion** was made by Zamora-Bragg and seconded by Nolen to approve the Warrant Register dated October 24, 2017. Motion carried by the following vote:

AYES: Nolen, Palmerin, Robertson and Zamora-Bragg
NOES:
ABSENT:
ABSTAIN:

4. PRESENTATIONS – None

5. PUBLIC HEARINGS

5-A. Public hearing to discuss possible the application for funding under the current State Community Development Block Grant (CDBG) Program and to solicit citizen input on possible competitive and supplemental activities to be included in the application. Public hearing opened at 5:48 p.m. there being no oral or written communication the hearing was closed at 5:49 p.m. Staff informed the Council that a second public hearing would be held prior to submitting the CDBG application to the State.

6. WRITTEN COMUNICATIONS – None

7. STAFF REPORTS

7-A Following Council discussion a **motion** was made by Nolen and seconded by Zamora-Bragg to approve Resolution No. 2907 for Conditional Use Permit 17-03 to serve alcohol/liquor on proposed property located at 924 Whitley Avenue, as recommended by the Planning Commission Motion carried by the following vote:

AYES: Nolen, Palmerin, Robertson and Zamora-Bragg
NOES:
ABSENT: Lerma

7-B. Following Council discussion a **motion** was made by Palmerin and seconded by Zamora-Bragg to approve Resolution No. 2906 for Tentative Subdivision Map submitted by Jose Santoyo for property generally located West of Sierra Estates Phase one (1) and North of Orange Avenue. Motion carried by the following vote:

AYES: Nolen, Palmerin, Robertson and Zamora-Bragg
NOES:
ABSENT: Lerma

7-C. The Council reviewed the first quarter revenue and expenses of the 2017-2018 fiscal year.

7-D. Staff presented two draft ordinances relating to personal cannabis cultivation/use and commercial cannabis activities. Council reviewed the proposed regulations and provided input. Council also requested clarification on various aspects of the ordinances. Final drafts of the ordinances will be presented to the Council for consideration at the November 14 council meeting.

Steve Mendez, 1017 Norboe Avenue, expressed his concern regarding the Council's decision to tightly regulate the personal cultivation of cannabis.

8. **MATTERS FOR MAYOR AND COUNCIL**

- 8-A. Council received information items.
- 8-B. Staff received referral items.
- 8-C. Committee reports.

CLOSED SESSION

At 7:11 p.m. Council recessed to closed session pursuant to:

9. **CLOSED SESSION**

9-A. **PENDING LITIGATION** (Government Code § 54956.9). It is the intention of this governing body to meet in closed-session concerning:

Conference with legal counsel – **EXISTING LITIGATION** (Government Code § 54956.9(d)(1)).

Parties, case/claim no. _____

Case name unspecified because of jeopardy to settlement negotiations or service of process.

Council received an update on the pending litigation. No action taken. The regular meeting was reconvened at 7:21 p.m.

ADJOURNMENT

7:23 P.M.

Sidonio Palmerin, Vice-Mayor

Marlene Lopez, City Clerk

APPROVED DATE: _____

**MINUTES
CORCORAN CITY COUNCIL
SPECIAL MEETING-COMMUNITY WORKSHOP
TECHNOLOGY LEARNING CENTER
1101 DAIRY AVENUE
October 25, 2017, 6:00 P.M.**

The special session of the Corcoran City Council was called to order by Mayor Lerma, in the Technology Learning Center, 1101 Dairy Avenue, Corcoran, CA at 6:00 P.M.

ROLL CALL

Councilmembers present: Raymond Lerma, Patricia Nolen, Sidonio Palmerin, Jerry Robertson and Jeannette Zamora-Bragg

Councilmembers absent: None.

2. STUDY SESSION

2-A. Kindon Meik, City Manager, provided an overview on Proposition 64 and the City of Corcoran draft regulations on personal cannabis cultivation and use.

2-B. Matt Eaton, with HdL Companies, presented information on commercial cannabis activates. Mr. Eaton discussed the various types of commercial cannabis activities and highlighted policy options available to the City.

Council reaffirmed their position on tightly regulating the personal cultivation of cannabis for personal use and allowed for public comment on commercial cannabis activities in the City of Corcoran.

Jason Mayhill, Stephen C. Anyaka, Phd., Lisa Denton, Jimmy George, Ralph Cruz, Marcia Rippey, Lloyd Rippey, Ruben Quintanilla, Victoria Bonilla, Linda Flores, John Martin, Joe Barrera, Sandra Barrera, Samantha Ortiz, Alice Meik, Gerardo Cruz, Cathy Pappilli, residents of Corcoran, expressed opposition to allowing commercial cannabis activities in the City of Corcoran.

Philip Denton presented Council a petition with 128 signatures in opposition of commercial cultivation and other commercial cannabis activities within the City of Corcoran.

Richard Cruz and Frank Carrillo, both whom are not residents of the City of Corcoran, expressed their opposition to allowing commercial cannabis activities in the City of Corcoran.

Diane Alejandro, representing the cannabis industry expressed her support for commercial cultivation of marijuana.

ADJOURNMENT

8:05 P.M.

Raymond Lerma, Mayor

Marlene Lopez, City Clerk

APPROVED DATE: _____

City of

CORCORAN

A MUNICIPAL CORPORATION

FOUNDED 1914

CONSENT CALANDER
ITEM #: 2-C

MEMORANDUM

TO: Corcoran City Council

FROM: Kevin J. Tromborg: Community Development Director
Planner, Building Official, Transit Director

SUBJECT: Agreement for computer consulting services, Corcoran permit and transit system.

DATE: October 26, 2017

MEETING DATE: November 14, 2017

RECOMMENDATION: (Voice Vote) Approve and authorize the City Manager to sign the agreement with Gary V. Bufkin Computer Consulting and Associates to upgrade the existing permits program and to create a transit program.

DISCUSSION: Gary Bufkin Computer consulting and Associates proposes an agreement with the City of Corcoran to upgrade the current permits program used by Community Development Department and to create a new program for the Transit Division of Community Development. The program for transit division will monitor all aspects of the City transit system to enable a more efficient operational strategy to better serve the community. The agreement was viewed by the City Attorney.

BUDGET IMPACT: Will be paid with funds from a Public Transportation, Modernization, improvements and service enhancements account (PTMISEA)

**AGREEMENT FOR COMPUTER CONSULTING SERVICES
(City of Corcoran Permits System and Transit Program)**

THIS AGREEMENT, made this ____ day of _____, 20__ by and between the CITY OF _____, a municipal corporation, hereinafter referred to as "City," and Gary V. Bufkin, hereinafter referred to as "Consultant";

WITNESSETH:

WHEREAS, the City desires to revise the City's (Permits Program and create a Transit program), hereinafter referred to as the "Project"; and

WHEREAS, City requires the services of a qualified computer consultant to prepare the required programming services for the Project; and

WHEREAS, Consultant is a qualified computer consultant, having the necessary experience and qualifications to provide the programming services;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, it is agreed by and between the City and the Consultant as follows:

ARTICLE I: GENERAL

The City hereby retains Consultant to perform the programming services herein set forth at the compensation and upon the terms and conditions herein expressed, and Consultant hereby agrees to perform such services for said compensation, and upon said terms and conditions City hereby authorizes Consultant to commence work immediately upon issuance of the Notice to Proceed.

ARTICLE II OBLIGATIONS, DUTIES AND RESPONSIBILITIES OF CONSULTANT

It shall be the duty, obligation and responsibility of the Consultant, in a skilled and professional manner, to perform, furnish, and supply to the City the following programming work and services as applicable and as more specifically provided in the Scope of Work as set forth in EXHIBIT "A" attached.

A. Design Phase

1. Conduct interviews with users and review existing system as necessary to develop specifications.
2. Design database.

3. Submit design documents and specifications to City to be signed off prior to commencement of next phase.

B. Development Phase

1. Actual coding and initial testing of application.
2. Review and modify designs and specifications as necessary.
3. Submit design documents and specifications to City to be signed off prior to commencement of next phase.

C. Implementation and Testing Phase

1. Implement application parallel with live data and test results.
2. Review and modify designs and specifications as necessary.
3. Submit design documents and specifications to City to be signed off prior to commencement of next phase.

D. Modifications Phase

1. Add features not discussed or included in the original design.
2. Review and modify designs and specifications as necessary.
3. Submit design documents and specifications to City to be signed off. Documents shall, at a minimum, include two bound user manuals, two bound program manuals, and one complete flow chart indicating how the program functions and relates to other City software systems.

E. Ownership, Delivery, and Reproduction of Drawings and Specifications

Contractor grants that all notes, plans, designs, specifications, computer programs, and other documents prepared or provided by the Consultant under this contract are the property of the City upon termination or completion of the Agreement, and the Consultant shall not permit the reproduction or use thereof by any other person except as provided herein, provided that Consultant shall be authorized to retain a copy to utilize for providing follow-up consulting services to the City for this Project.

F. Contingencies and Change Orders

There will be additional charges in the event of additional requirements or a change in specifications after inception of the project. These will be billed at the

rate of \$125.00 per hour. The number of hours and work to be done will be approved in advance by the City.

ARTICLE III: CONSULTANT'S PERFORMANCE AND COMPLETION SCHEDULE

The following project schedule shall commence on the day this agreement is executed:

1. Complete and submit project design schedule within ten (10) calendar days after execution of this agreement.
2. Complete implementation and testing phase within ninety (90) calendar days from the date of the notice to proceed.

A calendar day shall include all calendar days except days in which "complete" submittals are in the City's possession for review purposes. Consultant warrants that any software furnished hereunder, or any software used by it to perform the services to be provided under this contract, will be properly licensed and will continue processing accurately and that the use of said software will not cause incorrect scheduling or reporting or other improper operations or results.

ARTICLE VI: CONSULTANT'S FEES AND COMPENSATION; AMOUNT; HOW AND WHEN PAYABLE

A. Fees - For all the programming work and services, including supplies and equipment, pertaining to the Project and required to be furnished by the Consultant to the City, City agrees to pay to Consultant and Consultant agrees to accept and receive as payment in full the following fees and compensation which shall be known as the "Fee" to be paid as hereinafter set forth.

Design Phase:	\$10,000
Development Phase:	\$10,000
Implementation and Testing Phase:	\$10,000
Modifications Phase:	\$10,000
TOTAL:	\$40,000

2. Fees for Additional Services - for all the items of work and services and for furnishing of supplies, as set forth in Article II-F, pertaining to the Project, City agrees to pay to Consultant, and Consultant agrees to receive and accept as payment in full, compensation on an hourly rate basis, at \$125.00 per hour.

3. Billings - Consultant shall furnish City with an itemized billing for all services rendered and supplies furnished under Articles II-A, II-B, II-C, and II-D hereof pertaining to services to be paid on an hourly rate basis at the completion of each phase. Such progress payments shall be due and payable by City to Consultant within thirty (30) days after presentation of invoices to City.

Billings for services rendered under Article II-F shall have prior approval and be submitted separate from billings for services rendered under Articles II-A, II-B, II-C, II-D, and II-E. Included in or submitted with the Article II-F billing shall be a comprehensive summary of the work being invoiced and documentation of City authorization of the work.

ARTICLE VII: CHANGE IN SCOPE OF PROJECT

In the event it becomes necessary or the City desires to increase or decrease the scope of Project, the compensation for the change in work will be as set forth in Article II-F.

ARTICLE VIII: CONSULTANT'S AGREEMENT TO HOLD HARMLESS AND INSURANCE REQUIREMENTS

- A. In the furnishing of the services provided for herein, the Consultant is acting as an independent contractor and not as an agent or employee of the City. Consultant agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of CITY. Subject to any performance criteria contained in this contract, Consultant shall be solely responsible for determining the means and methods of performing the specified services and CITY shall have no right to control or exercise any supervision over Consultant as to how the services will be performed. As Consultant is not CITY's employee, Consultant is responsible for paying all required state and federal taxes. In particular, CITY will not:
 - i. Withhold FICA (Social Security) from Consultant's payments.
 - ii. Make state or federal unemployment insurance contributions on Consultant's behalf.
 - iii. Withhold state or federal income tax from payments to Consultant.
 - iv. Make disability insurance contributions on behalf of Consultant.
 - v. Obtain unemployment compensation insurance on behalf of Consultant.

- vi. Make any contribution to any retirement plan for Consultant or Consultant's employees, including without limitation contributions to CalPERS.
 - vii. Provide any other employment benefits to Consultant or Consultant's employees, including without limitation medical, dental, vision or other similar health insurance.
 - viii. Notwithstanding this Independent contractor relationship, CITY shall have the right to monitor and evaluate the performance of Consultant to assure compliance with this contract.
- B. The Consultant agrees to hold harmless and indemnify City and its officers from and against any and all claims, loss, liability, damage, and expense of any nature whatsoever to the extent arising from the Consultant's negligence, errors, or omissions in the performance of this contract.
- C. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be included in and not increase the Consultant's fee as specified elsewhere within this contract.
1. **MINIMUM SCOPE AND LIMITS OF INSURANCE**
- a. Coverage shall be at least as broad as:
 - (1) **General Liability Insurance:** Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001) not less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.
 - (2) **Automobile Liability Insurance:** Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 "any auto" and endorsement CA 0025 not

less than \$1,000,000 combined single limit per accident for bodily injury and property damage.

- (3) Professional Errors and Omissions Insurance of \$1,000,000 per claim and in the aggregate (unless expressly waived by City's Risk Manager), insuring against professional errors and omissions which may occur in performing or failing to perform the services to be rendered in connection with this contract.

2. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

a. General Liability and Automobile Liability Coverages.

- (1) The City, its officers, officials, and employees are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant; premises owned, occupied, or used by the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials or employees.
- (2) The Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials and employees. Any insurance or self-insurance maintained by the City, its officers, officials or employees shall be excess of the Consultant's insurance and shall not contribute with it.

(3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officer, officials or employees.

(4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

b. **Workers' Compensation and Employer's Liability Coverage.**

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Consultant for the City.

c. **All Coverages.**

Coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4. **ACCEPTABILITY OF INSURERS**

a. Insurance is to be placed with insurers with a Best's rating of no less than A: VII. However the minimum Best's rating required of the professional liability insurer is A: IX. All insurers must be admitted in California.

b. Any changes in insurance required herein must be approved in writing by the City Attorney's office.

D. The Consultant shall provide certification of said insurance prior to issuance of a "Notice to Proceed." Such certificate must include evidence that the City and its officers, employees and agents are additional insureds.

ARTICLE IX: ATTORNEY'S FEES

In the event that any action is brought to enforce the terms of this contract, the party found by the court to be in default agrees to pay reasonable attorney's fees to the successful party in an amount to be fixed by the Court.

ARTICLE X: TERMINATION

(a) This Agreement may be terminated by mutual agreement or it may be terminated by the City upon giving fifteen (15) days' written notice of intent to

terminate the contract. If, in the opinion of the Consultant, any requirement of the City regarding any consultation provided for under terms of this contract is unsound from an consultation standpoint, Consultant may terminate this contract upon fifteen (15) days' written notice to the City.

Notice of termination, and any other notice under this contract, shall be mailed to the City:

City of Corcoran
Community Development Department
832 Whitley Avenue
Corcoran Ca 93212

To the Consultant:

Gary V. Bufkin
Computer Consulting
1374 N. Linden Ave
Fresno, CA 93728

In the event of such termination, Consultant shall be paid for work completed to date of termination, and any such work completed shall become the property of the City and the amount of final fee due and payable by City to Consultant will be subject to negotiation and shall be based primarily on the estimated percentage of work completed for the various phases indicated in Article VI.A.1 of this agreement. CITY will not pay lost anticipated profits or other economic loss. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this contract, and is conditioned upon receipt from Consultant of any and all plans, specifications and estimates, and other documents prepared by Consultant in accordance with this contract. No sanctions will be imposed.

With Cause: This Agreement may be terminated by either party should the other party:

- (1) be adjudged a bankrupt, or
- (2) become insolvent or have a receiver appointed, or
- (3) make a general assignment for the benefit of creditors, or
- (4) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this contract, or
- (5) materially breach this contract, or
- (6) material misrepresentation, either by Consultant or anyone acting on Consultant's behalf, as to any matter related in any way to CITY's retention of Consultant, or

(7) other misconduct or circumstances which, in the sole discretion of the CITY, either impair the ability of Consultant to competently provide the services under this contract, or expose the CITY to an unreasonable risk of liability.

CITY will pay to the Consultant the compensation earned for work performed and not previously paid for to the effective date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this contract, and is conditioned upon receipt from Consultant of any and all plans, specifications and estimates, and other documents prepared by Consultant by the date of termination in accordance with this contract. CITY will not pay lost anticipated profits or other economic loss, nor will the CITY pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If this contract is terminated and the expense of finishing the Consultant's scope of work exceeds the unpaid balance of the agreement, the Consultant must pay the difference to CITY. Sanctions taken will be possible rejection of future proposals based on specific causes of non performance.

(c) **Effects of Termination:** Expiration or termination of this contract shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where Consultant's services have been terminated by the CITY, said termination will not affect any rights of the CITY to recover damages against the Consultant.

(d) **Suspension of Performance:** Independent of any right to terminate this contract, the authorized representative of CITY for which Consultant's services are to be performed, may immediately suspend performance by Consultant, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by Consultant to comply with the provisions of this contract, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

ARTICLE XI: MISCELLANEOUS GENERAL TERMS

11.1 **FORM DE-542:** Consultant acknowledges that this contract is subject to filing obligations pursuant to Unemployment Insurance Code section 1088.8. Accordingly, CITY has an obligation to file a report with the Employment Development Department,

which report will include the Consultant's full name, social security number, address, the date this contract was executed, the total amount of the contract, the contract's expiration date or whether it is ongoing. Consultant agrees to cooperate with CITY to make such information available and to complete Form DE-542. Failure to provide the required information may, at CITY's option, prevent approval of this contract, or be grounds for termination by CITY.

11.2 ASSIGNMENT/SUBCONTRACTING: Unless otherwise provided in this contract, CITY is relying on the personal skill, expertise, training and experience of Consultant and Consultant's employees and no part of this contract may be assigned or subcontracted by Consultant without the prior written consent of CITY.

11.3 DISPUTE RESOLUTION: If a dispute arises out of or relating to this contract, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within thirty (30) days, either party may pursue litigation to resolve the dispute.

11.4 FURTHER ASSURANCES: Each party will execute any additional documents and perform any further acts which may be reasonably required to effect the purposes of this contract.

11.5 CONSTRUCTION: This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.

11.6 HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

11.7 NO THIRD-PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this contract do not intend to provide any other person or entity other than a signatory hereto with any enforceable legal or equitable benefit, right or remedy.

11.8 WAIVERS: The failure of either party to insist on strict compliance with any provision of this contract shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

11.9 EXHIBITS AND RECITALS: The recitals and the exhibits to this contract are fully incorporated into and are integral parts of this contract.

11.10 CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY: This Agreement is subject to all applicable laws and regulations. If any provision of this contract is found by any court or other legal authority, or is agreed by the parties to be, in conflict with any code or regulation governing its subject matter, only the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the party whose material benefit(s) is adversely affected. In all other cases the remainder of the Agreement shall continue in full force and effect.

11.12 ENTIRE AGREEMENT REPRESENTED: This Agreement represents the entire agreement between the parties hereto as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this contract may be modified without the written consent of both parties.

11.13 ASSURANCES OF NON-DISCRIMINATION: Consultant shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

11.14 COMPLIANCE WITH LAW: Consultant shall provide services in accordance with all applicable federal, state and local laws, regulations and directives. With respect to Consultant's employees, Consultant shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance,

Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

11.15 GOVERNING LAW: This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in the City of Corcoran, California.

11.16 CONFLICT OF INTEREST:

- (a) Consultant agrees to, at all times during the performance of this contract, comply with the law of the State of California regarding conflicts of interests and appearance of conflicts of interests, including, but not limited to Government Code section 1090 et seq., and the Political Reform Act, Government Code section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including Consultant for this purpose, from making any decision on behalf of CITY in which such officer, employee or consultant/contractor has a direct or indirect financial interest. A violation can occur if the public officer, employee or consultant/contractor participates in or influences any CITY decision which has the potential to confer any pecuniary benefit on Consultant or any business firm in which Consultant has an interest, with certain narrow exceptions.
- (b) Consultant agrees that if any facts come to its attention which raise any questions as to the applicability of conflicts of interests laws, it will immediately inform the CITY designated representative and provide all information needed for resolution of this question.

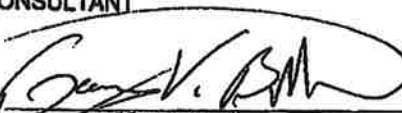
IN WITNESS WHEREOF, the parties hereto have executed this contract at _____, California, the day and year first above written.

CITY OF CORCORAN

By _____
City Manager

By 
"Community Development Director"

CONSULTANT

By 
"Consultant"

City of

CORCORAN

A MUNICIPAL CORPORATION

FOUNDED 1914

CONSENT CALANDER
ITEM #: 2-D

MEMORANDUM

TO: Corcoran City Council

FROM: Kevin J. Tromborg, Community Development Director

DATE: November 3, 2017

MEETING DATE: November 14, 2017

SUBJECT: Consider approval of Resolution No 2908 approving participation in California Office of Emergency Services (Cal OES) for Fiscal Year 2016-2017.

RECOMMENDATION: (Voice Vote)

Approve Resolution No 2908: and that the Council authorizes the City Manager, Community Development Director, Finance Director, Public Works Director, and Transit Coordinator to sign on the behalf of the Authorized Agent Signature Authority, Grant Assurance, and requirements applicable to application.

DISCUSSION:

The City of Corcoran uses CalOES funding for its Transit security through California Transit Security Grant Program (CTSGBP). California Office of Emergency Services (Cal OES) CTSGBP grant funds for fiscal years 2016-2017, for Transit Facility Upgrades with the awarded grant amount of \$95,448. The CalOES project for the Transit Facility Upgrades has been awarded to the City's Transit Division therefore the certification documents are attached.

BUDGET IMPACT:

These certifications are required in order to obtain the CalOES funds for the City of Corcoran Transit Division.

ATTACHMENTS:

Authorized Agent Form
Assurances
Financial Management - Facesheet

City Offices:

832 Whitley Avenue * Corcoran, CA 93212 * Phone 559.992.2151 * www.cityofcoran.com

**Transit System Safety, Security and
Disaster Response Account Program**

Name of Applicant: City of Corcoran

Grant Cycle: FY 16-17 Grant Number: 6961-0002

Address: 832 Whitley Avenue

City: Corcoran State: CA Zip Code: 93212

Telephone: (559) 992-2151 ext. 232 E-mail: kevin.tromborg@cityofcorcoran.com

As the duly authorized representative of the Applicant, I certify that the Applicant named above:

1. Has the legal authority to apply for CTSGP-CTAF funds, and has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the grant provided by the State of California and administered by the California Governor's Office of Emergency Services (Cal OES).
2. Assures that the grant funds will only be used for allowable, fair, and reasonable costs.
3. Recognizes the importance of accountability for the use of CTSGP-CTAF funds, and will give the State of California generally, and Cal OES in particular, through any representative authorized by Cal OES, access to and the right to examine all paper and electronic records, books, and other documents related to the award.
4. Will establish and maintain a proper accounting system for CTSGP-CTAF funds, in accordance with applicable laws, generally accepted accounting standards, and Cal OES directives.
5. Will provide reports and documentation related to this grant to Cal OES, in accordance with applicable laws and Cal OES grant guidance, including but not limited to: progress reports, closeout documentation, authorized agent forms, governing body resolutions, and other information as may be required by Cal OES.
6. Will initiate and complete approved project work within applicable timeframes, after Cal OES approves the project.
7. Will comply with Standardized Emergency Management System requirements as stated in the California Emergency Services Act (California Gov Code Section 8607 *et seq.*) and Title 19 of the California Code of Regulations, Sections 2445, 2446, 2447, and 2448.
8. Will promptly return to the State of California all funds received which exceed the actual expenditures approved by Cal OES.

9. If the approved amount of the grant is reduced, will promptly return to the State of California funds equal to the amount of this reduction.
10. Will keep CTSGP-CTAF funds in a separate interest bearing account. Any interest that is accrued must be accounted for and used for the project approved by Cal OES.
11. Agrees that equipment acquired or obtained with CTSGP-CTAF funds:
 - a. Will be made available under the California Disaster and Civil Defense Master Mutual Aid Agreement in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the applicant; and
 - b. Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan, the California Fire Services and Rescue Mutual Aid Plan, and the State Emergency Plan.
12. Will comply with all applicable federal, state, and local laws, executive orders, regulations, program and administrative requirements, policies, and any other requirements governing this program.
13. Understands that failure to comply with applicable state and federal laws governing general obligation, tax-exempt, and Build America bonds may result in penalties administered by the Internal Revenue Service or a loss of tax-exempt bond status.
14. Will retain records for thirty-five years after notification of grant closeout by the State, and ensure that any subcontractors, subgrantees, or entities to which project responsibilities are transferred, retain records in accordance with state, federal, and local record retention requirements.
15. Grantees and subgrantees will use their own procurement and contracting procedures, which comply with applicable state and local laws and regulations, or with the California Public Contract Code, whichever is more restrictive.
16. Will maintain and abide by procedures to minimize the time between the award of funds and the disbursement of funds.
17. Will abide by Cal OES CTSGP-CTAF guidelines.
18. Will submit to Cal OES a CTSGP-CTAF Program Investment Justification, listing all projects to be funded for the life of the bond, including the amount for each project and the year in which the funds will be requested.

19. Will submit to Cal OES a signed Authorized Agent form designating the representative who can submit documents on behalf of the Applicant and an original, certified copy, or e-signed and verified copy, subject to approval by Cal OES, of the board resolution appointing the Authorized Agent. Should a new agent be authorized by the Applicant's governing board, the Applicant will submit to Cal OES a new, signed Authorized Agent form designating the representative who can submit documents on behalf of the Applicant, and an original, certified copy, or e-signed and verified copy, subject to approval by Cal OES, of the board resolution appointing that Authorized Agent.
20. Will ensure that CTSGP-CTAF funds will be used only for the approved capital project and that this approved project will be completed within applicable timeframes and remain in operation for its useful life, in accordance with state and federal laws, including, but not limited to applicable laws governing the CTSGP-CTAF Program, state general obligation bond laws, and federal laws governing tax-exempt and Build America bonds.
21. Will promptly notify Cal OES of pending litigation, bankruptcy proceedings, and negative audit findings related to the project.
22. Will maintain continuing control over the use of project equipment and facilities, and will maintain project equipment and facilities for the useful life of the project, in accordance with state and federal laws, including, but not limited to the laws governing the CTSGP-CTAF Program, state general obligation bond laws, and federal tax-exempt and Build America bond laws.
23. The project sponsor must notify Cal OES of any changes to the approved project and obtain Cal OES approval to these changes prior to their implementation.
24. Funds must be encumbered and liquidated within the time allowed in the applicable budget act and in accordance with grant guidelines.
25. Understands that all of Applicant's contractors and subcontractors shall comply with all applicable federal, state and local laws. Applicant assures that its contractors and subcontractors will be obligated to agree to comply with all applicable federal, state, and local laws.
26. That any project cost for which the Applicant received funds that is determined by subsequent audit to be unallowable under applicable federal, state, or local laws, are subject to repayment by the Applicant to the State of California. Should the Applicant fail to reimburse the moneys due to the State within thirty (30) days of demand, or within another time period mutually agreed to in writing between Cal OES and the Applicant, the State is authorized to withhold future payments due to the Applicant from the State.
27. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have familial, business, or other ties.

28. Will comply with all California and federal statutes relating to nondiscrimination, including, but not limited to:
- a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended, which prohibits discrimination on the basis of race, color or national origin; and
 - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; and
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794) which prohibits discrimination on the basis of disabilities; and
 - d. The Americans with Disabilities Act of 1990 (42 U.S.C. Chapter 126), as amended, which prohibits discrimination on the basis of disabilities; and
 - e. The Unruh Civil Rights Act (California Civil Code §54, *et seq.*) and California Government Code §11135, which prohibit discrimination on the basis of disabilities; and
 - f. The Age Discrimination Act of 1975, as amended (42 U.S.C. §6101-6107) which prohibits discrimination on the basis of age; and
 - g. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255) as amended, relating to nondiscrimination on the basis of drug abuse; and
 - h. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; and
 - i. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §290dd-2), as amended, relating to confidentiality of alcohol and drug abuse patient records; and
 - j. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601, *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing; and
 - k. Any other nondiscrimination provisions in the specific statute(s) under which application for assistance is being made; and
 - l. The requirements of any other nondiscrimination statute(s) that may apply to the application or to the Applicant.
29. Will comply, if applicable, with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
30. Will complete required environmental documentation before requesting an allocation of CTSGP-CTAF funds. The Applicant certifies that projects approved for CTSGP-CTAF funds will comply with all applicable federal and state environmental laws. These may include, but are not limited to:
- a. California Environmental Quality Act. California Public Resources Code Sections 21080-21098. California Code of Regulations, Title 14, Chapter 3 Sections 15000-15007; and

- b. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO)11514; and
- c. Notification of violating facilities pursuant to EO 11738; and
- d. Protection of wetlands pursuant to EO 11990; and
- e. Evaluation of flood hazards in floodplains in accordance with EO 11988; and
- f. Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §1451 *et seq.*); and
- g. Conformity of federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §7401, *et seq.*); and
- h. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and
- i. Protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205); and
- j. Wild and Scenic Rivers Act of 1968 (16 U.S.C. §1271, *et. seq.*) related to protecting components or potential components of the national wild and scenic rivers system.
- k. Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1, *et seq.*).

31. The Applicant and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department or agency; and
- b. Have not within a three-year period preceding this application 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; and
- 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 enumerated in paragraph (1)(b) of this certification; and (d) have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default; and where the

applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

32. Will comply with the audit requirements set forth in the Office of Management and Budget (OMB) Circular A-133, "Audit of States, Local Governments and Non-Profit Organizations."
33. Agrees that the noncompliance with these assurances, Cal OES CTSGP-CTAF Program guidelines, and applicable laws, may be taken into consideration by Cal OES when considering future allocation applications from Applicant.
34. Understands that failure to comply with any of the above assurances may result in suspension, reduction, or termination of grant funds.

As the duly authorized representative of the Applicant, I hereby certify that the Applicant will comply with the above certifications.

The undersigned represents that he/she is authorized by the above named Applicant to enter into this agreement for and on behalf of the said Applicant.

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: Kevin Tromborg

Title: Community Development Director Date: _____

Authorized Agent Signature Authority

**FY 2016-17 Transit System Safety, Security and
Disaster Response Account Program**

AS THE City Manager

OF THE City of Corcoran

I hereby authorize the following individual(s) to execute for and on behalf of the named state organization, any actions necessary for the purpose of obtaining state financial assistance provided by the California Emergency Management Agency.

Kindon Meik, City Manager, OR
(Name or Title of Authorized Agent)

Soledad Ruiz-Nunez, Finance Director, OR
(Name or Title of Authorized Agent)

Kevin Tromborg, Community Development Director, OR
(Name or Title of Authorized Agent)

Valerie Bega, Transit Coordinator
(Name or Title of Authorized Agent)

Signed and approved this 24th day of October, 2017

(Signature)

RESOLUTION NO. 2908

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORCORAN
AUTHORIZING FUNDING UNDER CALIFORNIA TRANSIT SECURITY GRANT
PROGRAM CAL OES.**

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 authorizes the issuance of general obligation bonds for specified purposes, including, but not limited to, funding made available for capital projects that provide increased protection against security and safety threats, and for capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems; and

WHEREAS, the California Governor's Office of Emergency Services (Cal OES) administers such funds deposited in the Transit System Safety, Security, and Disaster Response Account under the California Transit Security Grant Program (CTSGP); and

WHEREAS, the City of Corcoran's Transit Division, Corcoran Area Transit (CAT) is eligible to receive CTSGP funds; and

WHEREAS, the City of Corcoran received notification of project eligibility for FY 16-17 CTSGP funds in an amount up to \$95,448 for Transit Facility Upgrades; and

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

WHEREAS, Cal OES requires the City of Corcoran to complete and submit a Governing Body Resolution for the purposes of identifying agent(s) authorized to act on behalf of the City of Corcoran to execute actions necessary to obtain CTSGP funds from Cal OES and ensure continued compliance with Cal OES CTSGP assurances, and state and federal laws.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Corcoran wishes to delegate authorization to execute these agreements and any amendments thereto that the City Manager, the Community Development Director, the Finance Director, Public Works Director, or the Transit Coordinator is hereby authorized to execute for and on behalf of the City of Corcoran's Transit Division CAT, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining financial assistance provided by the California Governor's Office of Emergency Services under the CTSGP.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Corcoran held on the 14 day of November, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
Raymond Lerma, Mayor

ATTEST: _____
Marlene Lopez, City Clerk

CLERKS CERTIFICATE

I, Kindon Meik, hereby certify that the foregoing is a full, true, and correct copy of a resolution passed and adopted by the City Council of the City of Corcoran at a meeting held on the 24th day of October 2017, by the vote as set forth therein.

DATED: _____
Marlene Lopez, City Clerk

**CONSENT CALENDAR
ITEM #: 2-E**

MEMORANDUM

TO: Corcoran City Council

FROM: Kevin J. Tromborg: Community Development Director
Planner, Building Official, Transit Director

SUBJECT: Application, Agreement and Resolution No. 2909 and 2910 to purchase from The County of Kings the real properties APN: 032- 251-021 (1630 Brewer Avenue) APN: 034-112-004 (418 Benrus Avenue) out of Tax Foreclosure.

DATE: November 7, 2014

MEETING DATE: November 14, 2017

RECOMMENDATION: Approve Resolution 2890 and 2892 to a signed agreement with The County of Kings to purchase Tax default properties 418 Benrus Avenue APN: 034-112-004 and 1630 Brewer Avenue APN: 032-251-021

DISCUSSION: In January of 2017 Community Development staff brought to the City Council letters of objection regarding the tax auction of the properties 1630 Brewer and 418 Benrus, Resolutions 2890 and 2892. The Kings County Supervisors approve the agreement and sent it to The State for final approval. The State denied the agreement based on specific language referring to the objection. The language has been revised and a new application and resolutions await the Council approval. Both properties have Housing Rehab loans and to protect our lien we have an agreement to purchase from the County of Kings the properties for the cost of the tax arrears as well as any additional tax collector cost incurred in connection with the impending sale. Attached are the resolutions, the Agreement with the County of Kings and the application.

BUDGET IMPACT: The cost associated with the Tax default sale will be paid through The Corcoran Housing Authority.

APPLICATION TO PURCHASE TAX DEFAULTED PROPERTY

This application must be completed by an eligible purchasing entity to commence purchase of tax defaulted property by agreement sale from the county under applicable provisions of the California Revenue and Taxation Code. Complete the following sections and supply supporting documentation accordingly. Completion of this application does not guarantee purchase approval.

A. Purchaser Information

1. Name of Organization:

City of Corcoran

2. Corporate Structure:

- Nonprofit Organization
 Public Agency

B. Purchasing Information

Is the parcel currently approved for a Chapter 7 tax sale?

- Yes No

The purchase is by: (only check one box)

- A taxing agency, revenue district or special district A nonprofit organization
 The State or County

The purpose of the purchase is: (only check one box)

- To preserve a lien
 For public purpose
 For low income housing Describe public purpose _____
 To preserve open space

C. Property Information

Provide the following information. (If more space is needed exhibits may be attached)

1. County where the parcel(s) is located:

Kings County

2. Assessor's Parcel Number (for each parcel):

032-251-021

D. Acknowledgement

Signature of the purchasing entity's authorized officer:

Authorized Signature

City Manager

Title

1/7/17 km

Date

APPLICATION TO PURCHASE TAX DEFAULTED PROPERTY

This application must be completed by an eligible purchasing entity to commence purchase of tax defaulted property by agreement sale from the county under applicable provisions of the California Revenue and Taxation Code. Complete the following sections and supply supporting documentation accordingly. Completion of this application does not guarantee purchase approval.

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City of Corcoran

2. Corporate Structure:

- Nonprofit Organization
 Public Agency

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Is the parcel currently approved for a Chapter 7 tax sale?

- Yes No

The purchase is by: (only check one box)

- A taxing agency, revenue district or special district A nonprofit organization
 The State or County

The purpose of the purchase is: (only check one box)

- To preserve a lien
 For public purpose
 For low income housing Describe public purpose _____
 To preserve open space

C. Property Information

Provide the following information. (If more space is needed exhibits may be attached)

1. County where the parcel(s) is located:

Kings County

2. Assessor's Parcel Number (for each parcel):

034-112-004

D. Acknowledgement

Signature of the purchasing entity's authorized officer:



City Manager

11/7/17

Authorized Signature

Title

Date

RESOLUTION 2909
BEFORE THE CITY COUNCIL OF THE
CITY OF CORCORAN IN THE MATTER OF ENTERING INTO A PURCHASE
AGREEMENT WITH THE COUNTY OF KINGS FOR THE REAL PROPERTY
APN NO. 032-251-021-000

WHEREAS, the City of Corcoran (“City”) operates a Housing Rehabilitation Loan Program (“HRLP” or “HLR program”) and First Time Homebuyer Loan Program (“FTHLP” or “FTHL program”), principally for persons of low and moderate income, under which the City issues loans to members of the public who reside within Corcoran;

WHEREAS, the City loans issued under the HRLP and FTHLP are secured by the homes which benefit from these funding assistance programs, and usually accrual of interest and the obligation to repay are deferred until a change of ownership, borrower default or similar occurrences;

WHEREAS, although original funding for the City loans issued under the HRLP and FTHLP came from a Community Development Block Grant (CDBG), the HRLP and FTHLP depend upon repayment, recovery and recycling of the borrowed funds in order to continue to operate these public programs in the future, for members of the public;

WHEREAS, the City has learned that the County of Kings has scheduled an impending and imminent sale of the tax-defaulted real property with APN No. 032-251-021-000, located at 1630 Brewer Avenue, Corcoran, California (“subject property”);

WHEREAS, the subject property is one of the real properties which has HRL or FTHL program funding invested in it and said program funding is secured by a recorded deed of trust in favor of the City;

WHEREAS, the City needs to and desires to recover the HRL and FTHL program funding, which is presently secured by the subject property, in order to continue to recycle said funding through these public assistance programs, for the benefit of the public residing within Corcoran;

WHEREAS, ownership of the entire subject property, in fee simple absolute, is required by the City for use of the property for a public purpose of including it in the inventory of the City’s FTHL program and offered to low and moderate income borrowers applying for assistance from the City’s FTHL program;

WHEREAS, last year on January 15, 2016, the County of Kings issued a notice suggesting that in order to redeem the subject property a payment of Ten thousand five hundred dollars (\$10,500.00) shall be paid as well as additional tax collector cost incurred in connection with impending sale: and

WHEREAS, the City hereby authorizes its purchase of the subject property pursuant to Revenue and Taxation Code §§ 3695, 3695.4 and requests to purchase the subject property prior to the tax sale for the amount required by applicable law.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL:

1. Found the foregoing findings are true and correct and incorporated herein;
2. Directed that a certified copy of this resolution and application to purchase shall be filed with the Tax Collector and lodged with Board of Supervisors for the County of Kings;
3. Requests to purchase the subject property for the amount duly set by the Tax Collector in accordance with state law;
4. Agreed to enter into a written agreement with the County of Kings, which is hereby authorized to be attached hereto and incorporated herein upon execution by the parties thereto, to purchase the tax-defaulted property with APN No. 032251-021-000 at the price required by Revenue and Taxation Code §§ 3695 and 3695.4 and in no event less than the minimum bid duly established by the Tax Collector in accordance with state law; and
5. Authorized the Mayor and City Manager to carry out the terms and conditions of this resolution and to take all steps reasonably necessary, proper and/or convenient and/or incidental thereto.

PASSED AND ADOPTED by the City Council of the City of Corcoran, at a regular meeting held on the 14th day of November, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED: _____
Raymond Lerma, Mayor

ATTEST: _____
Marlene Lopez, City Clerk

CLERKS CERTIFICATE

City of Corcoran }
County of Kings } ss.
State of California }

I, Marlene Lopez, hereby certify that the foregoing is a full, true and correct copy of a resolution passed and adopted by the City Council of the City of Corcoran at a regular meeting held on the 14th day of November, 2017, by the vote as set forth therein.

DATED:

ATTEST:

Marlene Lopez
City Clerk

[seal]

AGREEMENT TO PURCHASE TAX-DEFAULTED PROPERTY

This Agreement is made this 14Th day of November, 2017, by and between the Board of Supervisors of Kings County, State of California and the City of Corcoran, a municipal corporation, as a Taxing Agency ("**PURCHASER**"), pursuant to the provisions of Division 1, Part 6, Chapter 8, of the Revenue and Taxation Code.

The real property situated within said county, hereinafter set forth and described in this agreement is tax-defaulted and is subject to the power of sale by the tax collector of said county for the nonpayment of taxes, pursuant to provisions of law.

It is mutually agreed as follows:

1. That as provided by the Revenue and Taxation Code Section 3800, the cost of giving notice of this agreement shall be paid by the PURCHASER, and
2. That the PURCHASER agrees to pay the sum of \$10,500.00.(Insert Minimum Bid per Authorization Report), plus any additional penalties, fees, interest, and sale costs associated with the sale of the real property described in **EXHIBIT A** (**EXHIBIT A** is the property description) within ten (10) days after the date this agreement becomes effective. Upon payment of said sum to the tax collector, the tax collector shall execute and deliver a deed conveying title to said property to Purchaser.
3. That the PURCHASER agrees to use the parcel(s) for public purpose under the following intent:

Continuation of City of Corcoran's Community Development Block Grant housing programs for persons of low and moderate income.

That if said purchaser is a taxing agency as defined in Revenue and Taxation Code Section 121 or any other agency that receives its revenue share under the provisions of Division 1, Part 8, Chapter 3 of the Revenue and Taxation Code, it will not share in the distribution of the payment required by the Agreement as defined by sections 3791 and 3720 of the Revenue and Taxation Code.

If all or any portion of any individual parcel described in this agreement is redeemed prior to the effective date of this agreement, this agreement shall be null and void as to that individual parcel.

The undersigned hereby agree to the terms and conditions of this agreement and are duly authorized to sign for said agencies.

This Document is being executed in counterpart each of which constitutes an original

ATTEST: City Clerk

CITY OF CORCORAN

Marlene Lopez (Purchaser)

By _____
Raymond Lerma, Mayor

(seal)

ATTEST: BOARD OF SUPERVISORS

Clerk of the Board of Supervisors

By KINGS COUNTY

By _____
Deputy

By _____
Craig Pedersen
Chairperson

(seal)

Pursuant to the provisions of Section 3795 of the Revenue and Taxation Code, the Controller approves the foregoing agreement this 14th day of November , 2017

BETTY T. YEE, CALIFORNIA STATE CONTROLLER

By _____

EXHIBIT A
(Property Description)

The subject real property is located at 1630 Brewer Avenue, within the City of Corcoran, Kings County, State of California (APN: 032-251-021), and is more particularly described as follows:

PARCEL 1:

PARCEL 3 OF PARCEL MAP RECORDED 6-13-97 IN VOLUME 14 AT PAGE 82 OF PARCEL MAPS. BEING SITUATED IN THE NORTH ½ OF THE SOUTHWEST ¼ OF SECTION 23, TOWNSHIP 21 SOUTH, RANGE 22 EAST, MT DIABLO BASE AND MERIDIAN, IN THE COUNTY OF KINGS, STATE OF CALIFORNIA. .

.

RESOLUTION 2910
BEFORE THE CITY COUNCIL OF THE
CITY OF CORCORAN IN THE MATTER OF ENTERING INTO A PURCHASE
AGREEMENT WITH THE COUNTY OF KINGS FOR THE REAL PROPERTY
APN NO. 034-112-004-000

WHEREAS, the City of Corcoran (“City”) operates a Housing Rehabilitation Loan Program (“HRLP” or “HLR program”) and First Time Homebuyer Loan Program (“FTHLP” or “FTHL program”), principally for persons of low and moderate income, under which the City issues loans to members of the public who reside within Corcoran;

WHEREAS, the City loans issued under the HRLP and FTHLP are secured by the homes which benefit from these funding assistance programs, and usually accrual of interest and the obligation to repay are deferred until a change of ownership, borrower default or similar occurrences;

WHEREAS, although original funding for the City loans issued under the HRLP and FTHLP came from a Community Development Block Grant (CDBG), the HRLP and FTHLP depend upon repayment, recovery and recycling of the borrowed funds in order to continue to operate these public programs in the future, for members of the public;

WHEREAS, the City has learned that the County of Kings has scheduled an impending and imminent sale of the tax-defaulted real property with APN No. 034-112-004-000, located at 418 Benrus Avenue, Corcoran, California (“subject property”);

WHEREAS, the subject property is one of the real properties which has HRL or FTHL program funding invested in it and said program funding is secured by a recorded deed of trust in favor of the City;

WHEREAS, the City needs to and desires to recover the HRL and FTHL program funding, which is presently secured by the subject property, in order to continue to recycle said funding through these public assistance programs, for the benefit of the public residing within Corcoran;

WHEREAS, ownership of the entire subject property, in fee simple absolute, is required by the City for use of the property for a public purpose of including it in the inventory of the City’s FTHL program and offered to low and moderate income borrowers applying for assistance from the City’s FTHL program;

WHEREAS, last year on January 15, 2016, the County of Kings issued a notice suggesting that in order to redeem the subject property a payment of at least twelve thousand eight hundred ten dollars and thirty-one cents (\$12,810.31) in taxes, costs and fees was required as of March 2, 2016 and the amount required for redemption is now (\$18,050.00) due to accrual

of additional property taxes and assessments as well as additional tax collector costs incurred in connection with the impending sale; and

WHEREAS, the City hereby authorizes its purchase of the subject property pursuant to Revenue and Taxation Code §§ 3695, 3695.4 and requests to purchase the subject property prior to the tax sale for the amount required by applicable law.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL:

1. Found the foregoing findings are true and correct and incorporated herein;
2. Directed that a certified copy of this resolution and application to purchase shall be filed with the Tax Collector and lodged with Board of Supervisors for the County of Kings;
3. Requests to purchase the subject property for the amount duly set by the Tax Collector in accordance with state law;
4. Agreed to enter into a written agreement with the County of Kings, which is hereby authorized to be attached hereto and incorporated herein upon execution by the parties thereto, to purchase the tax-defaulted property with APN No. 034-112-004-000 at the price required by Revenue and Taxation Code §§ 3695 and 3695.4 and in no event less than the minimum bid duly established by the Tax Collector in accordance with state law; and
5. Authorized the Mayor and City Manager to carry out the terms and conditions of this resolution and to take all steps reasonably necessary, proper and/or convenient and/or incidental thereto.

PASSED AND ADOPTED by the City Council of the City of Corcoran, at a regular meeting held on the 27th day of June, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED: _____
Raymond Lerma, Mayor

ATTEST: _____
Marlene Lopez, City Clerk

CLERKS CERTIFICATE

City of Corcoran }
County of Kings } ss.
State of California }

I, Marlene Lopez, hereby certify that the foregoing is a full, true and correct copy of a resolution passed and adopted by the City Council of the City of Corcoran at a regular meeting held on the 27th day of June, 2017, by the vote as set forth therein.

DATED:

ATTEST:

Marlene Lopez
City Clerk

[seal]

AGREEMENT TO PURCHASE TAX-DEFAULTED PROPERTY

This Agreement is made this 14th day of November, 2017, by and between the Board of Supervisors of Kings County, State of California and the City of Corcoran, a municipal corporation, as a Taxing Agency ("**PURCHASER**"), pursuant to the provisions of Division 1, Part 6, Chapter 8, of the Revenue and Taxation Code.

The real property situated within said county, hereinafter set forth and described in this agreement is tax-defaulted and is subject to the power of sale by the tax collector of said county for the nonpayment of taxes, pursuant to provisions of law.

It is mutually agreed as follows:

1. That as provided by the Revenue and Taxation Code Section 3800, the cost of giving notice of this agreement shall be paid by the **PURCHASER**, and
2. That the **PURCHASER** agrees to pay the sum of \$18,050.00. (Insert Minimum Bid per Authorization Report), plus any additional penalties, fees, interest, and sale costs associated with the sale of the real property described in **EXHIBIT A** (**EXHIBIT A** is the property description) within ten (10) days after the date this agreement becomes effective. Upon payment of said sum to the tax collector, the tax collector shall execute and deliver a deed conveying title to said property to Purchaser.
3. That the **PURCHASER** agrees to use the parcel(s) for public purpose under the following intent:

Continuation of City of Corcoran's Community Development Block Grant housing programs for persons of low and moderate income.

That if said purchaser is a taxing agency as defined in Revenue and Taxation Code Section 121 or any other agency that receives its revenue share under the provisions of Division 1, Part 8, Chapter 3 of the Revenue and Taxation Code, it will not share in the distribution of the payment required by the Agreement as defined by sections 3791 and 3720 of the Revenue and Taxation Code.

If all or any portion of any individual parcel described in this agreement is redeemed prior to the effective date of this agreement, this agreement shall be null and void as to that individual parcel.

The undersigned hereby agree to the terms and conditions of this agreement and are duly authorized to sign for said agencies.

This Document is being executed in counterpart each of which constitutes an original

ATTEST: City Clerk

CITY OF CORCORAN

Marlene Lopez (Purchaser)

By _____
Raymond Lerma, Mayor

(seal)

ATTEST: BOARD OF SUPERVISORS

Clerk of the Board of Supervisors

By KINGS COUNTY

By _____
Deputy

By _____
Craig Pedersen
Chairperson

(seal)

Pursuant to the provisions of Section 3795 of the Revenue and Taxation Code, the Controller approves the foregoing agreement this 14th day of November, 2017

BETTY T. YEE, CALIFORNIA STATE CONTROLLER

By _____

EXHIBIT A
(Property Description)

The subject real property is located at 418 Benrus Avenue, within the City of Corcoran, Kings County, State of California (APN: 034-112-004), and is more particularly described as follows:

PARCEL 1:

THE EAST HALF OF THE NORTH HALF OF LOT 18 IN WESTVIEW SUBDIVISION, IN THE CITY OF CORCORAN, COUNTY OF KINGS, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF RECORDED IN BOOK 4, AT PAGE 50 OF LICENSED SURVEYOR PLATS.

PARCEL 2:

APPURTENANT EASEMENT FOR INGRESS AND EGRESS DESCRIBED IN DEED RECORDED DECEMBER 12, 2006 AS INSTRUMENT NO. 0636465.

**PUBLIC HEARING
ITEM # 5-A**

MEMORANDUM

TO: Corcoran City Council

FROM: Kevin J. Tromborg: Community Development Director
Planner, Building Official, Transit Director

SUBJECT: Public hearing to consider Ordinance 636 enacting regulations regarding personal cannabis use and cultivation.

DATE: November 8, 2017

MEETING DATE: November 14, 2017

RECOMMENDATION

Approve Ordinance 636 regulating personal cannabis use and cultivation.

A “yes” vote on Ordinance 636 implements the City’s regulations on personal cannabis cultivation instead of the State’s general regulations.

DISCUSSION

November 9, 2016 the people of California approved Proposition 64, the Adult Use of Marijuana Act by a margin of 55% to 44%. This allows anyone 21 years or older to possess, transport, obtain or give away up to one ounce, or 8 grams of cannabis. It also allows for up to six (6) plants to be cultivated per parcel for personal use.

The law allows for Cities to enact reasonable regulations to monitor and control the personal use and the cultivation of the permitted 6 plants. Below is a summary of the proposed regulations:

- No outdoor cultivation of cannabis (p. 9)
- Cannabis use is prohibited (p. 9):
 - In any place where tobacco use is prohibited
 - Within any City owned building
 - On public roads, streets, sidewalks, parks
 - On private property when inhalation/consumption is detectable to reasonable observe not on the same property
 - During business hours on a commercial property when business is operating
- Cannabis for personal use must be stored in child-resistant containers (p. 10)
- Individuals desiring to cultivate cannabis must register with the City (p. 10)

- Registration requires a fee determined by the City Council (p. 11).
- Registration application includes consent for City to inspect cultivation area (p. 11)
- Renters cannot cultivate cannabis without notarized consent of the property owner (p. 12)
- No more than 100 sf of indoor space can be used for cannabis cultivation (p. 12)
- Access to cultivation area is locked when unattended (p. 12)
- Cannabis plants must not be detectable by unaided sight or smell (p. 12)
- City may require ventilation after citation for excessive odor (p. 12)
- No cultivation in campers, trailers, etc. (p. 13)
- Cannabis cultivation must adhere to building standards and requirements imposed by the City (p. 13-14).
 - Doors to cultivation room/building must be made of metal or solid wood.
 - Doors must have a deadbolt lock.
 - No use of extension cords.
 - Electrical consumption not to exceed 1200 watts.
 - Waterproof flooring
 - Required to use indoor irrigation/plumbing materials
 - Prohibited to discharge chemicals, fertilizers into sewer system
 - Chemicals and fertilizers are to be securely stored
- Cannabis plants must not exceed 8 feet in height and 3 feet in width, must maintain minimum of 1 foot between plants (p. 14).
- Cannabis plants cannot be accessible to minors (p. 15).
- Minors not allowed into cannabis cultivation area (p. 15).
- Harvested cannabis to be stored in a safe or locked box (p. 15).
- Cultivator must maintain journal of plants (p. 15).
- Parcel used for cultivation must be on a meter (p. 16).
- Individual may not have any overdue balance with the City (fees, fines, charges) (p. 15)
- Cultivators must comply with State laws (p. 16)
- Registration certificate to be displayed on the primary door of the room/building being used for cultivation (p. 17)
- City must inspect parcels upon which cannabis is cultivated at minimum once per year (ordinance does not limit inspections to once per year) (p. 17).
- Individuals with prior criminal drug charges required to provide written authorization from parole/probation (p. 18).

BUDGET IMPACT

Unknown at this time.

ATTACHMENTS

Planning Commission Resolution 17-10

Ordinance 636

**RESOLUTION NO. 17-10
CORCORAN CITY PLANNING COMMISSION
PERTAINING TO REVIEW OF PROPOSED ORDINANCE REGULATING OR
RESTRICTING CERTAIN NON-COMMERCIAL CANNABIS ACTIVITY INCLUDING
USE, CULTIVATION, LAND USES AND RELATED BUILDINGS.**

At a special meeting of the Planning Commission of the City of Corcoran duly called and held on November 6, 2017, the Commission approved the following:

WHEREAS, this Planning Commission considered a proposed ordinance regulating or restricting certain non-commercial cannabis activity including use, cultivation, land uses and related buildings;

WHEREAS, this Planning Commission held a public hearing to review the proposed ordinance and consider: whether it would be consistent with the City's General Plan; and

WHEREAS, pursuant to Government Code sections 65854, 65090 and 65091, notice was given of the public hearing held on November 6, 2017, at 5:30 P.M. before this Planning Commission regarding the proposed ordinance and at said public hearing, evidence was received by this Planning Commission from all persons in attendance who offered to give testimony and persons submitted written evidence, if any

IT IS THEREFORE RESOLVED that Resolution No. 17-10 was passed, approved and adopted by the Planning Commission at an official meeting held November 6, 2017 by the following vote

AYES: Bega, DeVaney, Jarvis, Kassner, Subia and Watkins

NOES:


ABSENT: Tristao and Van Velson

ABSTAIN:

PASSED AND ADOPTED on this 6th day of November 2017.



David Bega
Planning Commission Chairman



Kevin J. Fromborg
Community Development Director

NOW THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION:


1. Found that the proposed ordinance is consistent with the City's General Plan;
2. Pursuant to Government Code section 65855, this Commission recommends as follows in regard to the proposed ordinance:
3. The adoption of the proposed ordinance prohibiting and banning all commercial cannabis activity within the City of Corcoran, including cultivation, businesses, transactions and land uses.

CERTIFICATE

City of Corcoran }
County of Kings } ss.
State of California }

I, Ma. Josephine D. Lindsey, Planning Commission Secretary of the City of Corcoran, hereby certify that this is a full, true and correct copy of Resolution No. 17-10 duly passed by the Planning Commission of the City of Corcoran at a regular meeting thereof held on the 6th day of November, 2017, by the vote as set forth therein.

DATED: November 6, 2017



Ma. Josephine D. Lindsey
Planning Commission Secretary

ATTEST:



Mariene Lopez, City Clerk

ORDINANCE NO. 636

AN ORDINANCE OF THE CITY OF CORCORAN
ENACTING REGULATIONS FOR NON-COMMERCIAL
MEDICINAL AND NON-MEDICINAL CANNABIS USE,
CULTIVATION, AND LAND USES; AND ENACTING
ENFORCEMENT PROVISIONS FOR CANNABIS
RELATED ORDINANCE VIOLATIONS.

THE CITY COUNCIL OF THE CITY OF CORCORAN DOES ORDAIN AS
FOLLOWS:

Section 1. PURPOSE. There are adverse secondary impacts of marijuana cultivation, processing, manufacturing, distribution, sales and use which include, without limitation, criminal activity, pungent odors, excess water consumption, toxic mold, excess energy consumption and indoor electrical fire hazards. The provisions of this ordinance are intended in order to promote the public safety, health, comfort and general welfare, in order to provide a plan for sound and orderly development, and to ensure social and economic stability within the various zones established by the Corcoran Zoning Ordinance.

Section 2. FINDINGS AND PURPOSE. The City Council of the City of Corcoran hereby finds and declares the following:

(a) California Constitution Article 11, Section 7 authorizes the City of Corcoran (“City”) to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws;

(b) California Government Code § 37100 authorizes the legislative body of a local government to enact local ordinances which are not in conflict with the Constitution and laws of the State of California or the United States;

(c) The federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis/marijuana as a Schedule I drug, which is defined as a drug or other substance which has a high potential for abuse, no currently accepted medical use in treatment in the United States, and has not been accepted as safe for use under medical supervision. The federal Controlled Substances Act declares it unlawful for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, cannabis. The federal Controlled Substances Act contains no exemption for cultivation, manufacture,

distribution, dispensation or possession of cannabis for medical or non-medical purposes;

(d) On June 28, 2016, the Secretary of State of the State of California certified Proposition 64, the Control, Regulate and Tax Adult Use of Cannabis Act (“**AUMA**” or “**Proposition 64**”), for the November 8, 2016 statewide presidential general election ballot;

(e) The AUMA became law when a majority of the electorate voted “yes” on Proposition 64. The AUMA, to a certain degree, decriminalized under State law the possession, consumption, cultivation, processing, manufacture, distribution, testing and sale of non-medicinal cannabis/marijuana and derivative products, including edibles, for adults twenty-one (21) years of age and older. The AUMA also included provisions for licensing commercial cannabis and preserved the authority of local governments to regulate, and in some cases ban, certain cannabis activities within their boundaries.

(f) On June 27, 2017, Senate Bill 94 (“**SB-94**”), which was a state budget trailer bill, was signed into law by the Governor of the State of California. This legislation clarified and/or revised certain portions of the AUMA and also certain state statutes pertaining to medicinal cannabis/marijuana, including the authority of local governments to regulate, and in some cases ban, certain cannabis activities within their boundaries;

(g) The AUMA now regulates, among other matters, the use of cannabis/marijuana for non-medicinal personal and commercial purposes, including the recreational use of cannabis by adults over twenty-one (21) years of age;

(h) To regulate personal use of cannabis, the AUMA added Health and Safety Code § 11362.1 which, among other things and with certain exceptions, made it “...lawful under state and local law...” for persons 21 years of age or older to “...possess, process, transport, purchase, obtain or give away to persons 21 years of age or older without any compensation whatsoever...” up to 28.5 grams of non-medical cannabis in the form of concentrated cannabis or not more than eight grams in the form of concentrated cannabis contained in cannabis products;

(i) The AUMA also removed certain state criminal law prohibitions for adult individuals who “...possess, plant, cultivate, harvest, dry or process not more than six living cannabis plants and possess the cannabis produced by the plants...”;

(j) The AUMA also clarified that State law does not prohibit specified adult individuals from smoking or ingesting cannabis or cannabis products;

(k) To regulate commercial use of non-medical cannabis, the AUMA added Division 10 (Cannabis) to the Business & Professions Code, which vested certain state agencies with “...the sole authority to create, issue, deny, renew, discipline, suspend, or revoke

licenses...” for certain non-medicinal commercial cannabis business activity including microbusinesses, transportation, storage (unrelated to manufacturing activities), distribution, testing, and sale of cannabis and cannabis products within the state;

(l) The AUMA provides that specified state agencies shall promulgate rules and regulations and shall begin issuing state business licenses under Division 10 of the Business & Professions Code by January 1, 2018;

(m) The AUMA specifies that a local jurisdiction shall not prevent transportation of non-medicinal cannabis or derivative products on public roads by a licensee transporting cannabis or derivative products in compliance with Division 10;

(n) The AUMA authorized cities to “...reasonably regulate...” without completely prohibiting cultivation of cannabis inside a private residence or inside an “...accessory structure to a private residence located upon the grounds of a private residence which is fully enclosed and secure...”;

(o) The AUMA authorized cities to completely prohibit outdoor cultivation on the grounds of a private residence until a “...determination by the California Attorney General that nonmedical use of cannabis is lawful in the State of California under federal law...”;

(p) The AUMA authorized cities to completely prohibit the establishment or operation of any non-medicinal cannabis business licensed under Division 10 within its jurisdiction, including cannabis dispensaries, cannabis retailers and cannabis delivery services;

(q) Absent appropriate local regulation, which is authorized by the AUMA, only state regulations will be controlling within a given local jurisdiction;

(r) Until the AUMA was enacted, state statutes prohibited cultivation, possession and sales of non-medicinal cannabis and therefore overlapping local regulations would have been preempted by state statute;

(s) The City has permissive zoning standards which prohibit all land uses not expressly allowed and has applied the same, without exception, to all instances of medicinal cannabis, including, but not limited to, cultivation, distribution, dispensing, transportation, sales and gifting;

(t) The existence of cannabis cultivation operations carries the potential to increase secondary impacts such as: (1) robberies, break-ins and other thefts due to the high monetary value of cannabis plants; (2) dangerous alterations to the electrical wiring of buildings; (3) toxic amounts of mold spores present in buildings intended for human occupation; (4) the potential for exposure to or increased usage by school aged children; (5) the spread of strong, pungent and/or noxious odors from cannabis plants;

(u) The City has legitimate and compelling interests in protecting the public health, welfare and safety of its residents, as well as preserving the peace and quiet of the neighborhoods within the City;

(v) The City has determined that a regulatory ordinance is necessary to protect the public health, welfare and safety of residents of the City to the maximum extent allowable under California law to address the adverse secondary impacts resulting from changes to California law through the AUMA and Senate Bill 94 (2017);

(w) The cultivation of substantial amounts of cannabis/marijuana in any location or parcel of real property within the City poses serious threats to the health, safety, and well-being of the City and its residents, including the following:

(1) By concentrating substantial amounts of cannabis in one place, such locations and parcels are frequently associated with, and create a significant risk of, burglary, robbery, armed robbery, and larceny and other property crimes; and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.

(2) Such locations and parcels are frequently associated with other criminal activities, including unlawful sales of cannabis to individuals, including minors who are not qualified medical patients, trafficking of cannabis outside the City by unlawful enterprises, and possession and discharge of unlawful firearms.

(3) The creation of persistent malodorous smells reaching into populated areas far beyond cannabis grow sites. Cannabis plants, as they begin to flower and for a period of two (2) months or more during the growing season (August - October for outdoor grows), produce an extremely strong odor, offensive to many people, and detectable far beyond property boundaries. This malodorous smell is often described as "skunky," as it resembles the odor of a skunk.

(4) The distinctive smell of flowering cannabis also creates an attractive nuisance, alerting persons to the location of the valuable cannabis plants, and creating a risk of theft, burglary, robbery and armed robbery and associated violent confrontations.

(5) Cultivation of large amounts of cannabis also frequently requires excessive use of water resources, which exacerbates drought conditions.

(6) Extensive indoor cultivation of large amounts of cannabis also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.

(x) Cultivation and sales of any amount of cannabis and/or derivative products at locations or parcels within one thousand (1,000) feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation and sales of any amount of cannabis or derivative products within such locations or parcels is especially hazardous to public safety and welfare, and to the protection of children.

(y) As recognized by the California Attorney General's August 2008 GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF CANNABIS GROWN FOR MEDICAL USE, the cultivation or other concentration of cannabis in any location or parcels without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. There is no known reason why this same principle would not apply to non-medicinal cannabis.

(z) It is the purpose and intent of this Ordinance to implement State law by providing a means for regulating non-medicinal and medicinal cannabis in a manner which is consistent with applicable State laws and which promotes the health, safety, security and welfare of local residents within the City. This Chapter is intended to be consistent with Proposition 64 and Senate Bill 94, and to that end, is not intended to prohibit any person from exercising any right otherwise granted by State law. Rather, the intent and purpose of this Chapter is to establish reasonable regulations upon the manner in which cannabis and cannabis products must or must not be cultivated, manufactured, processed, stored and sold or gifted, in order to protect the public health, safety, security and welfare of all of the residents of the City.

(aa) The limited right of individuals under State law to cultivate cannabis plants for non-medicinal purposes and/or to carry on a cannabis business without violating state criminal laws does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter, the City will achieve a significant reduction in the aforementioned harms caused or threatened.

(bb) Nothing in this ordinance shall be construed to allow or legalize cannabis for any purposes, or allow or legalize any activity relating to the cultivation, distribution or consumption of cannabis which is otherwise illegal under state or federal law. No provision of this Chapter shall be deemed a defense or immunity to any action brought against any person by the County District Attorney or the Attorney General of State of California.

Section 3. CODE REPEAL. Except to the extent expressly indicated otherwise

herein, the specific provisions of each and all existing ordinances which are in actual conflict with any provision of this ordinance shall be repealed.

Section 4. CODE REPEAL. The following definitions within section 11-31-2 of the Corcoran Municipal Code are hereby repealed:

Medical Marijuana;
Medical Marijuana Cultivation;
Medical Marijuana Dispensary;
Medical Marijuana Facility; and
Mobile Marijuana Dispensary.

Section 5. CODE AMENDMENT. The following definitions are added, in alphabetical order, to the existing definitions within section 11-31-2 of Chapter 11-31 of Title 11 of the Corcoran Municipal Code:

Cannabis. Shall be defined as provided within California Health and Safety Code section 11018, or successor statute. The terms “cannabis” and “marijuana” shall have the same meaning within the Corcoran Municipal Code. Furthermore, except where otherwise distinguished, the term “cannabis” shall include and refer to both medicinal cannabis and non-medicinal cannabis.

Cannabis business. Shall refer to commercial cannabis activity, as defined within this section.

Commercial cannabis activity. Shall be defined as provided within California Business and Professions Code § 26001(k), or successor statute, but shall not include any business whose only relationship to cannabis is the production or sale of accessories for individual consumption and/or use of cannabis or cannabis products.

Commercial cannabis delivery. Shall be defined as provided within California Business and Professions Code section 26001(p).

Cannabis products. Shall have the meaning as provided within California Health and Safety Code section 11018.1.

Medical Marijuana. Shall have the same meaning as “medicinal cannabis” as defined within California Business and Professions Code § 26001(ai), or successor statute.

Medical Marijuana Cultivation. Shall have the same meaning as “cultivation” as defined within California Business and Professions Code § 26001(l), or successor statute.

Medical Marijuana Dispensary. Shall have the same meaning as “cannabis retailer” as defined within California Revenue and Taxation Code § 34010(j), or successor statute.

Section 6. CODE ADOPTION. Chapter 11-33 of Title 11 is hereby added to the Corcoran Municipal Code and reads as follows:

CHAPTER 11-33 ADULT-USE CANNABIS REGULATIONS

11-33-010 Authority and Title.

11-33-020 Definitions.

11-33-030 Nuisance Declared.

11-33-040 Registration of Parcels Prior to Non-Commercial Cultivation.

11-33-050 Registration Application and Certificate; Identification Cards.

11-33-060 Regulatory Inspections of Registered Parcels and Records.

11-33-070 Denial of Registration.

11-33-080 Responsibilities of Registrants.

11-33-090 Violations.

11-33-010 Authority and Title.

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code § 11362.2(b)(1), and Government Code § 38773.5, the City Council does enact this Chapter, which shall be known and may be cited as the “Adult-Use Cannabis Ordinance.”

11-33-020 Definitions.

(a) All definitions set forth within California Health and Safety Code § 11362.7, California Business and Professions Code § 26001 and California Revenue and Taxation Code § 34010, as amended from time to time, and as interpreted by judicial opinions from time to time, shall apply under this Chapter in addition to the definitions set forth within subsection (b) below. In the event of an actual conflict between the definitions within the aforementioned statutes and those contained within subsection (b) below, the definition within subsection (b) shall prevail.

(b) Except where the context otherwise requires, the following definitions shall govern the construction of this Chapter:

- (1) "City" refers to the City of Corcoran.
- (2) "Enforcing officer" means the Chief of Police, Community Development Director or other the Code Enforcement Officer, or the authorized deputies or designees of either, each of whom is independently authorized to enforce this Chapter.
- (3) "Legal parcel" and "parcel" mean any parcel of real property which may be separately sold in compliance with the Subdivision Map Act [Division 2 (commencing with section 66410) of Title 7 of the Government Code].
- (4) The terms "cannabis" and "marijuana" shall have the same meaning within this ordinance. Furthermore, except where otherwise distinguished, the term "cannabis" shall include and refer to both medicinal cannabis and non-medicinal cannabis.
- (5) "Mature cannabis plant" and "immature cannabis plant" shall have the same meaning as those terms are used in California Health and Safety Code § 11362.77.
- (6) "Medical cannabis" shall have the same meaning as medicinal cannabis in California Business and Professions Code § 26001.
- (7) "Municipal Code" refers to the Corcoran Municipal Code.
- (8) The term "State" refers to the State of California.

(c) Effect of Headings/Titles Within this Chapter: Section and subsection headings and title are provided for organizational purposes only and must not be read to in any manner affect the scope, meaning or intent of the provisions associated with them.

11-33-030 Nuisance Declared.

(a) Unless and until this subsection is specifically cited as repealed, notwithstanding any other ordinance of the City, each and all of the following activities are hereby declared to be a public nuisance and unlawful when the same occur in violation of any of the provisions of this Chapter or any State law, and any such public nuisance may be abated by the City in any manner allowed by any State law or local ordinance:

- (1) The operation of any indoor and/or outdoor cannabis cultivation site or cultivation area upon any parcel of real property within the City which does not have an active registration with the City; and
- (2) The operation of any cannabis business upon any parcel of real property within the City which does not have an active registration with the City.

(b) Prohibited Non-Commercial Cannabis Activities: Unless and until this subsection is specifically cited as repealed, notwithstanding any other ordinance of the City, each of the following shall be prohibited everywhere within the City and shall constitute a public nuisance:

- (1) Outdoor Cultivation: All outdoor possession, planting, cultivation, harvesting, drying or processing of cannabis and industrial hemp, including any such activities with non-commercial cannabis upon any private residence under California Health and Safety Code § 11362.1;
- (2) Non-Commercial Cultivation: The operation of any indoor and outdoor cannabis cultivation site or cultivation area upon any parcel of real property within the City without a valid State license therefor issued under Division 10 of the California Business and Professions Code, excluding non-commercial cannabis cultivation under Health and Safety Code § 11362.1 occurring while in full compliance with all applicable provisions of this Chapter, the Municipal Code and State law;
- (3) Use In Certain Areas: The inhalation, ingestion, use and/or other consumption, by any natural person, of any cannabis and/or any cannabis product(s):
 - a. In any place where any form of tobacco use is prohibited under California Labor Code § 6404.5 (or successor statute);
 - b. Within any building and/or other facility owned, leased, operated or controlled by City;
 - c. Upon any public road, street, right-of-way, easement, sidewalk, park or recreation site; and
 - d. Upon any privately owned parcel, when such inhalation,

ingestion, use and/or other consumption is to any degree detectable to the unaided senses of any reasonable observer who is not located upon the same parcel; and

- (4) Child-Resistant Containers: Failure to at all times maintain cannabis products and harvested cannabis within secured child-resistant containers, except during active use or consumption in accordance with State law.

(c) Cannabis Use Prohibited During Public Business Hours: Notwithstanding any other ordinance of the City to the contrary, and to any extent not already prohibited by State law, federal law or subsection (b), inhalation, ingestion, use and/or other consumption of any cannabis and/or any cannabis product(s) by any natural person is prohibited upon each parcel of real property within the City during such times when any commercial business conducted thereon is open to the public.

11-33-040 Registration of Parcels Prior to Non-Commercial Cannabis Cultivation.

(a) Registration Required: This section applies to non-commercial cannabis cultivation under Health and Safety Code § 11362.1. Each parcel of real property within the City must be registered under this section with the City Manager or designee prior to the non-commercial cultivation thereon of any quantity of cannabis whatsoever. Violation of this requirement is hereby declared to be unlawful and a public nuisance which may be abated by the City in any manner allowed by State law or local ordinance. Registration of a parcel does not create any vested right or any land-use entitlement.

(b) Conditions of Active Registration: Registration of any parcel of real property under this section shall be invalid, void and inactive except during such times when all of the following conditions are all simultaneously satisfied:

(1) Registration Application Requirements: Any person owning, leasing, occupying and/or having charge or possession of the parcel has, within the twelve (12) months preceding each date when cultivation will occur, submitted an accurate and signed application for registration, which was ultimately approved for registration by the City, containing all of the following information and documentation:

- (A) The name of each person, owning, leasing, occupying

and having possession of the parcel;

(B) The maximum number of plants which will be cultivated on the parcel;

(C) Written consent to allow a City inspection of the cultivation area, during normal business hours and on a mutually suitable date, in order to complete the registration process; and

(D) Such other information and/or documentation as the City Manager reasonably determines is necessary to ensure compliance with State law and this Chapter including, without limitation, information reasonably necessary to establish compliance with subsection (b)(2) of this section.

The application information and documentation shall be received in confidence, and shall be used or disclosed only for purposes of administration or enforcement of this Chapter and/or State law, or as otherwise required by law or legal process.

The City Council may, by adoption of a resolution, establish a fee for such annual registration, which may include a fee for issuance of a registration certificate in accordance with all applicable legal requirements. Such fee must be paid in full for a registration to be valid and effective. All registrations, whether initial or renewal, of all parcels of real property shall expire at the end of the day on January 31st of the calendar year following the calendar year in which the parcel was registered.

(2) Zoning Compliance: This subsection shall apply notwithstanding any other provision within the Municipal Code. For cannabis cultivations within the scope of Health and Safety Code § 11362.1, the parcel to be registered must be located within any zone where a residential land use is permitted, as established by Title 9 of the Municipal Code.

(3) Owner's Consent: When a person cultivating cannabis on any parcel is not the legal owner(s) of the parcel, such person(s) must obtain the notarized written consent to such cultivation from the legal owner(s) of the parcel prior to commencing cultivation of cannabis on such parcel, and must provide the original of said consent to the City Manager at the time of application for registration of the parcel. Any withdrawal or revocation of the

owner's consent must be notarized and shall, without any notice from the City, terminate any existing annual registration at the end of the thirtieth (30th) day after personal service of the notice, which must be dated, upon the tenant(s)/occupant(s), provided that a copy is contemporaneously served upon or mailed to the City. Any such notice which is mailed to a tenant(s)/occupant(s) must be postmarked and shall require an additional five (5) days to become effective.

(4) Indoor Cultivation Requirements: Subject to the other requirements within this Chapter, the total area used for cannabis cultivation must be contiguous and not exceed one hundred (100) square feet. When it is unattended by the registrant, such cultivation area must be locked and completely inaccessible to anyone without a unique physical and/or alphanumeric key. The cannabis plants within the cultivation area must not be detectable by unaided sight or smell from adjacent parcels or public vantage points at ground level. Each door providing access into any cultivation area must be locked at all times when not within the view of the cultivator. After a citation issued for excessive odor becomes final and non-appealable, and after written notice of at least fifteen (15) business days, the City may require, as a condition for maintaining registration of a parcel, the installation of a City-approved ventilation system which includes one or more charcoal filters sufficient to eliminate further violations pertaining to cannabis odor. Each building must also comply with any existing, adopted or revised ordinances and all applicable State and local standards pertaining to ventilation rates, exhaust termination, ventilation inlets and humidity levels.

(5) Cultivation Building Requirements: All cannabis cultivations must occur within a properly constructed and permitted real property improvement which is the private residence of the cultivator or is upon the parcel containing such private residence. Such private residence or accessory structure thereto which contains a cultivation area must be fully enclosed and must be fully compliant with all applicable State and local laws, building standards and all of the following shall apply:

(A) Portables Prohibited: Cultivation within any trailer, camper and any other form of portable enclosure which is not a "private residence" under Health and Safety Code section 11362.2(b)(5) is prohibited.

(B) Windows: The exterior windows to all buildings or

structures where cannabis is cultivated, must eliminate visibility of all cannabis plants from all ground level exterior vantage points and must be equipped with security bars. Security bars must be installed on the inside of detached garages and other auxiliary buildings which are not certified or permitted as human living spaces and such buildings must have fire rated drywall properly installed. Windows must not be broken.

(C) Doors: All frames for doors which allow entry into the building from the outside must be made of metal or solid wood reinforced with metal at the point where locks latch to them. All non-metal doors must be solid-core and equipped with either a deadbolt lock, or a properly functioning industrial grade padlock and locking mechanism, which can only be unlocked with a unique key.

(D) Electrical: The lighting and electrical system for the cultivation area must comport with applicable building standards, including those pertaining to cultivation areas, and not exceed consumption of 1,200 watts at any time. The use of an extension cord of any kind is prohibited for all aspects of cannabis cultivation.

(E) Flooring: The flooring beneath each cannabis plant must not consist of carpet or other non-water proof material which can be penetrated by water or other liquids.

(F) Irrigation Equipment: Use of all garden hoses, drip irrigation lines, irrigation timers and other irrigation components designed for outdoor use is prohibited for all indoor cannabis cultivation. All water fixtures and modifications thereto must be inspected and approved by the City. A City-approved backflow prevention device must be properly installed, functioning and inspected for each water fixture used primarily for cannabis cultivation. The presence of any toxic mold in any quantity which exceeds the naturally occurring level is prohibited.

(G) Effluents: Discharge into the City's sanitary sewer system of any effluent containing any cannabis cultivation waste product, chemical, fertilizer or pesticide is prohibited, including discharges into household drains, commercial drains, storm drains and other private and public drainage

systems within the City. Furthermore, such discharges are also prohibited into any community water system, municipal water system and all other public or private water systems.

(H) Chemical: All pesticides, fertilizers and other treatments or chemicals used for cannabis cultivation must not be stored within any area of a private residence which does not comply with all requirements of this Chapter for a cannabis cultivation area. All such items must not be visible or otherwise detectable by unaided sight or smell from adjacent parcels or public vantage points at ground level.

(6) Plant Size: At all times during indoor cannabis cultivation under Health and Safety Code § 11362.1 within a parcel containing a private residence, each cannabis plant must not exceed a height which is the lesser of eight (8) feet or one (1) foot from the ceiling above the plant, and the width must not exceed three (3) feet, provided that in no event should the size of cannabis plants which are grown together increase to a degree that any of them to any degree obstruct ingress and egress between each doorway and window within the room wherein they are located. Notwithstanding the foregoing, cannabis plants must not be cultivated in such a manner that the cannabis plant makes contact with any wall, door, window or ceiling at any time and there must at all times exist at least a one (1) foot space between each plant and the walls, doors, windows and the ceiling.

(7) Safety Requirements: At all times during indoor cannabis cultivation under Health and Safety Code § 11362.1 within a parcel containing a private residence, whenever any person under the age of twenty-one (21) years resides, regularly visits or is actually present upon such parcel, the cultivated cannabis plants must not be located within any common area of such private residence which is accessible by such minor including, without limitation, any hallway, living room, den, family room, kitchen, bathroom, garage or sunroom. Minors under the age of twenty-one (21) years also must not be allowed access into any indoor cultivation area during cultivation, harvesting, drying or processing of cannabis. Except when being actively consumed or handled in accordance with applicable State and local laws, all harvested cannabis and all cannabis products which are located on the parcel must be secured in a safe or room which is locked and inaccessible by persons under the age of twenty-one (21) years of age.

(8) Records: At all times during cannabis cultivation under Health and Safety Code § 11362.1 which occurs within the City, at least one legible and up-to-date hardcopy journal must be maintained on the parcel, containing all of the following information:

- (A) Each cannabis plant's date of acquisition;
- (B) The source of such acquisition;
- (C) Height and width in inches during each calendar month;
- (D) Each cannabis plant's corresponding owner; and
- (E) The date of each journal entry next to the printed and signed name of the person making the entry into the journal.

Said journal must be retained for a period of not less than five (5) years after each date listed within the journal. As a pre-condition of registration or registration renewal, the City may require individual tags, bar codes or other physical labels or markers to be affixed onto each cannabis plant exceeding one inch in vertical height.

(9) Metered Water: Water service to the parcel must be metered with a device which is both capable of wireless transmission of metering data and approved by the City.

(10) Building Standards: All waterlines, electrical wiring and structures used for cultivation of cannabis must comply with all applicable building codes, laws and ordinances.

(11) Compliance with State Cannabis Laws: Each registrant must at all times remain in full compliance with all State statutes which are applicable to cannabis including, without limitation, those pertaining to personal cultivation, sales, gifting, use and possession.

(12) Overdue City Balance: Each owner of the parcel to be registered must not have any amount which is overdue, thirty (30) or more days, to the City in unpaid fines, penalties, fees, charges, taxes, assessments and/or other payments, including homebuyer or housing rehabilitation loans from the City and other contracted payments of any kind.

(13) Code Violations: Each parcel to be registered must not have any active recorded instrument pertaining to any code violation which has been finally determined, or which otherwise can no longer be appealed, and which requires the City to inspect and clear such violation.

(d) Registration Voided Upon Violation: Any registration which becomes void for lack of compliance with any requirement of this Chapter shall remain void and ineffective from the initial moment of noncompliance and cannot be reinstated without a renewal application.

(e) Responsibility for Cultivation Violations: No person owning, leasing, occupying or having charge or possession of any parcel within the City shall cause, allow, suffer, or permit such parcel to be used for cultivation of cannabis in violation of any provision in this Chapter. Violation of this provision by any person owning, leasing, occupying or having charge or possession of any registered parcel shall be grounds for revocation of registration in addition to abatement under this Chapter.

(f) The City Manager or designee shall have authority to, in writing, waive any registration fee and/or requirements otherwise needed for registration, and thereafter issue a registration when, after reasonable consultation with the Office of the City Attorney, it is reasonably believed that State or federal law might so require.

11-33-050 Registration Application and Certificate.

(a) Applications: Each applicant seeking to register a parcel for a cannabis cultivation must be the owner or authorized tenant of the parcel and submit a written application on a form approved by the City. Within twenty (20) business days after receipt of registration application, the City Manager or designee shall either:

- (1) Act upon the registration application;
- (2) Provide a written notice of extension, not to exceed twenty (20) business days; or
- (3) Return the registration application with written notification as to why the application is incomplete.

(b) Registration Certificate: Upon approval of a registration application, the City shall issue a registration certificate which must be maintained within the registered parcel and physically posted on the door or other entryway into the cultivation area. This certificate is subject to inspection by any Enforcement Officer, whenever she/he is on the parcel for a lawful purpose, during such times when cannabis is actively cultivated on the parcel. Duplicate registration certificates will require payment of fee which shall be set by resolution of the City Council.

11-33-060 Regulatory Inspections of Registered Parcels and Records.

(a) Annual Inspections: Each parcel upon which cultivation of cannabis occurs must be inspected by the City a minimum of one (1) time each calendar year.

(b) Regulatory Parcel Inspections: Each parcel upon which cultivation of cannabis occurs shall be subject to inspection by the City during the ordinary business hours. If the owner or other person in charge of or in possession of the parcel fails to consent to the regulatory inspection, the registrant shall be deemed to have requested that the City obtain and execute a regulatory inspection warrant and a fee shall be assessed against the registrant. Said fee shall be set in accordance with a fee resolution approved by the City Council. The inspection required by this section shall be for the purpose of ensuring compliance with the requirements of this Chapter and applicable State laws.

(c) Regulatory Records Inspections: The records required to be maintained under this Chapter shall be subject to inspection by the City during the ordinary business hours. Said inspection shall be for the purpose of ensuring compliance with the requirements of this Chapter and applicable State laws.

11-33-070 Denial of Registration.

(a) Identification: Each applicant must verify their identity by presenting an unexpired identification card or driver's license issued by any U.S. state or the federal government.

(b) Grounds for Denial/Revocation/Suspension: The City Manager, or her/his designee, may deny, refuse to renew, suspend or revoke any registration obtained or sought to be obtained under this Chapter where the applicant or registrant satisfies any one or any combination of the following:

- (1) Failed to provide a fully completed application for registration;
- (2) Provided inaccurate information on an application for registration;
- (3) Failed to pay to the City the required registration fee and inspection costs;
- (4) Repeatedly violated this Chapter within the preceding twenty-four (24) months;

- (5) Refused to allow the City to conduct a regulatory inspection of the parcel registered or inspection of records required, as required by this Chapter;
- (6) Failed to pay to the City any amount which is overdue, thirty (30) or more days, to the City in unpaid fines, penalties, fees, charges, taxes, assessments and/or other payments, including contracted payments; or
- (7) Failed to provide written approval or written clearance to cultivate cannabis, which must be dated no earlier than sixty (60) days before the date of application, from the applicant's parole officer or probation officer, if the applicant is on active parole or formal probation.

(c) Appeal: Any person aggrieved by a denial of their application for registration may appeal the decision in the same manner as a notice to abate under Section 11-33-130. Upon receipt of a request for appeal, the City Manager or designee may elect to have the appeal proceed under Section 11-33-130 or another process within the Municipal Code, by providing a copy of such process.

11-33-080 Responsibilities of Registrants.

- (a) For the purpose of enforcing the requirements of this Chapter, the registrant of each parcel within the City shall be fully responsible for all conduct occurring on the parcel which may violate the terms of this Chapter, including the conduct of each of the registrant's invitees, guests, employees, agents and independent contractors working on the parcel, if applicable.
- (b) If any violation of the requirements of this Chapter occurs on a registered parcel, notice of suspension, revocation or restriction may be issued by providing written notice thereof within or in addition to a notice of violation and/or a notice to abate, which identifies the violation(s) supporting the decision to suspend, revoke or restrict the registration. The suspension, revocation or restriction shall become final when finding regarding the related violation(s) becomes final, unless an immediate suspension, revocation or restriction is reasonably necessary to protect against a substantial risk of significant bodily harm, death or significant property damage.
- (c) In addition, the City may report all violations committed by State licensees to the State.

11-33-090 Violations.

(a) Any violation of the provisions of this Chapter by any member of the public is hereby declared to be a public nuisance and may be abated by any or all remedies available under local, State and federal laws.

(b) The City may abate the violation of this Chapter by the prosecution of a civil action through the City Attorney, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

(c) Each cannabis plant cultivated in violation of the applicable provisions of this Chapter shall constitute a separate and distinct violation.

(d) Each and every day that a violation exists as to any violation within this Chapter shall constitute a separate and distinct violation.

(e) Each violation of this Chapter may be enforced by any and all lawful remedies available under the Municipal Code and applicable state statute(s), including but not limited to civil fines and penalties, infraction citation, public nuisance abatement and civil injunction, and all available remedies shall be cumulative and not preclude other available remedies.

Section 7. CODE ADOPTION. Chapter 11-32 of Title 11 is hereby added to the Corcoran Municipal Code and reads as follows:

CHAPTER 11-32 CANNABIS ABATEMENTS

- 11-32-010 Notice to Abate Cannabis Violation.**
- 11-32-020 Contents of Notice.**
- 11-32-030 Service of Notice.**
- 11-32-040 Administrative Review.**
- 11-32-050 Liability for Costs and Expenses.**
- 11-32-060 Abatement by Owner or Occupant.**
- 11-32-070 Enforcement.**
- 11-32-080 Accounting.**
- 11-32-090 Notice of Hearing on Accounting; Waiver by Payment.**
- 11-32-100 Hearing on Accounting.**
- 11-32-110 Modifications.**
- 11-32-120 Special Assessment and Lien.**
- 11-32-130 Enforcement by Civil Action.**
- 11-32-140 Summary Abatement.**
- 11-32-150 No Duty to Enforce.**

11-32-010 Notice to Abate Cannabis Violation.

Whenever the enforcing officer determines that a public nuisance as described in Chapter exists on any parcel within the City, he or she is authorized to notify the record owner(s) and/or occupant(s) of the parcel, through issuance of a written Notice to Abate Cannabis Violation (“*notice to abate*”).

11-32-020 Contents of Notice.

The written notice required under section 11-32-010 must be in writing and must:

- (a) Identify the owner(s) of the parcel upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.
- (b) Describe the location of such parcel by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the parcel.
- (c) Identify such property by reference to the assessor’s parcel number.
- (d) Contain a statement that cannabis violation exists on the parcel and that it has been determined by the enforcing officer to be a public nuisance as described in this Chapter.
- (e) Describe the cannabis violation that exists and the actions required to abate it.
- (h) Contain a statement that the owner or occupant is required to abate the cannabis violation within fourteen (14) calendar days after the date of service of the required *notice to abate*.
- (i) Contain a statement that the owner or occupant may, within ten (10) calendar days after the date that said notice was served, make a request in writing to the City Clerk for a hearing with the City Manager or the City Manager's designee to appeal the determination of the enforcing officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the provisions of this Chapter.
- (j) Contain a statement that, unless the owner or occupant abates the cannabis violation, or requests a hearing before the City Manager or designee,

within the time prescribed in the written notice, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, shall be made a special assessment added to the real property tax assessment roll and become a lien on the parcel, or be placed on the unsecured tax roll.

- (k) Indicate that the parcel may be sold by the tax collector after three (3) years of unpaid delinquent assessments.

11-32-030 Service of Notice.

(a) The *notice to abate* shall be served by delivering it personally to any adult occupant of the parcel and, pursuant to Government Code § 38773.5(c), shall also be served by certified United States mail address to each owner of the parcel, together with a Certificate of Mailing, to the address of each owner of the parcel as shown on the last equalized assessment roll, except that:

- (1) If the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the written notice shall also be mailed to each new owner at his or her address as it appears in said records; or

- (2) In the event that, after reasonable effort, the enforcing officer is unable to serve the written notice as required by this section, service shall be accomplished by posting a copy of the written notice on the parcel upon which the nuisance exists as follows:

- (A) Copies of the written notice shall be posted along the frontage of the subject property and at each entryway or such other locations on the property reasonably likely to provide notice to the owner and occupant.

- (B) In no event shall fewer than two (2) copies of the written notice be posted on a property pursuant to this section.

- (b) The service of the written notice is deemed complete as of the date of deposit in the U.S. mail, personal delivery, or posting, as applicable.

- (c) Upon completion of service of the *notice to abate*, said notice may be recorded in the Office of the County Recorder pursuant to Government Code § 38773.5(e).

11-32-040 Administrative Review.

- (a) Any person upon whom a *notice to abate* has been served may

appeal the determination of the enforcing officer, that the conditions set forth in such notice constitute a violation and/or public nuisance, to the City Manager or designee, or may show cause before the City Manager or designee why those conditions should not be abated in accordance with the provisions of this Chapter.

(b) An administrative review must be commenced by filing a written request for a hearing with the City Clerk within ten (10) calendar days after the date when the relevant notice was served upon them. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing the written request for administrative review shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request which complies fully with the requirements of this section, the findings of the enforcing officer contained in the relevant notice shall become final and conclusive on the eleventh (11th) day following service of the relevant notice.

(c) Upon timely receipt of a written request for hearing which complies with the requirements of this section, the City Clerk shall set a hearing date not less than seven (7) days nor more than thirty (30) days from the date the request was filed, unless the City and the person requesting the hearing agree otherwise in writing. The City Clerk shall send written notice of the hearing date to the requesting party, to any other parties upon whom the City served, and to the enforcing officer. Pursuant to Government Code § 38773.5(c), said notice of the hearing date shall be sent by certified mail to the record owners of the parcel.

(d) Any hearing conducted pursuant to this Chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The City Manager or designee has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(e) The City Manager or designee may continue the administrative hearing from time to time.

(f) The City Manager or designee shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the notice identifying the disputed violations. The City Manager or designee shall issue a written decision in the form of a resolution, which shall include

findings relating to the existence or nonexistence of the alleged cannabis violation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the *notice to abate*. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the *notice to abate* was served, and the enforcing officer except that pursuant to Government Code § 38773.5(c), said notice shall be sent by certified mail to the record owners of the parcel.

(g) The decision of the City Manager or designee shall be final and conclusive.

(h) After issuance of the decision of the City Manager or designee, if a *notice to abate* was recorded against any property that, under the decision of the City Manager or designee, shall not secure any special assessment under this Chapter, the City Clerk shall cause a *Notice of Withdrawal* to be recorded in the Office of the County Recorder pursuant to Government Code § 38773.5(e). Said *Notice of Withdrawal* need not be acknowledged but must have attached a certified copy of the City Manager or designee resolution authorizing the recordation of the *Notice of Withdrawal*, and shall specifically reference the official recorded document number listed on the *notice to abate* to be withdrawn.

11-32-050 Liability for Costs and Expenses.

(a) In any enforcement action brought pursuant to this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes or permits to exist, or who maintains any cannabis violation shall be liable for all costs incurred by the City, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Chapter, whether those costs are incurred prior to, during, or following enactment of this Chapter.

(b) In any action by the enforcing officer to abate cannabis violation under this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. In no action, administrative proceeding or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees actually incurred by the City in such action or proceeding. Pursuant to Government Code § 38773.5(b), recovery of attorneys' fees under this subsection shall be limited to those actions or proceedings in which the City elects, in the *notice to abate*, to seek recovery of its own

attorneys' fees.

11-32-060 Abatement by Owner or Occupant.

Any owner or occupant may abate any cannabis violation on parcel of real property owned, occupied or controlled by them or cause such cannabis violation to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer.

11-32-070 Enforcement.

(a) Whenever the enforcing officer becomes aware that an owner or occupant has failed to abate any cannabis violation within fourteen (14) days of the date of service of the *notice to abate*, or if an such notice was appealed, as of the date set by the City Manager or designee requiring such abatement, if any, the enforcing officer may take one or more of the following actions:

(1) Enter upon the parcel and abate the nuisance with City personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for an abatement warrant authorizing entry upon the property for the purpose of undertaking the abatement work. If any part of the work is to be accomplished by a private contractor(s), a written estimate of the work shall be provided to the owners and occupants of the parcel. Nothing herein shall be construed to require that any contract be awarded under this Chapter through competitive bidding procedures whenever such procedures are not required by the general laws of the State of California or this Code; or

(2) Request that the City Attorney commence a civil action to redress, enjoin and/or abate the public nuisance.

11-32-080 Accounting.

The enforcing officer shall keep a written accounting of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the City Manager or designee showing the cost of abatement and the administrative costs for each parcel.

11-32-090 Notice of Hearing on Accounting; Waiver by Payment.

Upon receipt of the accounting report of the enforcing officer, the City Clerk shall send a copy of each report by certified mail addressed to each corresponding property owner and include therewith a notice informing each owner that at the date and time specified, which shall not be less than five (5) business days after the date of mailing of the notice, the City Manager

or designee will meet to review the accounting report and that each owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the City Clerk prior to the time set for the hearing by the City Manager or designee. Unless otherwise expressly stated by the owner, payment of any costs of abatement and any costs of administration prior to said hearing shall be deemed a full waiver of the right to said hearing and a conclusive admission that said accounting is accurate and reasonable.

11-32-100 Hearing on Accounting.

(a) At the time fixed, the City Manager or designee shall meet to review the report of the enforcing officer. An owner may appear at said time and be heard on the question of whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner, is accurate and the amounts reported are reasonable. The cost of administration shall also be reviewed.

(b) The report of the enforcing officer shall be admitted into evidence. The owner(s) shall bear the burden of proving by clear and convincing evidence that the accounting is not accurate and reasonable.

11-32-110 Modifications.

The City Manager or designee shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.

11-32-120 Special Assessment and Lien.

After the hearing on the accounting under section 11-32-100, the City Manager or designee may order that the cost of abatement of any nuisance pursuant to this Chapter and the administrative costs as confirmed by the City Manager or designee be recorded as a special assessment against the respective parcels of land and placed upon the secured County tax roll, or placed on the unsecured roll, pursuant to section 38773.5 of the Government Code. However, the cost of abatement and the cost of administration as finally determined by the City Manager or designee shall not be placed on any tax roll if paid in full prior to entry of said costs on the tax roll. The City Manager or designee may also authorize or require that a *Notice of Abatement Lien* be recorded against the respective parcels of real property pursuant to section 38773.5(e) of the Government Code.

11-32-130 Enforcement by Civil Action.

As an alternative to the procedures set forth in sections 11-32-010 through 11-32-040, the City may abate the violation of this Chapter by the prosecution of a civil action through the City Attorney, including an action for injunctive relief. The remedy of injunctive relief may take the form of a

court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

11-32-140 Summary Abatement.

Notwithstanding any other provision of this Chapter, when any cannabis violation constitutes an immediate threat to public health, security or safety, and when the procedures set forth in sections 11-32-010 through 11-32-040 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the City to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in section 11-32-030, but the formal notice and hearing procedures set forth in this Chapter shall not apply. Pursuant to Government Code § 38773, the City may nevertheless recover its costs for abating that nuisance in the manner set forth in sections 11-32-080 through 11-32-120.

11-32-150 No Duty to Enforce.

Nothing in this Chapter shall be construed as imposing on the enforcing officer or the City any duty to issue a *notice to abate*, nor to abate any cannabis violation, nor to take any other action with regard to any cannabis violation, and neither the enforcing officer nor the City shall be held liable for failure to issue an order to abate any cannabis violation, nor for failure to abate any cannabis violation, nor for failure to take any other action with regard to any cannabis violation.

Section 8. CODE ADOPTION. Subsection V. of section 4-1-1 of the Corcoran Municipal Code is hereby amended to read in its entirety as follows:

It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises or an alleyway or other public right of way fronting said premises in such manner that any of the following conditions are found to exist thereon:

- ...
- V. Cannabis: A violation, by any member of the public, of any cannabis regulation within the Corcoran Municipal Code.

Section 9. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or

reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. In addition to the foregoing general exemptions, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a *Notice of Exemption* is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

Section 10. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Corcoran, or any official, employee or agent thereof.

Section 11. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 12. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Corcoran hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 13. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate, contradict or otherwise conflict with, applicable State and federal law and this ordinance shall be construed in light of that intent. To the extent the

provisions of the Corcoran Municipal Code as amended by this ordinance are substantially the same as provisions in the Corcoran Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 14. EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the _____, a newspaper printed and published in the City of Corcoran, State of California, together with the names of the Council members voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the City Council of the City of Corcoran, State of California, on _____, 2017 at a regular meeting of said Council duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

RAYMOND LERMA, Mayor

ATTEST:

MARLENE LOPEZ, City Clerk

City of

CORCORAN

A MUNICIPAL CORPORATION

FOUNDED 1914

**PUBLIC HEARING
ITEM #: 5-B**

MEMO

TO: Corcoran City Council

FROM: Kindon Meik, City Manager

DATE: November 7, 2017

MEETING DATE: November 14, 2017

SUBJECT: Consider Ordinance 637 establishing a ban on all commercial cannabis activities.

RECOMMENDATION

Consider Ordinance 637 establishing a ban on all commercial cannabis activities within the city limits.

DISCUSSION

With the adoption of SB 94 in June 2017, the California Legislature incorporated components of the Medical Cannabis Regulation and Safety Act (MCRSA) and Proposition 64/Adult use of Marijuana Act (AUMA) into a single bill thus creating the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

As part of SB 94, local jurisdictions retained the right to ban any and all commercial cannabis activities. Commercial cannabis activities include:

- Cultivation
- Manufacturing
- Testing
- Distribution
- Retail (dispensaries)
- Microbusinesses

Local ordinances banning or allowing commercial cannabis activities must be in place prior to January 2, 2018 when the State will begin issuing temporary licenses.

As part of its due diligence in understanding the issue, industry experts and others have identified potential concerns and benefits associated with commercial cannabis. Several of the findings are summarized in the table below:

CITY OFFICES:

Commercial Cannabis Challenges

- Potential “glut” or overproduction of cannabis and cannabis products leading to the closure of one third (1/3) or more of the commercial cannabis businesses in California within one to two years.
- Commercial cannabis businesses are traditionally high users of electricity and water.
- Question as to whether federal funding (grants) will be withheld from cities that allow commercial cannabis.
- Commercial cannabis businesses are cash based businesses.
- Cannabis and cannabis products cultivated/manufactured in Corcoran and subsequently sold in southern and northern California markets will eventually flow back into the Central Valley for consumption.
- Taxes on commercial cannabis activities may be short lived and thus not a long-term revenue source for the City.

Commercial Cannabis Opportunities

- Elimination of blighted industrial site located at Hwy 43 and Orange Ave.
- Increased property tax base as a result of tenant improvements at industrial site located at Hwy 43 and Orange Ave.
- Creation of 50-80 jobs at commercial cannabis campus.
- Increased economic activity for local businesses.
- New source of General Fund revenue derived from tax on commercial cannabis activities or payment in lieu of tax agreement or a business improvement district. As General Fund revenues these monies can be used towards public improvement projects, City services and amenities, and the elimination of debt (unfunded pension liabilities).
- Fees from commercial cannabis businesses will help pay for costs associated with regulating and enforcing Proposition 64 (personal use/cultivation) within the community.

BUDGET IMPACT

None

ATTACHMENTS

Planning Commission Resolution 17-12
Ordinance 637

**RESOLUTION NO. 17-12
CORCORAN CITY PLANNING COMMISSION
PERTAINING TO REVIEW OF PROPOSED ORDINANCE BANNING COMMERCIAL
CANNABIS ACTIVITY INCLUDING CULTIVATION, BUSINESSES, TRANSACTIONS
AND LAND USES.**

At a special meeting of the Planning Commission of the City of Corcoran duly called and held on November 6, 2017, the Commission approved the following:

WHEREAS, this Planning Commission considered a proposed ordinance prohibiting and banning all commercial cannabis activity within the City of Corcoran, including cultivation, businesses, transactions and land uses;

WHEREAS, this Planning Commission held a public hearing to review the proposed ordinance and consider whether it would be consistent with the City's General Plan; and

WHEREAS, pursuant to Government Code sections 65854, 65090 and 65091, notice was given of the public hearing held on November 6, 2017, at 5:30 P.M. before this Planning Commission regarding the proposed ordinance and at said public hearing, evidence was received by this Planning Commission from all persons in attendance who offered to give testimony and persons submitted written evidence, if any.

IT IS THEREFORE RESOLVED that Resolution No. 17-12 was passed, approved and adopted by the Planning Commission at an official meeting held November 6, 2017 by the following vote


AYES: Bega, DeVaney, Jarvis, Kassner, and Subia


NOES: Watkins

ABSENT: Triatao and Van Velson

ABSTAIN:

PASSED AND ADOPTED on this 6th day of November 2017.


David Bega
Planning Commission Chairman


Kevin J. Tromborg
Community Development Director

NOW THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION:

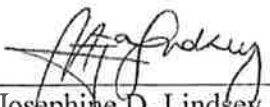
1. Found that the proposed ordinance is consistent with the City's General Plan;
2. Pursuant to Government Code section 65855, this Commission recommends as follows in regard to the proposed ordinance:
3. The adoption of the proposed ordinance prohibiting and banning all commercial cannabis activity within the City of Corcoran, including cultivation, businesses, transactions and land uses.

CERTIFICATE

City of Corcoran }
County of Kings } ss.
State of California }

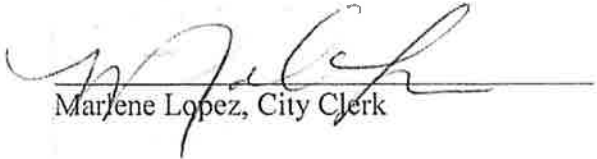
I, Ma. Josephine D. Lindsey, Planning Commission Secretary of the City of Corcoran, hereby certify that this is a full, true and correct copy of Resolution No. 17-12 duly passed by the Planning Commission of the City of Corcoran at a regular meeting thereof held on the 6th day of November, 2017, by the vote as set forth therein.

DATED: November 6, 2017



Ma. Josephine D. Lindsey
Planning Commission Secretary

ATTEST:



Marlene Lopez, City Clerk

ORDINANCE NO. 637

AN ORDINANCE OF THE CITY OF CORCORAN
BANNING NON-MEDICINAL AND MEDICINAL
COMMERCIAL CANNABIS CULTIVATION,
BUSINESSES, TRANSACTIONS AND LAND USES.

THE CITY COUNCIL OF THE CITY OF CORCORAN DOES ORDAIN AS
FOLLOWS:

Section 1. PURPOSE. There are adverse secondary impacts of cannabis/marijuana cultivation, processing, manufacturing, distribution, sales and use which include, without limitation, criminal activity, pungent odors, excess water consumption, toxic mold, excessive energy consumption and indoor electrical fire hazards, loitering at dispensaries and robbery of cannabis businesses which transact business primarily in cash. The provisions of this ordinance are intended to promote the public safety, health, comfort and general welfare, in order to provide a plan for sound and orderly development, and to ensure social and economic stability within the various zones established by the Corcoran Zoning Ordinance.

Section 2. FINDINGS AND PURPOSE. The City Council of the City of Corcoran hereby finds and declares the following:

- (a) California Constitution Article 11, Section 7 authorizes the City of Corcoran (“City”) to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws;
- (b) California Government Code § 37100 authorizes the legislative body of a local government to enact local ordinances which are not in conflict with the Constitution and laws of the State of California or the United States;
- (c) The federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis/marijuana as a Schedule I drug, which is defined as a drug or other substance which has a high potential for abuse, no currently accepted medical use in treatment in the United States, and has not been accepted as safe for use under medical supervision. The federal Controlled Substances Act declares it unlawful for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, cannabis. The federal Controlled Substances Act contains no exemption for cultivation, manufacture, distribution, dispensation or possession of cannabis for medical or non-medical purposes;

(d) On June 28, 2016, the Secretary of State of the State of California certified Proposition 64, the Control, Regulate and Tax Adult Use of Cannabis Act (“AUMA” or “**Proposition 64**”), for the November 8, 2016 statewide presidential general election ballot;

(e) The AUMA became law when a majority of the electorate voted “yes” on Proposition 64. The AUMA, to a certain degree, decriminalized under state law the possession, consumption, cultivation, processing, manufacture, distribution, testing and sale of non-medicinal cannabis/marijuana and derivative products, including edibles, for adults twenty-one (21) years of age and older. The AUMA also included provisions for licensing commercial cannabis and preserved the authority of local governments to regulate, and in some cases ban, certain cannabis activities within their boundaries.

(f) On June 27, 2017, Senate Bill 94 (“**SB-94**”), which was a state budget trailer bill, was signed into law by the Governor of the State of California. This legislation clarified and/or revised certain portions of the AUMA and also certain state statutes pertaining to medicinal cannabis/marijuana, including the authority of local governments to regulate, and in some cases ban, certain cannabis activities within their boundaries;

(g) The AUMA now regulates, among other matters, the use of cannabis/marijuana for non-medicinal personal and commercial purposes, including the recreational use of cannabis by adults over twenty-one (21) years of age;

(h) To regulate personal use of cannabis, the AUMA added Health and Safety Code § 11362.1 which, among other things and with certain exceptions, made it “...lawful under state and local law...” for persons 21 years of age or older to “...possess, process, transport, purchase, obtain or give away to persons 21 years of age or older without any compensation whatsoever...” up to 28.5 grams of non-medical cannabis in the form of concentrated cannabis or not more than eight grams in the form of concentrated cannabis contained in cannabis products;

(i) The AUMA also removed certain state criminal law prohibitions for adult individuals who “...possess, plant, cultivate, harvest, dry or process not more than six living cannabis plants and possess the cannabis produced by the plants...”;

(j) The AUMA also clarified that state law does not prohibit specified adult individuals from smoking or ingesting cannabis or cannabis products;

(k) To regulate commercial use of non-medical cannabis, the AUMA added Division 10 (Cannabis) to the Business & Professions Code, which vested certain state agencies with “...the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses...” for certain non-medicinal commercial cannabis business activity including

microbusinesses, transportation, storage (unrelated to manufacturing activities), distribution, testing, and sale of cannabis and cannabis products within the state;

(l) The AUMA provides that specified state agencies shall promulgate rules and regulations and shall begin issuing state business licenses under Division 10 of the Business & Professions Code by January 1, 2018;

(m) The AUMA specifies that a local jurisdiction shall not prevent transportation of non-medicinal cannabis or derivative products on public roads by a licensee transporting cannabis or derivative products in compliance with Division 10;

(n) The AUMA authorized cities to "...reasonably regulate..." without completely prohibiting cultivation of cannabis inside a private residence or inside an "...accessory structure to a private residence located upon the grounds of a private residence which is fully enclosed and secure...";

(o) The AUMA authorized cities to completely prohibit outdoor cultivation on the grounds of a private residence until a "...determination by the California Attorney General that nonmedical use of cannabis is lawful in the State of California under federal law...";

(p) The AUMA authorized cities to completely prohibit the establishment or operation of any non-medical cannabis business licensed under Division 10 within its jurisdiction, including cannabis dispensaries, cannabis retailers and cannabis delivery services;

(q) Absent appropriate local regulation, which is authorized by the AUMA, only state regulations will be controlling within a given local jurisdiction;

(r) Until the AUMA was enacted, state statutes prohibited cultivation, possession and sales of non-medicinal cannabis and therefore overlapping local regulations would have been preempted by state statute;

(s) The City has permissive zoning standards which prohibit all land uses not expressly allowed and has applied the same, without exception, to all instances of medicinal cannabis, including, but not limited to, cultivation, distribution, dispensing, transportation, sales and gifting;

(t) The existence of cannabis cultivation operations carries the potential to increase secondary impacts such as: (1) robberies, break-ins and other thefts due to the high monetary value of cannabis plants; (2) dangerous alterations to the electrical wiring of buildings; (3) toxic amounts of mold spores present in buildings intended for human occupation; (4) the potential for exposure to or increased usage by school aged children; (5) the spread of strong, pungent and/or noxious odors from cannabis plants;

(u) The City has legitimate and compelling interests in protecting the public health, welfare and safety of its residents, as well as preserving the peace and quiet of the neighborhoods within the City;

(v) The City has determined that a regulatory ordinance is necessary to protect the public health, welfare and safety of residents of the City to the maximum extent allowable under California law to address the adverse secondary impacts resulting from changes to California law through the AUMA and Senate Bill 94 (2017);

(w) The cultivation of substantial amounts of cannabis/marijuana in any location or parcel of real property within the City poses serious threats to the health, safety, and well-being of the City and its residents, including the following:

(1) By concentrating substantial amounts of cannabis in one place, such locations and parcels are frequently associated with, and create a significant risk of, burglary, robbery, armed robbery, and larceny and other property crimes; and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.

(2) Such locations and parcels are frequently associated with other criminal activities, including unlawful sales of cannabis to individuals, including minors who are not qualified medical patients, trafficking of cannabis outside the City by unlawful enterprises, and possession and discharge of unlawful firearms.

(3) The creation of persistent malodorous smells reaching into populated areas far beyond cannabis grow sites. Cannabis plants, as they begin to flower and for a period of two (2) months or more during the growing season (August - October for outdoor grows), produce an extremely strong odor, offensive to many people, and detectable far beyond property boundaries. This malodorous smell is often described as "skunky," as it resembles the odor of a skunk.

(4) The distinctive smell of flowering cannabis also creates an attractive nuisance, alerting persons to the location of the valuable cannabis plants, and creating a risk of theft, burglary, robbery and armed robbery and associated violent confrontations.

(5) Cultivation of large amounts of cannabis also frequently requires excessive use of water resources, which exacerbates drought conditions.

(6) Extensive indoor cultivation of large amounts of cannabis also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.

(x) Cultivation and sales of any amount of cannabis and/or derivative products at

locations or parcels within six hundred (600) feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation and sales of any amount of cannabis or derivative products within such locations or parcels is especially hazardous to public safety and welfare, and to the protection of children.

(y) As recognized by the California Attorney General's August 2008 GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF CANNABIS GROWN FOR MEDICAL USE, the cultivation or other concentration of cannabis in any location or parcels without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. There is no known reason why this same principle would not apply to non-medicinal cannabis.

(z) It is the purpose and intent of this ordinance to implement State law by providing a means for regulating non-medicinal and medicinal cannabis in a manner which is consistent with applicable state laws and which promotes the health, safety, security and welfare of local residents within the City. This Chapter is intended to be consistent with Proposition 64 and Senate Bill 94, and to that end, is not intended to prohibit any person from exercising any right otherwise granted by state law. Rather, the intent and purpose of this Chapter is to establish reasonable regulations upon the manner in which cannabis and cannabis products must be cultivated, manufactured, processed, stored and sold or gifted, in order to protect the public health, safety, security and welfare of all of the residents of the City.

(aa) The limited right of individuals under state law to cultivate cannabis plants for non-medicinal purposes and/or to carry on a cannabis business without violating state criminal laws does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter, the City will achieve a significant reduction in the aforementioned harms caused or threatened by the cultivation of non-medicinal cannabis and/or carrying on of any cannabis business within the City.

(bb) Nothing in this ordinance shall be construed to allow or legalize cannabis for any purposes, or allow or legalize any activity relating to the cultivation, distribution or consumption of cannabis which is otherwise illegal under state or federal law. No provision of this Chapter shall be deemed a defense or immunity to any action brought against any person by the County District Attorney or the Attorney General of State of California.

Section 3. CODE ADOPTION. Chapter 11-34 of Title 11 is hereby added to

the Corcoran Municipal Code and reads as follows:

CHAPTER 11-34 COMMERCIAL CANNABIS

- 11-34-010 Authority and Title.**
- 11-34-020 Definitions.**
- 11-34-030 Nuisance Declared.**
- 11-34-040 Responsibilities of Landowners.**
- 11-34-050 Violations.**

11-34-010 Authority and Title.

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code § 11362.2(b)(1), and Government Code § 38773.5, the City Council does enact this Chapter, which shall be known and may be cited as the “Commercial Cannabis Ordinance.”

11-34-020 Definitions.

(a) All definitions set forth within California Health and Safety Code § 11362.7, California Business and Professions Code § 26001 and California Revenue and Taxation Code § 34010, as amended from time to time, and as interpreted by judicial opinions from time to time, shall apply under this Chapter in addition to the definitions set forth within subsection (b) below. In the event of an actual conflict between the definitions within the aforementioned statutes and those contained within subsection (b) below, the definition within subsection (b) shall prevail.

(b) Except where the context otherwise requires, the following definitions shall govern the construction of this Chapter of the Municipal Code:

- (1) “City” refers to the City of Corcoran.
- (2) “Enforcing officer” means the Chief of Police, Community Development Director or other the Code Enforcement Officer, or the authorized deputies or designees of the same, each of whom is independently authorized to enforce this Chapter.
- (3) “Legal parcel” and “parcel” means any parcel of real property which may be separately sold in compliance with the Subdivision Map Act [Division 2 (commencing with section 66410) of Title 7 of the Government Code].
- (4) The terms “cannabis” and “marijuana” shall have the same

meaning within this ordinance. Furthermore, except where otherwise distinguished, the term “cannabis” shall include and refer to both medicinal cannabis and non-medicinal cannabis.

(5) “Medical cannabis” shall have the same meaning as medicinal cannabis in California Business and Professions Code § 26001.

(6) “Municipal Code” refers to the Corcoran Municipal Code.

(7) “Cannabis business” shall mean any “cannabis business activity” as defined California Business and Professions Code § 26001(k), or successor statute, but shall not include any business whose only relationship to cannabis is the production or sale of accessories for individual consumption and/or use of cannabis or cannabis products.

(8) The term “State” refers to the State of California.

(c) Effect of Headings/Titles Within this Chapter: Section and subsection headings and title are provided for organizational purposes only and must not be read to in any manner affect the scope, meaning or intent of the provisions associated with them.

11-34-030 Nuisance Declared.

(a) Prohibited Cannabis Activities: Unless and until this subsection is specifically cited as repealed, notwithstanding any other ordinance of the City, each of the following shall be prohibited everywhere within the City and shall constitute a public nuisance:

- (1) Cannabis Retail Sales: Each retail sale of cannabis, cannabis products and industrial hemp;
- (2) Commercial Cannabis Business: The operation of any business of the type which requires or could obtain licensure under Division 10 of the California Business and Professions Code (presently consisting of sections 26000-26211) within any portion of the City of Corcoran, including all lands therein and each and all zoning districts established by Title 9 of the Corcoran Municipal Code;
- (3) Retail Deliveries Within the City: The delivery, as defined by Businesses and Professions Code § 26001(p) or any successor

statute, of cannabis and/or cannabis product(s) to any parcel of real property within the City in connection with a retail sale thereof; and

- (4) Microbusinesses: The operation of any cannabis microbusiness within any land-use zone within the City.

11-34-040 Responsibilities of Landowners for Violations.

(a) No person owning, leasing, occupying or having charge or possession of any parcel within the City shall cause, allow, suffer or permit such parcel to be used for a cannabis business in violation of any provision in this Chapter. For the purpose of enforcing the requirements of this Chapter, the record owner of each parcel within the City shall be fully responsible for all conduct occurring on the parcel which may violate the terms of this Chapter, including the conduct of each of the occupants, invitees, guests, employees, agents and independent contractors on the parcel, if applicable.

(b) The City may report all violations of this Chapter committed by State licensees to the State.

11-34-050 Violations.

(a) Any violation of the provisions of this Chapter by any member of the public is hereby declared to be a public nuisance and may be abated by any or all remedies available.

(b) The City may abate the violation of this Chapter by the prosecution of a civil action through the City Attorney, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

(c) Each cannabis plant cultivated in violation of the applicable provisions of this Chapter shall constitute a separate and distinct violation.

(d) Each and every day that a violation exists as to any violation within this Chapter shall constitute a separate and distinct violation.

(e) Each violation of this Chapter may be enforced by any and all lawful remedies available under the Municipal Code and applicable state statute(s), including but not limited to civil fines and penalties, infraction citation, criminal prosecution, public nuisance abatement and civil

injunction, as appropriate, and all available remedies shall be cumulative and not preclude other available remedies.

Section 4. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. In addition to the foregoing general exemptions, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a *Notice of Exemption* is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

Section 5. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Corcoran, or any official, employee or agent thereof.

Section 6. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Corcoran hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any

one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 8. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate, contradict or otherwise conflict with, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Corcoran Municipal Code as amended by this ordinance are substantially the same as provisions in the Corcoran Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 9. EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code § 36933(c)(1) and a summary shall be published once in the _____, a newspaper printed and published in the City of Corcoran, State of California, together with the names of the Council members voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the City Council of the City of Corcoran, State of California, on _____, 2017 at a regular meeting of said Council duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

RAYMOND LERMA, Mayor

ATTEST: _____
MARLENE LOPEZ, City Clerk

City of

CORCORAN

A MUNICIPAL CORPORATION

FOUNDED 1914

**PUBLIC HEARING
ITEM #: 5-C**

MEMO

TO: Corcoran City Council

FROM: Kindon Meik, City Manager

DATE: November 7, 2017

MEETING DATE: November 14, 2017

SUBJECT: Consider Ordinance 638 approving and regulating commercial cannabis activities and establishing land use policies.

RECOMMENDATION

Consider Ordinance 636 and determine to:

1. Approve as presented and allow commercial cannabis activities with the exception of dispensaries and microbusinesses; OR
2. Amend and allow only one or more commercial cannabis activities; OR
3. Veto (no vote) and thereby ban all commercial cannabis activities

DISCUSSION

With the adoption of SB 94 in June 2017, the California Legislature incorporated components of the Medical Cannabis Regulation and Safety Act (MCRSA) and Proposition 64/Adult use of Marijuana Act (AUMA) into a single bill thus creating the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

As part of SB 94, local jurisdictions retained the right to allow and regulate any and all commercial cannabis activities. Commercial cannabis activities include:

- Cultivation
- Manufacturing
- Testing
- Distribution
- Retail (dispensaries)
- Microbusinesses

CITY OFFICES:

832 Whitley Avenue • Corcoran, CA 93212 • Phone 559/992-2151 • www.cityofcorcoran.com

Ordinance 638 allows commercial cannabis activities with the exception of dispensaries and microbusinesses. The Council may choose to further limit which commercial cannabis activities are allowed in the city.

If approved, Ordinance 638 would implement the following local commercial cannabis regulations:

- No commercial cannabis activities within 1,000 feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities (p. 5)
- No dispensaries (p. 8).
- No outdoor cultivation (p. 8).
- No retail deliveries (p. 8).
- No microbusinesses (p. 8).
- No cannabis use (inhaling, consuming, ingesting) on commercial properties during regular work hours open to the public (p. 8).
- Cannabis businesses required to obtain a Conditional Use Permit approved by the Planning Commission (p. 9).
- Cannabis businesses may not begin operation until either a local cannabis tax ordinance, PILOT agreement (payment in lieu of taxes), or a business improvement district is in effect (p. 10).
- Cannabis businesses will be required to register with the City (p. 11).
- Businesses must pay a registration fee set by Council (p. 12)
- Commercial cannabis businesses are only allowed in Heavy Industrial Zones (p. 12).
- Copies of State licenses must be filed with the City (p. 12)
- Each cannabis business must remain in full compliance with all State statutes relating to cannabis (p. 13)
 - Protections for minors
 - Advertising and marketing restrictions
 - Maintain activity records for seven years
 - Utilize track-and-trace mechanisms
 - Mandatory packaging and labeling requirements
 - Quality assurance and testing standards
- All cannabis businesses will be required to have and maintain adequate security systems (p. 14).
- Cannabis businesses must disclose any violation notice issued by the State (p. 14)
- Parcels used for commercial cannabis activities must not have any active code enforcement violations (p. 14).
- Minors are not allowed access to cannabis businesses (p. 15).
- Buildings used for commercial cannabis must adhere to building standards and requirements imposed by the City (p. 16-17).
- Cannabis businesses must allow annual inspections (ordinance does not prohibit multiple inspection visits) (p. 19).

- Cannabis businesses must allow the City to access all inspection records required by the State (p. 20).
- Employees applying for work at cannabis businesses must submit to a LiveScan or other comparable background check. (p. 20)

All State regulations remain in place unless otherwise referenced in the ordinance.

BUDGET IMPACT

Ordinance 638 allows the City to enter into a PILOT (payment in lieu of taxes) agreement, establish a cannabis tax (subject to voter approval), and/or create a Business Improvement District. Each of these tools would generate General Fund revenues for the City. The amount of revenue generated would be determined according to the mechanism implemented.

ATTACHMENTS

Ordinance 638

ORDINANCE NO. 638

AN ORDINANCE OF THE CITY OF CORCORAN
ENACTING REGULATIONS FOR NON-MEDICINAL
AND MEDICINAL COMMERCIAL CANNABIS
CULTIVATION, BUSINESSES, TRANSACTIONS
AND LAND USES.

THE CITY COUNCIL OF THE CITY OF CORCORAN DOES ORDAIN AS
FOLLOWS:

Section 1. PURPOSE. There are adverse secondary impacts of cannabis/marijuana cultivation, processing, manufacturing, distribution, sales and use which include, without limitation, criminal activity, pungent odors, excess water consumption, toxic mold, excessive energy consumption and indoor electrical fire hazards, loitering at dispensaries and robbery of cannabis businesses which transact business primarily in cash. The provisions of this ordinance are intended to promote the public safety, health, comfort and general welfare, in order to provide a plan for sound and orderly development, and to ensure social and economic stability within the various zones established by the Corcoran Zoning Ordinance.

Section 2. FINDINGS AND PURPOSE. The City Council of the City of Corcoran hereby finds and declares the following:

- (a) California Constitution Article 11, Section 7 authorizes the City of Corcoran (“City”) to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws;
- (b) California Government Code § 37100 authorizes the legislative body of a local government to enact local ordinances which are not in conflict with the Constitution and laws of the State of California or the United States;
- (c) The federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis/marijuana as a Schedule I drug, which is defined as a drug or other substance which has a high potential for abuse, no currently accepted medical use in treatment in the United States, and has not been accepted as safe for use under medical supervision. The federal Controlled Substances Act declares it unlawful for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, cannabis. The federal Controlled Substances Act contains no exemption for cultivation, manufacture,

distribution, dispensation or possession of cannabis for medical or non-medical purposes;

(d) On June 28, 2016, the Secretary of State of the State of California certified Proposition 64, the Control, Regulate and Tax Adult Use of Cannabis Act (“**AUMA**” or “**Proposition 64**”), for the November 8, 2016 statewide presidential general election ballot;

(e) The AUMA became law when a majority of the electorate voted “yes” on Proposition 64. The AUMA, to a certain degree, decriminalized under state law the possession, consumption, cultivation, processing, manufacture, distribution, testing and sale of non-medicinal cannabis/marijuana and derivative products, including edibles, for adults twenty-one (21) years of age and older. The AUMA also included provisions for licensing commercial cannabis and preserved the authority of local governments to regulate, and in some cases ban, certain cannabis activities within their boundaries.

(f) On June 27, 2017, Senate Bill 94 (“**SB-94**”), which was a state budget trailer bill, was signed into law by the Governor of the State of California. This legislation clarified and/or revised certain portions of the AUMA and also certain state statutes pertaining to medicinal cannabis/marijuana, including the authority of local governments to regulate, and in some cases ban, certain cannabis activities within their boundaries;

(g) The AUMA now regulates, among other matters, the use of cannabis/marijuana for non-medicinal personal and commercial purposes, including the recreational use of cannabis by adults over twenty-one (21) years of age;

(h) To regulate personal use of cannabis, the AUMA added Health and Safety Code § 11362.1 which, among other things and with certain exceptions, made it “...lawful under state and local law...” for persons 21 years of age or older to “...possess, process, transport, purchase, obtain or give away to persons 21 years of age or older without any compensation whatsoever...” up to 28.5 grams of non-medical cannabis in the form of concentrated cannabis or not more than eight grams in the form of concentrated cannabis contained in cannabis products;

(i) The AUMA also removed certain state criminal law prohibitions for adult individuals who “...possess, plant, cultivate, harvest, dry or process not more than six living cannabis plants and possess the cannabis produced by the plants...”;

(j) The AUMA also clarified that state law does not prohibit specified adult individuals from smoking or ingesting cannabis or cannabis products;

(k) To regulate commercial use of non-medical cannabis, the AUMA added Division 10 (Cannabis) to the Business & Professions Code, which vested certain state agencies with “...the sole authority to create, issue, deny, renew, discipline, suspend, or revoke

licenses...” for certain non-medicinal commercial cannabis business activity including microbusinesses, transportation, storage (unrelated to manufacturing activities), distribution, testing, and sale of cannabis and cannabis products within the state;

(l) The AUMA provides that specified state agencies shall promulgate rules and regulations and shall begin issuing state business licenses under Division 10 of the Business & Professions Code by January 1, 2018;

(m) The AUMA specifies that a local jurisdiction shall not prevent transportation of non-medicinal cannabis or derivative products on public roads by a licensee transporting cannabis or derivative products in compliance with Division 10;

(n) The AUMA authorized cities to “...reasonably regulate...” without completely prohibiting cultivation of cannabis inside a private residence or inside an “...accessory structure to a private residence located upon the grounds of a private residence which is fully enclosed and secure...”;

(o) The AUMA authorized cities to completely prohibit outdoor cultivation on the grounds of a private residence until a “...determination by the California Attorney General that nonmedical use of cannabis is lawful in the State of California under federal law...”;

(p) The AUMA authorized cities to completely prohibit the establishment or operation of any non-medical cannabis business licensed under Division 10 within its jurisdiction, including cannabis dispensaries, cannabis retailers and cannabis delivery services;

(q) Absent appropriate local regulation, which is authorized by the AUMA, only state regulations will be controlling within a given local jurisdiction;

(r) Until the AUMA was enacted, state statutes prohibited cultivation, possession and sales of non-medicinal cannabis and therefore overlapping local regulations would have been preempted by state statute;

(s) The City has permissive zoning standards which prohibit all land uses not expressly allowed and has applied the same, without exception, to all instances of medicinal cannabis, including, but not limited to, cultivation, distribution, dispensing, transportation, sales and gifting;

(t) The existence of cannabis cultivation operations carries the potential to increase secondary impacts such as: (1) robberies, break-ins and other thefts due to the high monetary value of cannabis plants; (2) dangerous alterations to the electrical wiring of buildings; (3) toxic amounts of mold spores present in buildings intended for human occupation; (4) the potential for exposure to or increased usage by school aged children; (5) the spread of strong, pungent and/or noxious odors from cannabis plants;

(u) The City has legitimate and compelling interests in protecting the public health, welfare and safety of its residents, as well as preserving the peace and quiet of the neighborhoods within the City;

(v) The City has determined that a regulatory ordinance is necessary to protect the public health, welfare and safety of residents of the City to the maximum extent allowable under California law to address the adverse secondary impacts resulting from changes to California law through the AUMA and Senate Bill 94 (2017);

(w) The cultivation of substantial amounts of cannabis/marijuana in any location or parcel of real property within the City poses serious threats to the health, safety, and well-being of the City and its residents, including the following:

(1) By concentrating substantial amounts of cannabis in one place, such locations and parcels are frequently associated with, and create a significant risk of, burglary, robbery, armed robbery, and larceny and other property crimes; and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.

(2) Such locations and parcels are frequently associated with other criminal activities, including unlawful sales of cannabis to individuals, including minors who are not qualified medical patients, trafficking of cannabis outside the City by unlawful enterprises, and possession and discharge of unlawful firearms.

(3) The creation of persistent malodorous smells reaching into populated areas far beyond cannabis grow sites. Cannabis plants, as they begin to flower and for a period of two (2) months or more during the growing season (August - October for outdoor grows), produce an extremely strong odor, offensive to many people, and detectable far beyond property boundaries. This malodorous smell is often described as "skunky," as it resembles the odor of a skunk.

(4) The distinctive smell of flowering cannabis also creates an attractive nuisance, alerting persons to the location of the valuable cannabis plants, and creating a risk of theft, burglary, robbery and armed robbery and associated violent confrontations.

(5) Cultivation of large amounts of cannabis also frequently requires excessive use of water resources, which exacerbates drought conditions.

(6) Extensive indoor cultivation of large amounts of cannabis also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.

(x) Cultivation and sales of any amount of cannabis and/or derivative products, as well as commercial cannabis activity to any degree, at locations or parcels within one thousand (1,000) feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation and sales of any amount of cannabis or derivative products within such locations or parcels is especially hazardous to public safety and welfare, and to the protection of children.

(y) As recognized by the California Attorney General's August 2008 GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF CANNABIS GROWN FOR MEDICAL USE, the cultivation or other concentration of cannabis in any location or parcels without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. There is no known reason why this same principle would not apply to non-medicinal cannabis.

(z) It is the purpose and intent of this ordinance to implement State law by providing a means for regulating non-medicinal and medicinal cannabis in a manner which is consistent with applicable state laws and which promotes the health, safety, security and welfare of local residents within the City. This Chapter is intended to be consistent with Proposition 64 and Senate Bill 94, and to that end, is not intended to prohibit any person from exercising any right otherwise granted by state law. Rather, the intent and purpose of this Chapter is to establish reasonable regulations upon the manner in which cannabis and cannabis products must be cultivated, manufactured, processed, stored and sold or gifted, in order to protect the public health, safety, security and welfare of all of the residents of the City.

(aa) The limited right of individuals under state law to cultivate cannabis plants for non-medicinal purposes and/or to carry on a cannabis business without violating state criminal laws does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter, the City will achieve a significant reduction in the aforementioned harms caused or threatened by the cultivation of non-medicinal cannabis and/or carrying on of any cannabis business within the City.

(bb) Nothing in this ordinance shall be construed to allow or legalize cannabis for any purposes, or allow or legalize any activity relating to the cultivation, distribution or consumption of cannabis which is otherwise illegal under state or federal law. No provision of this Chapter shall be deemed a defense or immunity to any action brought against any person by the County District Attorney or the Attorney General of State of California.

Section 3. CODE REPEAL. Section 11-15-4 of Chapter 11-15 of Title 9 of the Corcoran Municipal Code, pertaining to medical marijuana cultivation and dispensaries, is hereby repealed.

Section 4. CODE AMENDMENT. Zoning Table 11-7-1 within Part 2 of Title 11 of the Corcoran Municipal Code is hereby amended to read in its entirety as attached hereto. Said zoning table must be interpreted to conform to the relevant prohibitions, restrictions and requirements within Chapter 11-34 of Title 11 of the Corcoran Municipal Code as enacted hereafter.

Section 5. CODE ENACTMENT. Chapter 11-34 of Title 11 is hereby added to the Corcoran Municipal Code and reads as follows:

CHAPTER 11-34 COMMERCIAL CANNABIS REGULATIONS

- 11-34-010 Authority and Title.**
- 11-34-020 Definitions.**
- 11-34-030 Nuisance Declared.**
- 11-34-040 Conditional Use Permit.**
- 11-34-050 Annual Registration of Parcels Prior to Use for Cannabis Business.**
- 11-34-060 Registration of Parcels Prior to Commercial Cultivation.**
- 11-34-070 Registration Application and Certificate; Identification Cards.**
- 11-34-080 Regulatory Inspections of Registered Parcels and Records.**
- 11-34-090 Denial of Registration.**
- 11-34-100 Responsibilities of Registrants.**
- 11-34-110 Violations.**

11-34-010 Authority and Title.

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code § 11362.2(b)(1), and Government Code § 38773.5, the City Council does enact this Chapter, which shall be known and may be cited as the “**Commercial Cannabis Ordinance.**”

11-34-020 Definitions.

(a) All definitions set forth within California Health and Safety Code § 11362.7, California Business and Professions Code § 26001 and California

Revenue and Taxation Code § 34010, as amended from time to time, and as interpreted by judicial opinions from time to time, shall apply under this Chapter in addition to the definitions set forth within subsection (b) below. In the event of an actual conflict between the definitions within the aforementioned statutes and those contained within subsection (b) below, the definition within subsection (b) shall prevail.

(b) Except where the context otherwise requires, the following definitions shall govern the construction of this Chapter of the Municipal Code:

- (1) “City” refers to the City of Corcoran.
- (2) “Enforcing officer” means the Chief of Police, Community Development Director or other the Code Enforcement Officer, or the authorized deputies or designees of either, each of whom is independently authorized to enforce this Chapter.
- (3) “Legal parcel” and “parcel” means any parcel of real property which may be separately sold in compliance with the Subdivision Map Act [Division 2 (commencing with section 66410) of Title 7 of the Government Code].
- (4) The terms “cannabis” and “marijuana” shall have the same meaning within this ordinance. Furthermore, except where otherwise distinguished, the term “cannabis” shall include and refer to both medicinal cannabis and non-medicinal cannabis.
- (5) “Medical cannabis” shall have the same meaning as medicinal cannabis in California Business and Professions Code § 26001.
- (6) “Municipal Code” refers to the Corcoran Municipal Code.
- (7) “Cannabis business” shall mean any “cannabis business activity” as defined California Business and Professions Code § 26001(k), or successor statute, but shall not include any business whose only relationship to cannabis is the production or sale of accessories for individual consumption and/or use of cannabis or cannabis products.
- (8) The term “State” refers to the State of California.

(c) Effect of Headings/Titles Within this Chapter: Section and

subsection headings and title are provided for organizational purposes only and must not be read to in any manner affect the scope, meaning or intent of the provisions associated with them.

11-34-030 Nuisance Declared.

(a) Unless and until this subsection is specifically cited as repealed, notwithstanding any other ordinance of the City, each and all of the following activities are hereby declared to be a public nuisance and unlawful when the same occur in violation of any of the provisions of this Chapter or any State law, and any such public nuisance may be abated by the City in any manner allowed by any State law or local ordinance:

- (1) The operation of any indoor and/or outdoor cannabis cultivation site upon any parcel of real property within the City which does not have an active registration with the City; and
- (2) The operation of any cannabis business upon any parcel of real property within the City which does not have an active registration with the City.

(b) Prohibited Cannabis Activities: Unless and until this subsection is specifically cited as repealed, notwithstanding any other ordinance of the City, each of the following shall be prohibited everywhere within the City and shall constitute a public nuisance:

- (1) Cannabis Retail Sales: Each retail sale of cannabis and cannabis products;
- (2) Outdoor Cultivation: All outdoor possession, planting, cultivation, harvesting, drying or processing of cannabis.
- (3) Retail Deliveries Within the City: The delivery, as defined by Businesses and Professions Code § 26001(p) or any successor statute, of cannabis and/or cannabis product(s) to any parcel of real property within the City in connection with a retail sale thereof; and
- (4) Microbusinesses: The operation of any cannabis microbusiness within any land-use zone within the City.

(c) Failure to Prevent Cannabis Use During Public Business Hours: Notwithstanding any other ordinance of the City to the contrary, and to any extent not already prohibited by State law, federal law or subsection (b), the

failure of a business owner to prevent any person from inhaling, ingesting, using and/or other consuming any cannabis and/or any cannabis product(s) is prohibited upon each parcel of real property within the City during such times when any commercial business conducted thereon is open to the public.

11-34-040 Conditional Use Permit.

(a) Conditional Use Permit Required: Unless and until this subsection is specifically cited as repealed, and notwithstanding any other ordinance of the City to the contrary, each land use occurring on a privately owned parcel of real property within the City which includes the cultivation, storage, transport, testing, processing and/or sale of any plant or crop, or derivative product thereof, which yields any detectable level of any substance which is listed within any schedule prepared under the federal Controlled Substances Act (codified at 21 U.S.C. §§ 801 et seq.), excluding Schedule V, shall require a conditional use permit under Title 9 of the Municipal Code. Any conditional use permit issued pursuant to this requirement shall be deemed to include a condition which requires compliance with all applicable federal, State and local laws and regulations, regardless of whether or not the same is expressly listed as one of the conditions.

(b) Exemptions: Subsection (a) shall not apply to any of the following:

(1) A land use within the scope of California Health and Safety Code § 11362.1(a) and which will not concurrently occur on the same parcel with land uses which require any State license under the statutes of Proposition 64 (2016) and Senate Bill 94 (2017);

(2) Each land use which consists, in whole or in part, of the operation of a pharmacy which is under the supervision of a State-registered pharmacist whom has a valid registration from the Drug Enforcement Administration of the United States Department of Justice.

(3) Any land use which the City reasonably believes is required to be exempt under applicable portions of federal and/or state laws.

(c) Expiration of Conditional Use Permits: Notwithstanding any other provision within the Municipal Code to the contrary, the failure to operate a cannabis business upon any parcel with a conditional use permit therefor, for a period of six (6) or more consecutive months shall automatically cause said conditional use permit to expire and notice of expiration may be issued

by the City but is not required to be issued.

11-34-050 Annual Registration of Parcels Prior to Use for Cannabis Business.

(a) Registration Required: Each parcel of real property within the City must be registered under this section with the City Manager or designee prior to the use of said parcel for any cannabis business activity and each cannabis business activity within the scope of any State license issued pursuant to Division 10 of the California Business and Professions Code. Violation of this requirement is hereby declared to be unlawful and a public nuisance which may be abated by the City in any manner allowed by State law or local ordinance. Registration of a parcel does not create any vested right or land-use entitlement.

(b) Conditions of Active Registration: The registration of any parcel of real property under this section shall be invalid, void and inactive except during such times when all of the following conditions are all simultaneously satisfied:

(1) Local Cannabis Business Tax, PILOT or Other Assessment: For each type of commercial cannabis business activity which is to occur, one or more of the following must be in effect on the parcel to be registered: (A) A valid voter-approved local cannabis business tax ordinance, other than a generally applicable business, sales or use tax; (B) A valid written agreement with the City for an annual payment in lieu of taxes (PILOT) to the City or other agreement approved by the City Council; and/or (C) A valid business improvement district approved by the City Council which specifically addresses cannabis businesses. For commercial cultivation of cannabis, the amount which is to be paid by the registrant must, to the extent permitted by law, be calculated based upon the square footage of cultivation area and contain an inflationary escalator, or calculated as a percentage of annual gross receipts per fiscal year. For all other cannabis business activity, the amount which is to be paid by the registrant must either be:

(A) Calculated based upon the square footage of business area and contain an inflationary escalator; or

(B) Calculated as a percentage of annual gross receipts per fiscal year, to the extent permitted by law. Otherwise, the amount which is to be paid by the registrant must be

calculated as provided in a valid written agreement with the City.

To the fullest extent permitted by law, the local tax, agreement and/or business improvement district must allow the City Council to annually or periodically choose which calculation method to implement.

(2) Registration Application Requirements: Any person owning, leasing, occupying and/or having charge or possession of the parcel must, within the twelve (12) months preceding each date when activity within the scope of a State license issued pursuant to Division 10 of the California Business and Professions Code occurs, submit an accurate and signed application for registration, and successfully register said parcel with the City. Said application must contain all of the following information and documentation:

(A) The name of each person, owning, leasing, occupying and having possession of the parcel. Corporations and other businesses entities which have more than one hundred owners may instead list the top one hundred owners with the greatest individual ownership interests and next to them list their respective ownership share;

(B) For each business, a list of all personnel who are assigned to work at the parcel to be registered;

(C) The maximum number of plants which will be cultivated on the parcel, if cultivation is to occur;

(D) Written consent to allow a City inspection of all portions of the parcel, during normal business hours and on a mutually suitable date, in order to complete the registration process; and

(E) Such other information and/or documentation as the City Manager reasonably determines is necessary to ensure compliance with state law and this Chapter including, without limitation, information reasonably necessary to establish compliance with subsection (b)(3) of this section.

This application information and documentation shall be received in confidence, and shall be used or disclosed only for purposes of

administration or enforcement of this Chapter and/or State law, or as otherwise required by law or court order.

The City Council may, by adoption of a resolution, establish a fee for such annual registration in accordance with all applicable legal requirements. All registrations, whether initial or renewal, of all parcels of real property shall expire at the end of the day on January 31st of the calendar year following the calendar year in which the parcel was registered.

(3) Zoning Compliance: Notwithstanding any other provision within the Municipal Code, and except as otherwise specifically provided otherwise within this Chapter, for all cannabis business activity, the parcel to be registered must be located within the IH (heavy industrial) zone(s) as established by Part 2 of Title 11 of the Municipal Code.

(4) Copy of State License: Promptly upon receipt of a valid and operative State license, but no later than three (3) months after successful registration of a parcel under this section, a certified copy of such State license must be lodged with the City.

(5) Conditional Use Permit: A conditional use permit must be obtained.

(6) Owner's Consent: When the person who will operate any cannabis business upon any parcel is not the legal owner of the parcel, such person must obtain the notarized written consent to operate a cannabis business upon the parcel from any legal owner(s) of the parcel and must provide the original of said consent to the City Manager at the time of application for that person's first registration of the parcel. Any withdrawal or revocation of the owner's consent must be notarized and shall not impact an existing annual registration but shall operate to preclude a renewal registration when actually received by the City prior to the actual issuance of the renewal registration. A copy of any withdrawal or revocation of consent must be mailed or personally served upon the cannabis business owner at the affected parcel on or about the same day in which it is provided to the City and proof of service must be provided to the City in a form approved by the City.

(7) Compliance with State Cannabis Laws: Each cannabis business must at all times remain in full compliance with all State statutes which are applicable to the particular cannabis business

operated including but not limited to:

- (A) State licensing requirements.
 - (B) Protections for minors (e.g. see Chapter 14 of Division 10 of the California Business and Professions Code);
 - (C) Advertising and marketing restrictions (e.g. see Chapter 15 of Division 10 of the California Business and Professions Code);
 - (D) Maintenance of commercial cannabis activity records for seven years (e.g. see Chapter 16 of Division 10 of the California Business and Professions Code);
 - (E) Unique identifiers and the expanded track-and-trace program, including electronic seed-to-sale software tracking with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory and sale (e.g. see Chapter 6.5 of Division 10 of the California Business and Professions Code);
 - (F) Mandatory packaging and labeling requirements (e.g. see Chapter 12 of Division 10 of the California Business and Professions Code); and
 - (G) Quality Assurance, Inspection, and Testing (e.g. see Chapter 11 of Division 10 of the California Business and Professions Code).
- (8) Records: Upon request of the City, the owner of the cannabis business must consent, in writing, to the City's access to and use of all State unique identifiers and track-and-trace program information pertaining to the cannabis business, under Chapter 6.5 of Division 10 of the California Business and Professions Code. If the State fails to provide immediate access to the City to such information, the City Manager or designee may, after written notice to all existing registrants and registration applicants, require that at all times during commercial cannabis business activity within the City, at least one legible and up-to-date hardcopy journal must be maintained on the parcel, containing all of the information required to be reported to the State by the cannabis business as well as any additional information as may be specified by the City.

(9) Security System: Each cannabis business must have City approved security system under a conditional use permit.

(10) Disclosure of Violations: The owner of the cannabis business must disclose to the City, in writing, each and all violation notices issued to the cannabis business by or on behalf of the State and/or any other local government within ten (10) business days after receipt thereof. Thereafter, the final disposition of each alleged violation must be reported in writing to the City within ten (10) business days after the opportunity to appeal or otherwise legally challenge has expired.

(11) Overdue City Balance: Each owner of the cannabis business, and each owner of record of the parcel to be registered, do not have any amount which is overdue, thirty (30) or more days, to the City in unpaid fines, penalties, fees, charges, taxes, assessments and/or other payments, including contracted payments of any kind.

(12) Code Violations: Each parcel to be registered must not have any active recorded instrument pertaining to any code violation which has been finally determined, or which otherwise can no longer be appealed, and which requires the City to inspect and clear such violation.

(d) Registration Voided Upon Violation: Any registration which becomes void for lack of compliance with any requirement of this Chapter shall remain void and ineffective from the initial moment of noncompliance and cannot be reinstated without a new registration application. A re-registration application from the same cannabis business owner may only be approved with retroactive effect, going back to the date when the parcel became unregistered, if all of the following are satisfied:

- (1) The re-registration application was submitted no later than ten (10) business days after receipt of formal written notice from the City of a violation;
- (2) All of the regular application requirements are satisfied;
- (3) The applicant has tendered the application fee with the re-registration application, which shall be non-refundable, set by resolution of the City Council;
- (4) The applicant has paid a non-refundable re-registration penalty

in the full amount set by resolution of the City Council; and

(5) The applicant has paid for all costs associated with processing of the re-registration application, including City inspection fees and related consultant costs incurred by the City.

(e) Responsibility for Violations: No person owning, leasing, occupying or having charge or possession of any parcel within the City shall cause, allow, suffer, or permit such parcel to be used for a cannabis business in violation of any provision in this Chapter. Violation of this provision by any person owning, leasing, occupying or having charge or possession of any registered parcel shall be grounds for revocation of registration in addition to abatement under this or any other Chapter of the Municipal Code.

(f) The City Manager or designee shall have authority to, in writing, waive any registration fee and/or requirements otherwise needed for registration, and thereafter issue a registration when, after consultation with the City Attorney, it appears that State or federal law might so require.

11-34-060 Registration of Parcels Prior to Commercial Cultivation.

(a) Additional Conditions of Active Registration: In addition to the requirements of the preceding section, and for all cannabis cultivations not within the scope of Health and Safety Code § 11362.1, registration of any parcel of real property shall also be invalid, void and inactive except during such times when all of the following conditions are all simultaneously satisfied:

(1) Zoning Compliance: This subsection shall apply notwithstanding any other provision within the Municipal Code. The parcel to be registered must be located within the IH (heavy industrial) zone(s) as established by Part 2 of Title 11 of the Municipal Code

(2) Conditional Use Permit: A conditional use permit must be approved.

(3) Cultivation Requirements: When it is unattended by the registrant, the cultivation area must be locked and completely inaccessible to anyone without a unique physical and/or alphanumeric key. The cannabis plants within the cultivation area must not be detectable by unaided sight or smell from adjacent

parcels or public vantage points at ground level. Each door providing access to any cultivation area must be locked at all times when not within the view of the registrant or its staff. Minors under the age of twenty-one (21) years must not enter into any cultivation area during cultivation, harvesting, drying or processing of cannabis.

(4) Cultivation Buildings: All commercial cannabis cultivation sites must be located within properly constructed and permitted real property improvements which are fully enclosed, comply with applicable State laws and building standards, and which comply with all of the following:

(A) Prohibited Buildings: Temporary buildings, portable modular buildings, prefabricated buildings trailers, campers and any other form of portable enclosure must not be used as commercial cannabis cultivation site under any circumstances.

(B) Windows: The exterior windows to all buildings or structures used as a cultivation site must eliminate visibility of all cannabis plants from all ground level exterior vantage points and must be equipped with security bars. Windows must not be broken.

(C) Doors: All frames for doors which allow entry into the building from the outside must be made of metal or solid wood reinforced with metal at the point where locks latch to them. All non-metal doors must be solid-core and equipped with either a deadbolt lock, or a properly functioning industrial grade padlock and locking mechanism, which can only be unlocked with a unique key.

(D) Electrical: The lighting and electrical system for the cultivation area must comport with applicable building standards, including those pertaining to cultivation sites. In order to determine whether an electrical panel requires upgrading, a licensed electrician must perform a full electrical load calculation of the lighting and electrical system for the cultivation area and submit it to the City's building official prior to initial registration, annual renewal of registration, re-registration and any time the lighting and electrical system is modified to any degree other than the routine replacement of bulbs and fuses. The use of an extension cord of any kind is prohibited for all aspects of cannabis cultivation.

(E) Flooring: The flooring beneath each cannabis plant must not consist of carpet or other non-water proof material which is penetrable by water and any other liquid.

(F) Irrigation Equipment: All water fixtures and modifications thereto must be inspected and approved by the City. A reduced pressure backflow prevention device must be properly installed, functioning and inspected for each water fixture used primarily for cannabis cultivation. Runoff from irrigated cannabis plants must not be located in walkways and must not exit the building at any time. Slippery conditions upon any walkway are prohibited. The presence of any toxic mold in any quantity which exceeds the naturally occurring level is prohibited.

(G) Effluents: Discharge into the City's sanitary sewer system of any effluent containing any cannabis cultivation waste product, chemical, fertilizer or pesticide is prohibited, including discharges into household drains, commercial drains, storm drains and other private and public drainage systems within the City. Furthermore, such discharges are also prohibited into any community water system, municipal water system and all other public and private water systems.

(H) Chemicals: All pesticides, fertilizers and other treatments or chemicals used for cannabis cultivation must not be stored in a manner which allows them to be visible or otherwise detectable by unaided sight or smell from adjacent parcels or public vantage points at ground level.

(I) Ventilation: Each cultivation site must be equipped with a City-approved ventilation system, which may include charcoal filters, sufficient to eliminate detection of cannabis odors from the exterior of the building containing the cultivation site. Each building must also comply with any existing, adopted or revised ordinances and all applicable State and local standards pertaining to ventilation rates, exhaust termination, ventilation inlets and humidity levels. After a citation issued for excessive odor becomes final and non-appealable, and after written notice of at least fifteen (15) business days, the City may require, as a condition for maintaining registration of a parcel, the installation of additional City-approved ventilation system components and

features necessary to eliminate further violations pertaining to cannabis odor.

(5) Plant Size: In no event should the size of cannabis plants which are grown together increase to a degree that any of them obstruct unrestricted ingress and egress between each doorway and window within the room where they are located. Cannabis plants must not be cultivated in such a manner that the cannabis plant makes contact with any wall, door, window or building ceiling at any time and there must at all times exist at least a one (1) foot empty space between each plant and the walls, doors, windows and ceiling.

(6) Records: If the State fails to provide immediate access to the City to any or all State unique identifiers and track-and-trace program information pertaining to the cannabis business, the City Manager or designee may, after written notice to all existing registrants and registration applicants, require that at all times during commercial cannabis cultivation within the City, at least one legible and up-to-date hardcopy journal must be maintained on the parcel, containing all of the following information:

- (A) Each cannabis plant's date of acquisition;
- (B) The source of such acquisition;
- (C) Height and width in inches during each calendar month;
- (D) Each cannabis plant's corresponding owner; and
- (E) The date of each journal entry next to the printed and signed name of the person making the entry into the journal.

Said journal must be retained for a period of not less than five (5) years after each date listed within the journal.

(7) Metered Water: Water service to the parcel must be metered with a device which is both capable of wireless transmission of metering data and approved by the City.

(8) Building Standards: All waterlines, electrical wiring and structures used for cultivation of cannabis must comply with all applicable building codes, laws and ordinances.

11-34-070 Registration Application and Certificate; Identification Cards.

(a) Applications: Each applicant seeking to register a parcel for a cannabis business must be the owner of the cannabis business and submit a written application on a form approved by the City. Within twenty (20) business days after receipt of registration application, the City Manager or designee shall either:

- (1) Act upon the registration application;
- (2) Provide a written notice of extension, not to exceed twenty (20) business days; or
- (3) Return the registration application with written notification as to why the application is incomplete.

(b) Registration Certificate: Upon approval of a registration application, the City shall issue a registration certificate which must be displayed in any public area within the registered parcel or, if there is no area for the public, within an area common to all employees. Duplicate registration certificates will require payment of fee which shall be set by resolution of the City Council.

(c) Employee Identification Card: Each cannabis business employee must at all times while on duty, or while upon a registered parcel, carry a laminated employer-issued identification card, which must be presented to City personnel upon request, containing all of the following:

- (1) The legal name or registered fictitious business name of the cannabis business;
- (2) The telephone number of the manager of the cannabis business manager;
- (3) The employee's first and last name; and
- (4) A color photograph of the employee.

11-34-080 Regulatory Inspections of Registered Parcels and Records.

(a) Annual Inspections: Each parcel upon which a cannabis business operates and each parcel upon which cultivation of cannabis occurs must be inspected by the City a minimum of one (1) time each calendar year.

(b) Regulatory Parcel Inspections: Each parcel upon which a cannabis business operates and each parcel upon which cultivation of cannabis

occurs shall be subject to inspection by the City during the ordinary business hours and, for each cannabis business, during any hours when cannabis business staff are working onsite. If the owner or other person in charge of or in possession of the parcel fails to consent to the regulatory inspection, the registrant shall be deemed to have requested that the City obtain and execute a regulatory inspection warrant and a fee shall be assessed against the registrant. Said fee shall be set in accordance with a fee resolution approved by the City Council. Said inspection shall be for the purpose of ensuring compliance with the requirements of this Chapter and applicable State laws.

(c) Regulatory Records Inspections: The cannabis business records required to be maintained under Division 10 of the California Business and Professions Code and the records required to be maintained under this Chapter shall be subject to inspection by the City during the ordinary business hours and, for each cannabis business, during any hours when cannabis business staff are onsite. Said inspection shall be for the purpose of ensuring compliance with the requirements of this Chapter and applicable State laws.

11-34-090 Denial of Registration.

(a) Background Check: Unless otherwise prohibited by law, every person applying for the registration of a parcel under this Chapter must pay for and complete a LiveScan or comparable background check authorized by the City and provide the results thereof to the City in connection with their application for an initial registration application. Such applicant must also verify their identity by presenting an unexpired identification card or driver's license issued by any U.S. state or the federal government.

(b) Grounds for Denial/Revocation/Suspension: The City Manager, or her/his designee, may deny, refuse to renew, suspend or revoke any registration obtained or sought to be obtained under this Chapter where any one or any combination of the following conditions are satisfied:

- (1) The applicant or registrant failed to provide a fully completed application for registration;
- (2) The applicant or registrant provided inaccurate information on an application for registration;
- (3) The applicant or registrant failed to pay to the City the required registration fee and/or applicable inspection costs;

- (4) The applicant or registrant repeatedly violated this Chapter within the preceding twenty-four (24) months;
 - (5) The applicant or registrant repeatedly violated Chapter 10 of Division 2 of the California Business and Professions Code and now seeks registration to operate a cannabis business;
 - (6) The applicant or registrant, or upper management thereof if applicable, has been convicted of any felony, misdemeanor, infraction or municipal code violation, or liability in an administrative or civil action, which is substantially related to the qualifications, functions or duties any State-licensed business to be carried out upon the parcel;
 - (7) The applicant or registrant refused to allow the City to conduct a regulatory inspection of the parcel registered or inspection of records required, as required by this Chapter;
 - (8) The applicant or registrant failed to pay to the City any amount which is overdue, thirty (30) or more days, to the City in unpaid fines, penalties, fees, charges, taxes, assessments and/or other payments, including contracted payments of any kind;
 - (9) The applicant or registrant seeks registration to operate a cannabis business but is not in effect any of the following: (A) A valid voter-approved local cannabis business tax ordinance, other than a generally applicable business, sales or use tax; (B) A valid written agreement with the City for an annual payment in lieu of taxes (PILOT) to the City or other agreement approved by the City Council; and/or (C) A valid business improvement district approved by the City Council which specifically addresses cannabis businesses.
 - (10) Any one or more requirements or conditions for active registration, as prescribed within this Chapter, are unsatisfied.
- (c) Appeal: Any person aggrieved by a denial of their application for registration may appeal the decision in the same manner as a notice to abate under Section 11-33-130. Upon receipt of a request for appeal, the City Manager or designee may elect to have the appeal proceed under Section 11-33-130 or another process within the Municipal Code, by providing a copy of such process.

11-34-100 Responsibilities of Registrants.

(a) For the purpose of enforcing the requirements of this Chapter, the registrant of each parcel within the City shall be fully responsible for all conduct occurring on the parcel which may violate the terms of this Chapter, including the conduct of each of the registrant's invitees, guests, employees, agents and independent contractors working on the parcel, if applicable.

(b) If any violation of the requirements of this Chapter occurs on a registered parcel, notice of suspension, revocation or restriction may be issued by providing written notice thereof within or in addition to a notice of violation and/or a notice to abate, which identifies the violation(s) supporting the decision to suspend, revoke or restrict the registration. The suspension, revocation or restriction shall become final when finding regarding the related violation(s) becomes final, unless an immediate suspension, revocation or restriction is reasonably necessary to protect against a substantial risk of significant bodily harm, death or significant property damage.

(c) In addition, the City may report all violations committed by State licensees to the State.

11-34-110 Violations.

(a) Any violation of the provisions of this Chapter by any member of the public is hereby declared to be a public nuisance and may be abated by any or all remedies available.

(b) The City may abate the violation of this Chapter by the prosecution of a civil action through the City Attorney, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

(c) Each cannabis plant cultivated in violation of the applicable provisions of this Chapter shall constitute a separate and distinct violation.

(d) Each and every day that a violation exists as to any violation within this Chapter shall constitute a separate and distinct violation.

(e) Each violation of this Chapter may be enforced by any and all lawful remedies available under the Municipal Code and applicable state statute(s), including but not limited to civil fines and penalties, infraction citation, criminal prosecution, public nuisance abatement and civil injunction, as appropriate, and all available remedies shall be cumulative

and not preclude other available remedies.

Section 6. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. In addition to the foregoing general exemptions, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a *Notice of Exemption* is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

Section 7. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Corcoran, or any official, employee or agent thereof.

Section 8. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 9. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Corcoran hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any

one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 10. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate, contradict or otherwise conflict with, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Corcoran Municipal Code as amended by this ordinance are substantially the same as provisions in the Corcoran Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 11. EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code § 36933(c)(1) and a summary shall be published once in the _____, a newspaper printed and published in the City of Corcoran, State of California, together with the names of the Council members voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the City Council of the City of Corcoran, State of California, on _____, 2017 at a regular meeting of said Council duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

RAYMOND LERMA, Mayor

ATTEST: _____

MARLENE LOPEZ, City Clerk

City of

CORCORAN

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**PUBLIC HEARING
ITEM #: 5-D**

MEMORANDUM

TO: Corcoran City Council

FROM: Kevin J. Tromborg: Community Development Director.
Planner, Building Official, Transit Director

SUBJECT: Public hearing to introduce and approve Ordinance 635 outlining revisions to Chapter 4, Public Health and Safety of the Corcoran Municipal Code regarding Sub-Standard Buildings and time regulations on boarded properties.

DATE: November 3, 2017

MEETING DATE: November 14, 2017

RECOMMENDATION: That the City Council approve and adopt Ordinance 635, revisions to Chapter 4, Public Health and Safety, Corcoran Municipal Code regarding time limits for Sub-standard and boarded up properties.

DISCUSSION: The Building and Safety and Code Enforcement Divisions of Community Development is responsible for keeping and maintaining the health and safety of all structures and properties within the City of Corcoran. Since 2007 it has been Building and Safety Department policy to require all Sub-standard buildings or properties that are posted or boarded up by the owner to tear down the structure or take out permits for the rehab of the structure. This requirement is stated on all Notice and Orders regarding these properties. Currently we have over 40 posted properties and several properties that have been boarded up by the owner. These properties are falling into decay and are causing blight and health and safety concerns. Boarded or posted properties also cause property values to plummet and are a magnet for criminal activities. Staff is seeking to move these requirements from a department policy to an ordinance in the City municipal code. This will allow the City to take legal action and issue fines against property owners who do not comply. The Planning Commission, at a regularly scheduled meeting on October 16, 2017 approved Resolution 17-09 regarding time limits and has sent its recommendation of approval to the Corcoran City Council to consider adding this requirement as an ordinance.

**RESOLUTION NO. 17-09
CORCORAN CITY PLANNING COMMISSION
PERTAINING TO
SUB-STANDARD BUILDING AND BOARDED UP PROPERTIES**

At a meeting of the Planning Commission of the City of Corcoran duly called and held on October 16, 2017, the Commission approved the following:

Whereas, the Building and Safety Division of Community Development has department policy regarding time limits on sub-standard buildings and boarded properties; and

Whereas, the city has many properties that have been posted as sub-standard or has been boarded up by owner. and;

Whereas, these properties have a negative effect on property values and standard of the city; and

Whereas, these properties contribute to blight and criminal activity, and;

Whereas, a time limit for boarded properties and sub-standard properties be set at one (1) year

Whereas, the two options are a full permitted rehab or a demolition of the structure (s).

Whereas, to enable the City to take legal action and or fines against property violations

IT IS THEREFORE RESOLVED that the Planning Commission approves Resolution 17-09 requiring a time limit of one (1) year to apply for a rehab permit or a demolition permit regarding Sub-standard and boarded up properties and recommends to the Corcoran City Council to consider an Ordinance regarding Sub-standard building and boarded up property time limits.

AYES: Bega, DeVaney, Jarvis, Kassner, Subia and Watkins

NOES:


ABSENT:

ABSTAIN:

PASSED AND ADOPTED on this 16th day of October 2017.



David Bega
Planning Commission Chairman



Kevin J. Tromborg
Community Development Director

ORDINANCE NO. 635

AN ORDINANCE OF THE CITY OF CORCORAN
ENACTING REGULATIONS FOR BUILDINGS WHICH
HAVE REMAINED UNSAFE OR BOARDED UP FOR A
SUBSTANTIAL PERIOD OF TIME.

THE CITY COUNCIL OF THE CITY OF CORCORAN DOES ORDAIN AS
FOLLOWS:

Section 1. FINDINGS AND PURPOSE. The City Council of the City of Corcoran hereby finds and declares the following: There are adverse impacts of buildings which remain unsafe or boarded up for substantial periods of time. These types of buildings are in such often in such condition because they have been deemed unsafe to occupy or are uninhabitable. Such buildings become an attractive nuisance for kids, vandals and criminals who engage in criminal activity on the premises. These properties deteriorate the aesthetics for neighboring properties which are in active use. They also create blight or contribute to an increase in blight and thus have adverse secondary impacts in the form of lowering real property values in the neighborhoods in which they are located. The provisions of this ordinance are intended in order to promote the public safety, health, comfort and general welfare, in order to provide a plan for requiring owners of these types of properties to bring the properties into compliance with State and local laws and building standards so that they may be safely and lawfully occupied.

Section 2. CODE REPEAL. Except to the extent expressly indicated otherwise herein, the specific provisions of each and all existing ordinances which are in actual conflict with any provision of this ordinance shall be repealed.

Section 3. CODE AMENDMENT. Subsections (A) and (E) of section 4-1-1 of Title 4, Chapter 1 of the Corcoran Municipal Code are hereby amended to read in their entirety as follows:

4-1-1: NUISANCE; MAINTENANCE OF PROPERTY:

It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to

maintain such premises or an alleyway or other public right of way fronting said premises in such manner that any of the following conditions are found to exist thereon:

A. **Unsafe Buildings:** Buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety, ~~or~~ health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage, ~~or~~ abandonment, or having been boarded up or posted as "Unsafe to Occupy" for any period of time which is sufficient to correct, repair or demolish the building or structure without either repair or demolition having been accomplished during that time.

...
E. **Abandoned Buildings:** Buildings which are abandoned, voluntarily or involuntarily boarded up, partially destroyed, or left unreasonably in a state of partial construction.

...

Section 4. CODE AMENDMENT. Section 4-1-9 of Title 4, Chapter 1 of the Corcoran Municipal Code is hereby amended to read in its entirety as follows:

4-1-9: VIOLATION; INFRACTION:

A. The owner of any building or premises who maintains any public nuisance thereon, as defined in this Chapter, or who violates any order of abatement issued by the City Council is guilty of an infraction.

B. Any occupant or lessee in possession of any such building or premises who fails to vacate said building or premises in accordance with an order of abatement provided in this Chapter is guilty of an infraction.

C. Any person who removes any notice or order posted as required in this Chapter is guilty of an infraction.

D. No person shall obstruct, impede or interfere with any representative of a City department or the Planning Commission, or any person having any interest or estate in such building or premises, is engaged, pursuant to the provisions of this Chapter, in enforcing any such order of abatement. Any person doing so shall be guilty of an infraction.

E. The owner of any building or structure upon any lot parcel within the City of Corcoran, who has either (1) voluntarily or involuntarily boarded up

their property the windows and/or doors to any such building or structure, or (2) which is presently the subject of a Notice and Order issued by the Building Official in conjunction with the latter's posting of the building or structure as "Unsafe to Occupy", shall promptly, and in no case later than twelve (12) calendar months from the date of the Notice and Order or the boarding up, whichever occurred earlier, successfully secure all permits needed for either the rehabilitation, correction or demolition of the building or structure. The owner must promptly proceed with the permitted rehabilitation, correction or demolition of the building or structure. Each calendar day after said one year anniversary in which the building or structure remains boarded up, unsafe to occupy or without each aforementioned permit shall constitute a separate public nuisance and violation hereunder.

F. Unless otherwise expressly prohibited, each violation of this Chapter of the Corcoran Municipal Code may be enforced by each and all lawful remedies available under the Municipal Code and applicable State statute(s), including but not limited to civil fines and penalties, infraction citation, criminal prosecution, public nuisance abatement and civil injunction, as appropriate, and all available remedies shall be cumulative and not preclude other available remedies.

(Ord. 355, 9-4-1979)

Section 5. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. In addition to the foregoing general exemptions, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a *Notice of Exemption* is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

Section 6. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Corcoran, or any official, employee or agent thereof.

Section 7. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 8. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Corcoran hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

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Council members voting for and against the same.

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AYES:
NOES:
ABSTAIN:
ABSENT:

RAYMOND LERMA, Mayor

ATTEST:

MARLENE LOPEZ, City Clerk

MD/11032017 - Corcoran - Ordinance, Boarded Homes-1.rtf

City of

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MATTERS FOR MAYOR AND COUNCIL

ITEM #: 8-A

MEMORANDUM

MEETING DATE: November 14, 2017
TO: Corcoran City Council
FROM: Kindon Meik, City Manager
SUBJECT: Matters for Mayor and Council

UPCOMING EVENTS / MEETINGS

- November 24-25, 2017 (Thursday and Friday) City Offices Closed - Observance of Thanksgiving
- November 28, 2017 (Tuesday) City Council Meeting – 5:30 PM, Council Chambers
- December 8, 2017 (Friday) San Joaquin Valley Division's 1st Annual Holiday Reception, Dinuba Ridge Creek Golf Club
- December 12, 2017 (Tuesday) City Council Meeting – 5:30 PM, Council Chambers
- December 26, 2017 (Tuesday) City Council Meeting – CANCELLED

- A. Information Items
- B. Council Comments – *This is the time for council members to comment on matters of interest.*
 - 1. Staff Referral Items
- C. Committee Reports
- D. Council Goals:



**COUNCIL REQUESTS OR REFERRAL ITEMS
PENDING FURTHER ACTION or RESOLUTION BY STAFF**

DATE Sent to Council/ Request made	REQUEST	STATUS	DEPARTMENT RESPONSIBLE Dept/Division
09/26/17	Council requested that staff provide information on the process of council members being able to receive City health insurance benefits.		City Manager/ Finance Director
06/13/17	<p>Community Workshop/Townhall Meeting with HdL Companies was held on 10/25/17.</p> <p>Workshop conducted by HdL Companies on 9/19/17. Council authorized additional education and outreach.</p> <p>At the 07/25/17 meeting, Council agreed to contract with HdL Companies to conduct a workshop on commercial cannabis. Staff will work with the consultant to determine a possible date.</p> <p>Study session held on 06/27/17 regarding cannabis. Council directed staff to continue discussion on commercial cannabis businesses and local policy options.</p> <p>06/13/17 Council requested a study session and further discussion on commercial cannabis cultivators and other cannabis related businesses interested in operating in Corcoran.</p>	Study session scheduled for June 27 meeting.	All
05/09/17	City Council requested that Staff present draft finance policies relating to General Fund reserves, balanced budget, etc.	Draft policies to be presented at subsequent council meetings	City Manager/Finance Director