



CITY of CLOVIS

AGENDA • CITY COUNCIL MEETING

Council Chamber, 1033 Fifth Street, Clovis, CA 93612 (559) 324-2060
www.cityofclovis.com

In compliance with the Americans with Disabilities Act, if you need special assistance to access the City Council Chamber to participate at this meeting, please contact the City Clerk or General Services Director at (559) 324-2060 (TTY – 711). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Council Chamber.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the City Clerk's office, during normal business hours. In addition, such writings and documents may be posted on the City's website at www.cityofclovis.com.

November 04, 2019

6:00 PM

Council Chamber

The City Council welcomes participation at Council Meetings. Members of the public may address the Council on any item of interest to the public that is scheduled on the Agenda. In order for everyone to be heard, please limit your comments to 5 minutes or less, or 10 minutes per topic.

CALL TO ORDER

FLAG SALUTE - Councilmember Flores

ROLL CALL

PRESENTATIONS/PROCLAMATIONS

1. Presentation - Recognizing Members of the October 2019 Clovis Citizens Academy.
2. Presentation – Update on the City of Clovis Geographic Information Systems (GIS) Day to be held on November 13th, 2019.
3. Presentation of Proclamation recognizing November 2019, as National Runaway Prevention Month.

Public Comments - This is an opportunity for the members of the public to address the City Council on any matter within the City Council's jurisdiction that is not listed on the Agenda. In order for everyone to be heard, please limit your comments to 5 minutes or less, or 10 minutes per topic. Anyone wishing to be placed on the Agenda for a specific topic should contact the City Manager's office and submit correspondence at least 10 days before the desired date of appearance.

ORDINANCES AND RESOLUTIONS - With respect to the approval of resolutions and ordinances, the reading of the title shall be deemed a motion to waive a reading of the complete resolution or ordinance and unless there is a request by a Councilmember that the resolution or ordinance be read in full, further reading of the resolution or ordinance shall be deemed waived by unanimous consent of the Council.

CONSENT CALENDAR - Items considered routine in nature are to be placed upon the Consent Calendar. They will all be considered and voted upon in one vote as one item unless a Councilmember requests individual consideration. A Councilmember's vote in favor of the Consent Calendar is considered and recorded as a separate affirmative vote in favor of each action listed. Motions in favor of adoption of the Consent Calendar are deemed to include a motion to waive the reading of any ordinance or resolution on the Consent Calendar. For adoption of ordinances, only those that have received a unanimous vote upon introduction are considered Consent items.

- [4.](#) Administration - Approval - Minutes from the October 21, 2019 Council Meeting.
- [5.](#) Administration - Adopt - Ord. 19-12, R2019-002, A request to approve a prezone from the County AE-20 and AE-40 Zone Districts to the Clovis P-F (Public Facilities) Zone District, approximately 117 acres of land located on the north side of the Clovis Landfill at 15679 Auberry Road. (Vote 5-0)
- [6.](#) Finance – Receive and File – Treasurer’s Report for the Month of July 2019.
- [7.](#) Finance – Receive and File – Investment Report for the Month of July 2019.
- [8.](#) General Services – Approval – Res. 19-____, Authorizing the City Manager to execute agreements with the California Department of Transportation and CALSTART associated with the FY2020-21 Sustainable Transportation Planning Grant application for the City of Clovis Transit Fleet Electrification Study.
- [9.](#) General Services - Approval – Res. 19____, Amending the City’s FY 19-20 Position Allocation Plan by deleting one (1) Administrative Assistant Position and adding one (1) Management Analyst Position within the Fire Department.
- [10.](#) Police - Approval - Res. 19-__, Authorizing the Police Department to submit an application for the San Joaquin Valley Air Pollution Control District Public Benefits Grant Program New Alternative Vehicle Purchase and authorize the Chief of Police to implement this program.
- [11.](#) Police - Approval – Res. 19__, Amending the Police Department’s Budget for FY 2019-2020 to reflect the award from the Office of Traffic Safety Selective Enforcement Traffic Program Grant in the amount of \$70,000.00.
- [12.](#) Police – Approval – Res. 19__, Amending the FY 2019-2020 Police Department Budget to reflect the award of the Edward Byrne Memorial Justice Assistance Grants (JAG) Program in the amount of \$17,263.00.
- [13.](#) Planning and Development Services - Approval - Res. 19-____, Supporting and Implementing the "Timely Use of Funding" as required by AB1012 for Candidate 2019-20 Federal Transportation Act, FAST Act Projects.
- [14.](#) Planning and Development Services - Approval – Bid Award for CIP 19-09, Recreation Center Athletic Court Resurfacing, and Authorize City Manager to Execute the Contract on Behalf of the City.
- [15.](#) Planning and Development Services – Approval – Res. 19-____, Final Map Tract 6228, located at the northwest area of Gettysburg Avenue and Leonard Avenue. (Wilson Premier Homes, Inc.).

- [16.](#) Planning and Development Services – Approval – Res. 19-____, Annexation of Proposed Tract 6228, located at the northwest area of Gettysburg Avenue and Leonard Avenue to the Landscape Maintenance District No. 1 of the City of Clovis. (Wilson Premier Homes, Inc.).
- [17.](#) Planning and Development Services – Approval – Final Acceptance Tract 5546, located at the southeast corner of Sunnyside and Nees Avenue. (Gary McDonald Homes).

PUBLIC HEARINGS - A public hearing is an open consideration within a regular or special meeting of the City Council, for which special notice has been given and may be required. When a public hearing is continued, noticing of the adjourned item is required as per Government Code 54955.1.

- [18.](#) Consider Approval - Res. 19-____, Adoption of the City of Clovis Analysis of Impediments to Fair Housing Choice.

Staff: Heidi Crabtree, Housing Program Coordinator

Recommendation: Approve

- [19.](#) Consider Approval – Development Impact Fee Credit Program for Deed Restricted Affordable Housing Projects, and Consider Approval - Res. 19-____, Amending the FY 2019-20 Housing Successor Agency Budget to Increase the Funds Available by \$330,000.

Staff: Andy Haussler, Community and Economic Development Director

Recommendation: Approve

- [20.](#) Consider Introduction – Ord. 19-____, Amending various sections of Title 4, Chapter 4.4 Article 1 of the Clovis Municipal Code relating to adoption of the 2019 California Fire Code with local amendments, and making related findings.

Staff: Chad Fitzgerald, Life Safety Enforcement Manager

Recommendation: Approve

- [21.](#) Consider Introduction – Ord. 19-____, an Ordinance of the City Council of the City of Clovis Amending Sections 8.1.02, 8.2.101, 8.5.101, 8.6.101, 8.15.101, 8.16.101, 8.17.101 of Title 8 of The Clovis Municipal Code Pertaining to Adoption of the 2019 California Building, Electrical, Mechanical, Plumbing, Residential, Energy, and Green Building Standards Codes.

Staff: Doug Stawarski, Building Official

Recommendation: Approve

ADMINISTRATIVE ITEMS- Administrative Items are matters on the regular City Council Agenda other than Public Hearings.

- [22.](#) Consider - Options Regarding the Roll Out of Shared Mobility Devices in the City of Fresno and how the City of Clovis may be impacted.

Staff: John Holt, Assistant City Manager

Recommendation: Provide Policy Direction

CITY MANAGER COMMENTS

COUNCIL ITEMS

23. Consider Approval – Change of Council Meeting Schedule.

Staff: Luke Serpa, City Manager

Recommendation: Approve

COUNCIL COMMENTS

CLOSED SESSION - A “closed door” (not public) City Council meeting, allowed by State law, for consideration of pending legal matters and certain matters related to personnel and real estate transactions.

24. Government Code Section 54956.9
CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
One Potential Case
25. Government Code Section 54956.9(d)(1)
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Desiree Martinez v. City of Clovis, et al.
26. Government Code Section 54956.8
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Properties: Portion of 1665 Tollhouse Rd. (APN 491-080-59S), and Portion of 1748 Tollhouse Rd. (APN 491-080-08)
Agency Negotiators: L. Serpa, S. Redelfs, A. Haussler
Negotiating Parties: Anlin Industries
Under Negotiation: Price & Terms
27. Government Code Section 54956.9(d)(1)
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Case Name: City of Clovis v. Xavier Flores, as Trustee of The Flores Revocable Living Trust

ADJOURNMENT

MEETINGS AND KEY ISSUES

Regular City Council Meetings are held at 6:00 P.M. in the Council Chamber. The following are future meeting dates:

Nov. 12, 2019 (Tue.) To Be Cancelled
Nov. 18, 2019 (Mon.)
Dec. 2, 2019 (Mon.)
Dec. 9, 2019 (Mon.)
Dec. 16, 2019 (Mon.)

CITY of CLOVIS PROCLAMATION

Recognizing November as National Runaway Prevention Month

WHEREAS, National Runaway Prevention Month began in 2002, in partnership with the National Runaway Safeline (NRS) and Fresno EOC Sanctuary and Support Services is committed to protecting our youth and young adults and ending youth homelessness by 2020; and

WHEREAS, in 2018, the California Department of Justice reported Fresno County had 3,718 runaway youth; often this could include youth who are expelled from their home; have experienced abuse and trauma; are involved in the foster care system; are too poor to secure their own basic needs; and may be ineligible or unable to access adequate medical or mental health resources; and

WHEREAS, effective programs like Sanctuary and Support Services who operate the Sanctuary Youth Shelter and Sanctuary Transitional Shelter provided emergency shelter for over 350 runaway, homeless or at risk youth and young adults ages 12-24 in 2018; and

WHEREAS, Sanctuary and Support Services, along with National Runaway Safeline is honoring November as the National Runaway Prevention Month to raise awareness of the issues facing runaway and homeless youth, and educate the public about solutions and the role they can play in ending youth homelessness.

NOW, THEREFORE, BE IT RESOLVED, that the City of Clovis on behalf of the citizens of Clovis, does recognize November, 2019, as

National Runaway Prevention Month

IN WITNESS THEREFORE, I hereunto set my hand and cause the official seal of the City of Clovis to be affixed the 4th day of November, 2019.



Drew M. Bosomz

Mayor

CLOVIS CITY COUNCIL MEETING

October 21, 2019

6:00 P.M.

Council Chamber

Meeting called to order by Mayor Bessinger
Flag Salute led by Councilmember Ashbeck

Roll Call: Present: Councilmembers Ashbeck, Flores, Mouanoutoua, Whalen
Mayor Bessinger
Absent: None

PRESENTATION

1. 6:02 - PRESENTATION – UPDATE ON THE CALIFORNIA HEALTH SCIENCES UNIVERSITY LOCATED IN THE RESEARCH AND TECHNOLOGY BUSINESS PARK

Tom McLaughlin, representing California Health Sciences University, provided Council an update on the school scheduled to be completed later this calendar year.

PUBLIC COMMENTS – 6:21

Dennis Gaab, representing Century Communities, commented on items 10 and 11 on the consent calendar. Mr. Gaab thanked staff for accommodating their schedule to get on the agenda for this evening.

CONSENT CALENDAR

Motion by Councilmember Ashbeck, seconded by Councilmember Flores, that the items on the Consent Calendar be approved. Motion carried by unanimous vote.

2. Administration - Approved - Minutes for the October 7, 2019 Council Meeting.
3. Finance - Approved – **Res. 19-125**, Amending the 2019-20 Budget to reappropriate carryover funding from the 2018-19 budget.
4. Finance - Approved – **Res. 19-126**, Approving the submittal of the 2019-20 Local Transportation Funding (LTF) Claim to the Council of Fresno County Governments.
5. General Services - Approved – Five Year Lease Agreement for Digital Copiers from Image 2000.
6. General Services – Approved contract between the City of Clovis and Office Solutions for Office Supplies.
7. Planning and Development Services – Approved – **Res. 19-127**, Authorizing Amendments to Resolution 19-92 to establish City of Clovis Underground Utility District No. 8 along Bullard Avenue between Minnewawa and Woodworth Avenues.
8. Planning and Development Services – Approved – **Res. 19-128**, Final Map Tract 6225, located at the northeast corner of Ashlan Avenue and Locan Avenue (Wilson Premier Homes, Inc.).

9. Planning and Development Services – Approved – **Res. 19-129**, Annexation of Proposed Tract 6225, located at the northeast corner of Ashlan Avenue and Locan Avenue to the Landscape Maintenance District No. 1 of the City of Clovis. (Wilson Premier Homes, Inc.).
10. Planning and Development Services – Approved – **Res. 19-130**, Final Map Tract 6181, located at the northeast area of Shaw Avenue and Leonard Avenue (BMCH California, LLC).
11. Planning and Development Services – Approved – **Res. 19-131**, Annexation of Proposed Tract 6181, located at the northeast area of Shaw Avenue and Leonard Avenue to the Landscape Maintenance District No. 1 of the City of Clovis. (BMCH California, LLC).
12. Public Utilities – Received and Filed – Public Utilities Report for February 2019.
13. Public Utilities – Approved – Waive Formal Bidding Requirements and Award a Contract to Calgon Carbon Corporation to purchase and replace Granular Activated Carbon (GAC) at Well 27.

PUBLIC HEARINGS

14. 6:26 - APPROVED - **RES. 19-132**, SPR2007-25A2, APPROVING A SITE PLAN REVIEW AMENDMENT TO ALLOW FOR CONSTRUCTION ON .8 ACRES OF LAND WITHIN PHASE 1 OF THE SIERRA MEADOWS PARK MASTER PLAN FOR THE FRESNO WILDLIFE REHABILITATION NATURE CENTER BUILDING AND ASSOCIATED PARK IMPROVEMENTS FOR PROPERTY LOCATED EAST OF TEMPERANCE AVENUE AT SIERRA AVENUE.

City Planner Dave Merchan presented a report on a request to approve a Site Plan Review amendment to allow for construction on .8 acres of land within Phase 1 of the Sierra Meadows Park Master Plan for the Fresno Wildlife Rehabilitation Nature Center building and associated park improvements for property located east of Temperance Avenue at Sierra Avenue. Fresno Wildlife is proposing the development of a nature center facility within the David McDonald Park at the northeast corner of Sierra and Temperance Avenues. The facility is intended to be a complimentary use with the existing park improvements, including the Miss Winkles Pet Adoption Center. The Nature Center development would include a 3,321 square foot building, 17 parking spaces and wild bird rehabilitation flight cages. The building would include an education center, gift shop, and wildlife rehabilitation facilities. A wildlife rehabilitation facility and nature center has been envisioned for this site for some time, and a Site Plan Review for a 40,000 square foot facility master plan was approved by the City Council in November, 2007. Subsequently, a site plan review amendment was approved in May, 2011 providing for the Miss Winkles Pet Adoption facility, Phase 1 improvements for the park and a conceptual plan for a future wildlife rehabilitation facility. Fresno Wildlife has subsequently identified funding for the construction of their facility and is requesting to receive site plan approval.

Cathy Garner, applicant, addressed questions, and commented on and spoke in support of the site plan. Discussion by the Council.

Motion by Councilmember Ashbeck, seconded by Councilmember Mouanoutoua, for the Council to approve a Site Plan Review amendment to allow for construction on .8 acres of land within Phase 1 of the Sierra Meadows Park Master Plan for the Fresno Wildlife Rehabilitation Nature Center building and associated park improvements for property

located east of Temperance Avenue at Sierra Avenue, with further direction on Condition 6 to allow flexibility on required parking, and Condition 19 to work with the applicant to see if there was a way for the architecture to more resemble the Miss Winkles Pet Adoption Center than was shown in the presentation. Motion carried by unanimous vote.

- 15A. 7:10 - APPROVED - **RES. 19-133**, APPROVAL OF AN ADDENDUM TO THE JULY 11, 2005 FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CLOVIS LANDFILL EXPANSION PERMIT PROJECT; AND **ITEM 15B** - APPROVED - **RES. 19-134**, GPA2019-003, APPROVING A GENERAL PLAN AMENDMENT AMENDING THE LAND USE ELEMENT FOR APPROXIMATELY 117 ACRES LOCATED ON THE NORTH SIDE OF THE CLOVIS LANDFILL AT 15679 AUBERRY ROAD AND CONSIDERING AN ADDENDUM TO A PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT PURSUANT TO SECTION 15164 OF CEQA; AND **ITEM 15C** - APPROVED INTRODUCTION - **ORD. 19-12**, R2019-002, AMENDING AND CHANGING THE OFFICIAL ZONE MAP OF THE CITY OF CLOVIS IN ACCORDANCE WITH SECTION 9.08.020 AND 9.86.010 OF THE CLOVIS MUNICIPAL CODE TO RECLASSIFY LAND LOCATED ON THE NORTH SIDE OF THE CLOVIS LANDFILL AT 15679 AUBERRY ROAD AND CONSIDERED AN ADDENDUM TO A PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT PURSUANT TO SECTION 15164 OF CEQA.

Associate Planner George Gonzalez presented a report on various items associated with approximately 117 acres of land located on the north side of the Clovis Landfill at 15679 Auberry Road to be utilized as a buffer zone only, with no proposed improvements and/or development. The applicant is requesting to amend the General Plan Land Use Diagram to add approximately 117 acres to the Clovis General Plan and designate this land to the Public/Quasi-Public Facilities and Water classifications. Additionally, the applicant is requesting to prezone the project site from the County AE-20 and AE-40 Zone Districts to the Clovis P-F (Public Facilities) Zone District. The City has acquired the subject property and plans to utilize it as a buffer zone on the north side of the Clovis Landfill, with no proposed improvement and/or development. Curtis and Karen Blasingame, area property owner who sold the land to the city, raised concerns about future use of the area that the city acquired from them. Discussion by the Council.

Motion by Councilmember Whalen, seconded by Councilmember Ashbeck, for the Council to approve **Resolution 19-133**, an Addendum to the July 11, 2005 Final Environmental Impact Report for the Clovis Landfill Expansion Permit project. Motion carried by unanimous vote.

Motion by Councilmember Whalen, seconded by Councilmember Ashbeck, for the Council to approve **Resolution 19-134**, a General Plan Amendment (GPA2019-003) amending the land use element for approximately 117 acres located on the north side of the Clovis landfill at 15679 Auberry road and considering an addendum to a previously certified Environmental Impact Report pursuant to section 15164 of CEQA. Motion carried by unanimous vote.

Motion by Councilmember Whalen, seconded by Councilmember Ashbeck, for the Council to approve **Ordinance 19-12**, R2019-002, Amending and Changing the official zone map of the City of Clovis in accordance with Section 9.08.020 and 9.86.010 of the Clovis

Municipal Code to reclassify land located on the north side of the Clovis landfill at 15679 Auberry road and considered an addendum to a previously certified Environmental Impact Report pursuant to Section 15164 of CEQA. Motion carried by unanimous vote.

- 16A. 7:36 - APPROVED - **RES. 19-135**, RO300, APPROVING AN APPLICATION BY THE CITY OF CLOVIS REQUESTING THE FRESNO LOCAL AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS FOR THE CLOVIS LANDFILL BUFFER NO. 4 REORGANIZATION AND CONSIDERING AN ADDENDUM TO A PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT PURSUANT TO SECTION 15164 OF CEQA; AND ITEM 16B - APPROVED - **RES. 19-136**, APPROVING AN APPLICATION FOR THE UPDATE OF THE CITY OF CLOVIS SPHERE OF INFLUENCE AND CONSIDERING AN ADDENDUM TO A PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT PURSUANT TO SECTION 15164 OF CEQA.

Associate Planner George Gonzalez presented a report on various items associated with approximately 329 acres of land located at the Clovis Landfill at 15679 Auberry Road, including designated buffer zone areas. The total area of the annexation is approximately 117 acres, located on the north side of the Clovis Landfill at 15679 Auberry Road. The City has acquired the subject property and plans to utilize it as a buffer zone on the north side of the Clovis Landfill with no proposed improvement and/or development. The Bureau of Reclamation owns a small amount of property within the annexation area which accommodates an existing canal that traverses the area. The Local Agency Formation Commission (LAFCo) is seeking to formally memorialize a Sphere of Influence (SOI) boundary at the Clovis Landfill in conjunction with the request for the Landfill Buffer No. 4 Reorganization. The SOI adjustment is intended to reflect the entire landfill boundary, including the area currently proposed for annexation together with all previously approved annexations. This area comprises approximately 329 acres. An amendment to the approved tax sharing memorandum of understanding between the City and the County will not be necessary as a result of the SOI expansion at the Clovis Landfill. There being no public comment, Mayor Bessinger closed the public portion. Discussion by the Council.

Motion by Councilmember Ashbeck, seconded by Councilmember Flores, for the Council to approve **Resolution 19-135**, RO300, approving an application by the City of Clovis requesting the Fresno Local Agency Formation Commission to take proceedings for the Clovis Landfill buffer No. 4 reorganization and considering an addendum to a previously certified Environmental Impact Report pursuant to Section 15164 of CEQA. Motion carried by unanimous vote.

Motion by Councilmember Ashbeck, seconded by Councilmember Flores, for the Council to approve **Resolution 19-136**, Approving an Application for the update of the City of Clovis Sphere of Influence and considering an addendum to a previously certified Environmental Impact Report pursuant to Section 15164 of CEQA. Motion carried by unanimous vote.

ADMINISTRATIVE ITEMS

17. 7:41 - RECEIVED AND FILED – UPDATE ON THE STATE WATER BOARD’S NEW REQUIREMENT FOR THE CITY TO SAMPLE FOR POLYFLUOROALKYL SUBSTANCES (PFAS) IN CITY WELLS CAPS ITEM 1.

Assistant Public Utilities Director Paul Armendariz presented a report on an update on the State Water Board's New Requirement for the City to Sample for Polyfluoroalkyl Substances (PFAS) in City Wells CAPS Item 1. The State Water Resources Control Board (State Water Board), Division of Drinking Water (DDW), issued an Order to providers of drinking water systems to sample certain wells for both perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), which are part of the larger family of polyfluoroalkyl substances (PFAS). PFOA and PFOS have been identified as chemicals that could potentially lead to health risks if exposed to at a level above a Public Health Goal (PHG), which has yet to be established. A maximum contaminant level (MCL) that would require treatment to remove the chemicals has also not been established; however, the Water Board has issued a notification level and a response level. A notification level is a non-regulatory, precautionary, health-based measure that is put in place while the regulations are being developed and it requires governing Councils or Boards to be notified if the substances are detected in the water. A response level is set higher than the notification level and represents an actionable level for providers at which they should consider taking the water source out of service until the regulations are developed and adopted. Two of the four quarters of sampling have been completed and PFOS was detected slightly above the notification level in two of the six wells that were identified in the Order. The response level for PFOS or PFOA have not been exceeded in any of the well sites sampled. The City is in compliance with the Order for sampling of the identified wells and is working closely with DDW staff as the regulations are being developed. There being no public comment, Mayor Bessinger closed the public portion. Discussion by the Council.

It was the consensus of Council to receive and file the report.

CITY MANAGER COMMENTS

City Manager Luke Serpa commented on his current jury duty.

COUNCIL ITEMS

- 18. 7:58 - CONSIDERED - APPOINTMENT - A "LARGE CITY" REPRESENTATIVE TO A SPECIAL, VALLEY WIDE, HOUSING WORKING GROUP OF THE CITY SELECTION COMMITTEE MEETING OF OCTOBER 30, 2019.

City Manager Luke Serpa presented a report for the City Council to consider appointment of a "large city" representative to a special, Valley Wide, Housing working group of the City Selection Committee meeting of October 30, 2019. AB 101 is a housing bill that provides funding for local jurisdictions to assist in meeting the city's regional housing needs. It included a requirement to develop a working group that would help determine how those monies should be spent. Fresno Council of Governments indicated that the County of Fresno has two large cities. Luke Serpa indicated that Council would need to provide direction to Mayor Bessinger for the meeting of October 30, 2019. Councilmember Whalen provided an update on the September meeting. There being no public comment, Mayor Bessinger closed the public portion.

Motion by Councilmember Ashbeck, seconded by Councilmember Whalen, for the Council to nominate Councilmember Mouanoutoua for the position.

COUNCIL COMMENTS

Councilmember Whalen reported out on attending the League of California Cities conference attended last week.

Councilmember Mouanoutoua commented on meeting with census representatives and working with Clovis Unified School District to maximize participation in the 2020 Census.

Councilmember Flores commented on a meeting with California Association of Realtors.

Mayor Bessinger commented on training last week he attended. He indicated that the City of Clovis was used as an example of some best practices. He also commented on attending the Car Show at the Senior Center on Saturday, and complimented staff on a job well.

Mayor Bessinger adjourned the meeting of the Council to November 4, 2019

Meeting adjourned: 8:18 p.m.

Mayor

City Clerk



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: November 4, 2019

SUBJECT: Administration - Adopt - Ord. 19-12, R2019-002, A request to approve a prezone from the County AE-20 and AE-40 Zone Districts to the Clovis P-F (Public Facilities) Zone District, approximately 117 acres of land located on the north side of the Clovis Landfill at 15679 Auberry Road. (Vote 5-0)

ATTACHMENTS: None

Please direct questions to the City Manager's office at 559-324-2060.



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Finance Department

DATE: November 4, 2019

SUBJECT: Finance – Receive and File – Treasurer’s Report for the Month of July 2019

ATTACHMENTS:

1. Summary of Cash Balances
2. Summary of Investment Activity
3. Investments with Original Maturities Exceeding One Year

Attached for the Council’s information is the Treasurer’s Report for the month ended July 31, 2019.

Pursuant to Section 41004 of the Government Code of the State of California, the City Treasurer is required to submit a monthly report of all receipts, disbursements and fund balances. Attachment 1 provides a summary of the beginning balance, total receipts, total disbursements, ending balance for all funds, and a listing, by fund, of all month end fund balances. Attachment 2 summarizes the investment activity for the month and distribution, by type of investment, held by the City. Attachment 3 lists all investments with original maturities exceeding one year as of the month ended July 31, 2019.

Prepared by: Jeffrey Blanks, Deputy Finance Director

Reviewed by: City Manager JH

City of Clovis
Statement of Cash Balances
As of July 31, 2019

AGENDA ITEM NO. 6.

| | | |
|-------------------------|----|------------------------|
| Previous Balance | \$ | 5,491,559.23 |
| Deposits | | 39,354,194.28 |
| Disbursements | | <u>(37,832,505.53)</u> |
| Current Balance | \$ | <u>7,013,247.98</u> |

| FUNDS | BALANCE |
|-----------------------------------------------|-------------------------------|
| 100 General Fund | \$ 9,125,055.16 |
| 201 Local Transportation | 13,964,087.86 |
| 202 Parking and Business Improvements | 46,467.86 |
| 203 Off Highway Use | 68,555.41 |
| 205 Senior Citizen Memorial Trust | 51,705.60 |
| 207 Landscape Assessment District | 4,561,409.72 |
| 208 Blackhorse III (95-1) Assessment District | 130,203.56 |
| 301 Park & Recreation Acquisition | 6,486,048.28 |
| 305 Refuse Equipment Reserve | 1,068,570.57 |
| 310 Special Street Deposit Fund | 25,612,657.53 |
| 313 Successor Agency | 765,122.44 |
| 314 Housing Successor Agency | 2,011,584.57 |
| 402 1976 Fire Bond Redemption | 25,475.23 |
| 404 1976 Sewer Bond Redemption Fund | 395,255.01 |
| 501 Community Sanitation Fund | 16,994,629.45 |
| 502 Sewer Service Fund | 30,770,484.21 |
| 504 Sewer Capital Projects-Users | 844,834.40 |
| 506 Sewer Capital Projects-Developer | 914,095.06 |
| 507 Water Service Fund | 49,623,568.32 |
| 508 Water Capital Projects-Users | 4,681,456.85 |
| 509 Water Capital Projects-Developer | 8,308,720.61 |
| 515 Transit Fund | 1,969,139.65 |
| 540 Planning & Development Services | 12,861,758.48 |
| 601 Property & Liability Insurance | 934,559.66 |
| 602 Fleet Maintenance | 10,995,965.13 |
| 603 Employee Benefit Fund | 520,976.27 |
| 604 General Government Services | 14,899,181.99 |
| 701 Curb & Gutter Fund | 156,426.09 |
| 702 Sewer Revolving Fund | 122,785.05 |
| 703 Payroll Tax & Withholding Fund | 3,084,060.55 |
| 712 Temperance/Barstow Assmt Dist (98-1) | 73,790.88 |
| 713 Shepherd/Temperance Assmt Dist (2000-1) | 5,605.76 |
| 715 Supp Law Enforcement Serv | (275.13) |
| 716 Asset Forfeiture | 23,467.50 |
| 720 Measure A-Public Safety Facility Tax | 13,046.45 |
| 736 SA Admin Trust Fund | 1,421.40 |
| 741 SA Debt Service Trust Fund | (869,265.69) |
| 747 Housing Successor Trust Fund | 1,137.98 |
| SUBTOTALS | <u>\$ 221,243,769.72</u> |
| 999 Invested Funds | <u>(214,230,521.74)</u> |
| TOTAL | <u><u>\$ 7,013,247.98</u></u> |

City of Clovis
Summary of Investment Activity
For the month of July 31, 2019

AGENDA ITEM NO. 6.

| | |
|-------------------------------------------------|-------------------|
| <hr/> <hr/> | |
| Balance of Investments Previous Month End | \$ 233,226,891.78 |
| <hr/> | |
| Time Certificates of Deposit Transactions | |
| Investments | 500,000.00 |
| Withdrawals | (990,000.00) |
| Total CD Changes | (490,000.00) |
| <hr/> | |
| Other Changes | |
| Government Securities | 536,445.00 |
| US Treasury Notes | 0.00 |
| Local Agency Investment Fund | 0.00 |
| Money Market | 0.00 |
| Sweep Account | (19,042,815.04) |
| Total Other Changes | (18,506,370.04) |
| Balance of Investments Current Month End | \$ 214,230,521.74 |

City of Clovis
Distribution of Investments
As of July 31, 2019

| | |
|------------------------------|-------------------|
| <hr/> <hr/> | |
| Insured CD's | 12,180,000.00 |
| Government Securities | 124,125,406.97 |
| US Treasury Notes | 0.00 |
| Local Agency Investment Fund | 65,000,000.00 |
| Money Market | 0.00 |
| Sweep Account | 12,925,114.77 |
| Investment Total | \$ 214,230,521.74 |

City of Clovis
Original Maturities Exceeding One Year
As of July 31, 2019

AGENDA ITEM NO. 6.

| <u>Institution</u> | <u>Face Value</u> | <u>Investment Balance At Amortized Cost</u> | <u>Maturity</u> | <u>Stated Rate</u> |
|--------------------|-------------------|-----------------------------------------------------|-----------------|------------------------|
| FHLMCMTN | 3,000,000.00 | 2,997,000.00 | 9/27/2019 | 1.500% |
| FHLB | 2,500,000.00 | 2,498,750.00 | 10/30/2019 | 1.625% |
| FNMA | 3,000,000.00 | 3,000,000.00 | 11/15/2019 | 1.250% |
| FHLMCMTN | 3,000,000.00 | 3,000,000.00 | 11/27/2019 | 1.300% |
| FFCB | 2,500,000.00 | 2,502,117.00 | 12/5/2019 | 2.390% |
| FFCB | 1,000,000.00 | 994,500.00 | 2/24/2020 | 1.400% |
| FHLB | 1,000,000.00 | 1,008,596.72 | 3/13/2020 | 1.875% |
| FNAMAMTN | 3,000,000.00 | 3,006,210.00 | 4/27/2020 | 1.700% |
| FNAMAMTN | 3,000,000.00 | 3,007,770.00 | 4/27/2020 | 1.800% |
| FFCB | 2,000,000.00 | 1,990,555.00 | 5/7/2020 | 1.320% |
| FHLMCMTN | 2,500,000.00 | 2,498,750.00 | 5/22/2020 | 1.550% |
| FFCB | 2,500,000.00 | 2,500,000.00 | 6/1/2020 | 1.670% |
| FHLB | 5,000,000.00 | 5,000,000.00 | 6/26/2020 | 1.625% |
| FAMCMTN | 2,500,000.00 | 2,500,000.00 | 6/29/2020 | 1.650% |
| FHLB | 2,500,000.00 | 2,500,000.00 | 6/29/2020 | 1.640% |
| FFCB | 5,000,000.00 | 5,000,000.00 | 7/6/2020 | 1.625% |
| FHLB | 2,500,000.00 | 2,455,546.50 | 8/28/2020 | 1.680% |
| FHLB | 2,500,000.00 | 2,465,677.50 | 8/28/2020 | 1.800% |
| FHLB | 2,500,000.00 | 2,500,000.00 | 9/18/2020 | 1.600% |
| FNAMAMTN | 2,500,000.00 | 2,500,000.00 | 10/13/2020 | 1.850% |
| FNMAD | 2,400,000.00 | 2,442,365.00 | 10/28/2020 | 1.500% |
| FHLB | 2,500,000.00 | 2,488,750.00 | 11/25/2020 | 1.950% |
| FFCB | 3,000,000.00 | 3,000,000.00 | 12/22/2020 | 2.100% |
| FHLMCMTN | 2,500,000.00 | 2,497,500.00 | 1/26/2021 | 2.150% |
| FHLMCMTN | 2,500,000.00 | 2,477,875.00 | 2/16/2021 | 2.375% |
| FHLMCMTN | 2,300,000.00 | 2,258,140.00 | 3/29/2021 | 1.875% |
| FAMCMTN | 2,500,000.00 | 2,502,236.25 | 4/19/2021 | 2.650% |
| FFCB | 2,500,000.00 | 2,452,750.00 | 5/17/2021 | 2.000% |
| FHLB | 2,600,000.00 | 2,568,982.50 | 6/11/2021 | 3.625% |
| FHLB | 2,400,000.00 | 2,418,750.00 | 6/14/2021 | 1.640% |
| FHLMCMTN | 2,500,000.00 | 2,471,750.00 | 6/30/2021 | 1.500% |
| FAMCMTN | 3,000,000.00 | 3,000,000.00 | 8/17/2021 | 2.750% |
| FFCB | 2,000,000.00 | 1,998,520.00 | 8/27/2021 | 2.700% |
| FFCB | 2,500,000.00 | 2,490,877.50 | 9/20/2021 | 2.850% |
| FFCB | 2,500,000.00 | 2,500,200.00 | 12/17/2021 | 2.800% |
| FFCB | 2,500,000.00 | 2,498,750.00 | 1/24/2022 | 2.800% |
| FHLB | 12,100,000.00 | 12,110,520.00 | 3/11/2022 | 2.500% |
| FFCB | 6,000,000.00 | 5,979,668.00 | 3/28/2022 | 2.280% |
| FFCB | 6,000,000.00 | 6,017,400.00 | 6/14/2022 | 1.875% |
| FAMC | 6,000,000.00 | 6,024,900.00 | 6/21/2022 | 1.950% |



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Finance Department

DATE: November 4, 2019

SUBJECT: Finance – Receive and File – Investment Report for the Month of July 2019

ATTACHMENTS: 1. Distribution of Investments
2. Monthly Investment Transactions
3. Certificates of Deposit
4. Graph of July 31, 2019 Treasury Rates

Attached is the Investment Report for the month of July 2019. Shown in Attachment 1 is the distribution of investments which lists all the individual securities owned by the City with the book and market values. Book value is the actual price paid for the investment. Market value is the amount that the investment is worth if sold in the open market. The market value (which fluctuates daily) that is used in the report is as of the last working day of the month. Attachment 2 reflects the monthly investment transactions for the month of July 2019. Attachment 3 lists the certificates of deposit. Attachment 4 is a graph of Treasury rates on July 31, 2019.

The investment of the City’s funds is performed in accordance with the adopted Investment Policy. Funds are invested with the following objectives in mind:

1. Assets are invested in adherence with the safeguards and diversity of a prudent investor.
2. The portfolio is invested in a manner consistent with the primary emphasis on preservation of the principal, while attaining a high rate of return consistent with this guideline. Trading of securities for the sole purpose of realizing trading profits is prohibited.
3. Sufficient liquidity is maintained to provide a source for anticipated financial obligations as they become due.

- 4. Investments may be made, consistent with the Investment Policy Guidelines, in fixed income securities maturing in three years or less and can be extended to five years with the City Manager's approval.

The Finance Department invests the City's assets with an expectation of achieving a total rate of return at a level that exceeds the annualized rate of return on short-term government guaranteed or insured obligations (90-day Treasury bills) and to assure that the principal is preserved with minimal risk of depreciation or loss. In periods of rising interest rates, the City of Clovis portfolio return may be less than that of the annualized 90-day Treasury bill. In periods of decreasing interest rates, the City of Clovis portfolio return may be greater than the annualized 90-day Treasury bill. The current 90-day Treasury bill rate (annualized) is 2.30%. The rate of return for the City of Clovis portfolio is 2.15%. The goal for the City of Clovis investment return is 120% of the 90-day Treasury bill rate. The current rate of return is 93% of the Treasury bill rate.

In accordance with the Investment Policy, the investment period on each investment does not exceed three years and can be extended to five years with the City Manager's approval. As of July 2019 the average investment life of the City's investment portfolio is 0.95 years.

Current Investment Environment and Philosophy

During the month of July 2019, the federal funds rate was lowered to 2.00%-2.25%.

On July 31, 2019, the Treasury yield curve declines from 6-month to 3-year notes, followed by a slight increase from 5-year to 10-year notes.

Certificates of Deposit (CD's)

The City purchases both negotiable and non-negotiable Certificates of Deposit (CD's). Although negotiable CD's can be traded, it is the City's policy to buy and hold all CD's. Negotiable CD's are held by U.S. Bank, a third party custodian. Non-negotiable CD's are held in the City's safe.

Purchases and Maturities

- 1 government security totaling \$6,000,000.00 was purchased.
- 2 government securities totaling \$5,500,000.00 were called or matured.
- 2 certificates of deposit totaling \$500,000 were purchased.
- 4 certificates of deposit totaling \$990,000 were called or matured.

Market Environment

- During July, the federal funds rate was lowered to 2.00%-2.25%.
- On July 31, the yield curve declines from 6-month to 3-year notes, followed by a slight increase from 5-year to 10-year notes. See Attachment 4, Graph of Treasury Rates on July 31, 2019.

Prepared by: Jeffrey Blanks, Deputy Finance Director

Reviewed by: City Manager *JH*

**City of Clovis
Distribution of Investments
As of July 31, 2019**

AGENDA ITEM NO. 7.

| | <u>COST</u> | <u>NET BOOK VALUE</u> | <u>MARKET VALUE *</u> | <u>YIELD TO MATURITY</u> | <u>STATED INTEREST RATE</u> | <u>INVEST DATE</u> | <u>MATURITY DATE</u> | <u>DAYS TO MATURITY FROM 7/31/2019</u> |
|-----------------------------------|-----------------------|-----------------------|-----------------------|--------------------------|-----------------------------|--------------------|----------------------|----------------------------------------|
| <u>GOV'T SECURITIES</u> | | | | | | | | |
| FHLMCMTN | 2,997,000 | 2,997,000 | 2,996,970 | 1.500% | 1.500% | 10/12/17 | 09/27/19 | 58 |
| FHLB | 2,498,750 | 2,498,750 | 2,496,975 | 1.625% | 1.625% | 11/16/17 | 10/30/19 | 91 |
| FNMA | 3,000,000 | 3,000,000 | 2,992,260 | 1.250% | 1.250% | 11/16/16 | 11/15/19 | 107 |
| FHLMCMTN | 3,000,000 | 3,000,000 | 2,991,720 | 1.300% | 1.300% | 11/28/16 | 11/27/19 | 119 |
| FFCB | 2,502,117 | 2,502,117 | 2,501,850 | 2.390% | 2.390% | 06/05/18 | 12/05/19 | 127 |
| FFCB | 994,500 | 994,500 | 995,460 | 1.400% | 1.400% | 03/30/17 | 02/24/20 | 208 |
| FHLB | 1,008,597 | 1,008,597 | 998,750 | 1.875% | 1.875% | 03/22/17 | 03/13/20 | 226 |
| FNAMAMTN | 3,006,210 | 3,006,210 | 2,991,150 | 1.700% | 1.700% | 05/02/17 | 04/27/20 | 271 |
| FNAMAMTN | 3,007,770 | 3,007,770 | 2,993,880 | 1.800% | 1.800% | 05/02/17 | 04/27/20 | 271 |
| FFCB | 1,990,555 | 1,990,555 | 1,988,980 | 1.320% | 1.320% | 08/31/17 | 05/07/20 | 281 |
| FHLMCMTN | 2,498,750 | 2,498,750 | 2,489,500 | 1.550% | 1.550% | 05/25/17 | 05/22/20 | 296 |
| FFCB | 2,500,000 | 2,500,000 | 2,492,325 | 1.670% | 1.670% | 06/01/17 | 06/01/20 | 306 |
| FHLB | 5,000,000 | 5,000,000 | 4,983,400 | 1.625% | 1.625% | 06/26/17 | 06/26/20 | 331 |
| FAMCMTN | 2,500,000 | 2,500,000 | 2,494,100 | 1.650% | 1.650% | 07/27/17 | 06/29/20 | 334 |
| FHLB | 2,500,000 | 2,500,000 | 2,491,800 | 1.640% | 1.640% | 07/27/17 | 06/29/20 | 334 |
| FFCB | 5,000,000 | 5,000,000 | 4,976,000 | 1.625% | 1.625% | 07/06/17 | 07/06/20 | 341 |
| FHLB | 2,455,547 | 2,455,547 | 2,490,375 | 1.680% | 1.680% | 06/01/18 | 08/28/20 | 394 |
| FHLB | 2,465,678 | 2,465,678 | 2,488,200 | 1.800% | 1.800% | 01/18/18 | 08/28/20 | 394 |
| FHLB | 2,500,000 | 2,500,000 | 2,483,250 | 1.600% | 1.600% | 03/16/18 | 09/18/20 | 415 |
| FNAMAMTN | 2,500,000 | 2,500,000 | 2,489,900 | 1.850% | 1.850% | 09/18/17 | 10/13/20 | 440 |
| FNMAD | 2,442,365 | 2,442,365 | 2,481,625 | 1.500% | 1.500% | 12/22/17 | 10/28/20 | 455 |
| FHLB | 2,488,750 | 2,488,750 | 2,493,425 | 1.950% | 1.950% | 11/16/17 | 11/25/20 | 483 |
| FFCB | 3,000,000 | 3,000,000 | 3,000,030 | 2.100% | 2.100% | 03/01/18 | 12/22/20 | 510 |
| FHLMCMTN | 2,497,500 | 2,497,500 | 2,500,550 | 2.150% | 2.150% | 01/26/18 | 01/26/21 | 545 |
| FHLMCMTN | 2,477,875 | 2,477,875 | 2,514,100 | 2.375% | 2.375% | 08/02/18 | 02/16/21 | 566 |
| FHLMCMTN | 2,258,140 | 2,258,140 | 2,293,514 | 1.875% | 1.875% | 06/01/18 | 03/29/21 | 607 |
| FAMCMTN | 2,502,236 | 2,502,236 | 2,527,550 | 2.650% | 2.650% | 06/28/18 | 04/19/21 | 628 |
| FFCB | 2,452,750 | 2,452,750 | 2,500,000 | 2.000% | 2.000% | 12/13/18 | 05/17/21 | 656 |
| FHLB | 2,568,983 | 2,568,983 | 2,573,950 | 3.625% | 3.625% | 06/28/18 | 06/11/21 | 681 |
| FHLB | 2,418,750 | 2,418,750 | 2,469,975 | 1.640% | 1.640% | 08/02/18 | 06/14/21 | 684 |
| FHLMCMTN | 2,471,750 | 2,471,750 | 2,491,450 | 1.500% | 1.500% | 02/22/19 | 06/30/21 | 700 |
| FAMCMTN | 3,000,000 | 3,000,000 | 3,045,900 | 2.750% | 2.750% | 09/06/18 | 08/17/21 | 748 |
| FFCB | 1,998,520 | 1,998,520 | 2,029,020 | 2.700% | 2.700% | 09/06/18 | 08/27/21 | 758 |
| FFCB | 2,490,878 | 2,490,878 | 2,545,425 | 2.850% | 2.850% | 10/05/18 | 09/20/21 | 782 |
| FFCB | 2,500,200 | 2,500,200 | 2,547,975 | 2.800% | 2.800% | 12/17/18 | 12/17/21 | 870 |
| FFCB | 2,498,750 | 2,498,750 | 2,505,475 | 2.800% | 2.800% | 01/24/19 | 01/24/22 | 908 |
| FHLB | 12,110,520 | 12,110,520 | 12,167,880 | 2.500% | 2.500% | 04/25/19 | 03/11/22 | 954 |
| FFCB | 5,979,668 | 5,979,668 | 6,009,885 | 2.280% | 2.280% | 03/28/19 | 03/28/22 | 971 |
| FFCB | 6,017,400 | 6,017,400 | 5,987,640 | 1.875% | 1.875% | 06/27/19 | 06/14/22 | 1,049 |
| FAMC | 6,024,900 | 6,024,900 | 6,000,900 | 1.950% | 1.950% | 07/25/19 | 06/21/22 | 1,056 |
| SECURITIES TOTAL | <u>\$ 124,125,407</u> | <u>\$ 124,125,407</u> | <u>\$124,513,114</u> | | | | | |
| LAIF | | <u>\$ 65,000,000</u> | <u>\$ 65,000,000</u> | | | | | |
| MONEY MARKET (Rabo) | | <u>\$ -</u> | <u>\$ -</u> | | | | | |
| Sweep Account (Union Bank) | | <u>\$ 12,925,115</u> | <u>\$ 12,925,115</u> | | | | | |
| TOTAL CD'S | | <u>\$ 12,180,000</u> | <u>\$ 12,243,351</u> | | | | | |
| TOTAL INVESTMENTS | | <u>\$ 214,230,522</u> | <u>\$ 214,681,580</u> | | | | | |

* Market values for securities obtained from US Bank.

City of Clovis
Monthly Investment Transactions
As of July 31, 2019

AGENDA ITEM NO. 7.

| Institution | Description | Activity | Amount | Market Value | Rate | Activity Date | Maturity Date |
|-----------------------------|--------------|-----------|-----------|--------------|--------|---------------|---------------|
| FAMC | Gov Security | Purchase | 6,000,000 | 6,024,900 | 1.950% | 07/25/19 | 06/21/22 |
| First State Bank of Dequeen | CD | Purchase | 250,000 | 250,000 | 2.000% | 07/26/19 | 05/26/22 |
| Morgan Stanley Private Bank | CD | Purchase | 250,000 | 250,000 | 2.100% | 07/25/19 | 07/25/22 |
| FNMA | Gov Security | Maturity | 3,000,000 | 3,000,000 | 1.125% | 07/26/19 | 07/26/19 |
| FHLB | Gov Security | Full Call | 2,500,000 | 2,500,000 | 2.300% | 07/26/19 | 01/26/21 |
| BMO Harris Bank | CD | Full Call | 250,000 | 250,000 | 1.150% | 07/28/19 | 01/28/22 |
| Discover Bank | CD | Maturity | 245,000 | 245,000 | 1.150% | 07/01/19 | 07/01/19 |
| Nothern Bank Trust | CD | Maturity | 245,000 | 245,000 | 1.150% | 07/12/19 | 07/12/19 |
| Spiritbank Na | CD | Maturity | 250,000 | 250,000 | 1.150% | 07/13/19 | 07/13/19 |

PORTFOLIO DATA

Current Month (07/19)

| | Book | Market |
|----------------------------|-----------------------|----------------------|
| CD'S | \$ 12,180,000 | \$ 12,243,351 |
| Gov't Securities* | 124,125,407 | 124,513,114 |
| LAIF | 65,000,000 | 65,000,000 |
| Sweep Account (Union Bank) | 12,925,115 | 12,925,115 |
| TOTAL | \$ 214,230,522 | \$214,681,580 |

One Month Previous (06/19)

| | Book | Market |
|----------------------------|-----------------------|-----------------------|
| CD'S | \$ 12,670,000 | \$12,713,242 |
| Gov't Securities* | 123,588,962 | 124,187,773 |
| LAIF | 65,000,000 | 65,000,000 |
| Sweep Account (Union Bank) | 31,967,930 | 31,967,930 |
| TOTAL | \$ 233,226,892 | \$ 233,868,945 |

Three Months Previous (04/19)

| | Book | Market |
|----------------------------|-----------------------|-----------------------|
| CD'S | \$ 12,655,000 | \$12,651,138 |
| Gov't Securities* | 120,009,552 | 119,885,084 |
| LAIF | 65,000,000 | 65,000,000 |
| Sweep Account (Union Bank) | 24,639,055 | 24,639,055 |
| TOTAL | \$ 222,303,607 | \$ 222,175,277 |

Six Months Previous (01/19)

| | Book | Market |
|----------------------------|-----------------------|-----------------------|
| CD'S | \$ 12,645,000 | \$ 12,587,840 |
| Gov't Securities* | 116,183,295 | 115,697,730 |
| LAIF | 65,000,000 | 65,000,000 |
| Sweep Account (Union Bank) | 16,623,684 | 16,623,684 |
| TOTAL | \$ 210,451,979 | \$ 209,909,254 |

One Year Previous (07/18)

| | Book | Market |
|----------------------------|-----------------------|-----------------------|
| CD'S | \$ 11,999,000 | \$ 11,883,744 |
| Gov't Securities* | 91,704,091 | 90,392,757 |
| LAIF | 65,000,000 | 65,000,000 |
| Sweep Account (Union Bank) | 12,238,250 | 12,238,250 |
| TOTAL | \$ 180,941,341 | \$ 179,514,751 |

*Adjusted Quarterly for Premium/Discount Amortization

**City of Clovis
Certificates of Deposit
As of July 31, 2019**

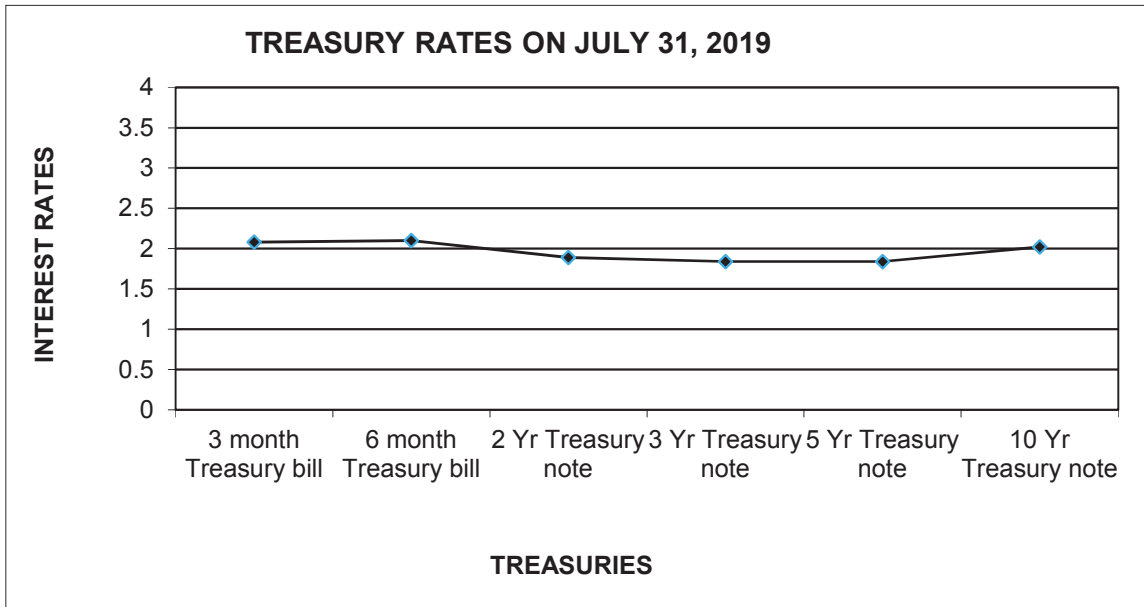
AGENDA ITEM NO. 7.

| Negotiable CDs | COST | MARKET PRICE | INTEREST RATE | INVEST DATE | MATURITY DATE | MATURITY FROM 07/31/19 | INTEREST FREQUENCY |
|----------------------------------|----------------------|----------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------|
| Morgan Stanley Bank | 250,000 | 249,972.50 | 1.700% | 09/30/17 | 08/12/19 | 12 | SEMI-ANNUALLY |
| Wex Bank | 245,000 | 244,921.60 | 1.200% | 08/12/16 | 08/12/19 | 12 | SEMI-ANNUALLY |
| Fnb Of Mcgregor | 245,000 | 244,879.95 | 1.100% | 08/18/16 | 08/19/19 | 19 | MONTHLY |
| Hamni Bank | 250,000 | 250,050.00 | 2.100% | 09/09/18 | 09/09/19 | 40 | SEMI-ANNUALLY |
| Ally Bank | 245,000 | 244,703.55 | 1.300% | 09/15/16 | 09/16/19 | 47 | MONTHLY |
| Atlantic | 245,000 | 244,627.60 | 1.200% | 09/30/16 | 09/30/19 | 61 | MONTHLY |
| First Technology Fed Cr Un Mtn | 250,000 | 249,897.50 | 1.800% | 10/16/17 | 10/16/19 | 77 | MONTHLY |
| Morton Community Bank | 245,000 | 244,554.10 | 1.500% | 12/15/16 | 12/16/19 | 138 | SEMI-ANNUALLY |
| Sallie Mae | 245,000 | 244,745.20 | 1.750% | 01/11/17 | 01/13/20 | 166 | SEMI-ANNUALLY |
| Stearns Bank | 245,000 | 244,517.35 | 1.600% | 02/10/17 | 02/10/20 | 194 | MONTHLY |
| Crescent Bank | 245,000 | 244,438.95 | 1.550% | 02/15/17 | 02/14/20 | 198 | MONTHLY |
| Pyramax Bank | 245,000 | 244,495.30 | 1.600% | 02/17/17 | 02/18/20 | 202 | MONTHLY |
| American Express | 245,000 | 244,865.25 | 1.900% | 04/17/17 | 04/06/20 | 250 | MONTHLY |
| First Bank | 245,000 | 244,328.70 | 1.600% | 04/17/17 | 04/20/20 | 264 | MONTHLY |
| Ion Bank | 245,000 | 244,331.15 | 1.600% | 04/17/17 | 04/20/20 | 264 | MONTHLY |
| Communitywide | 250,000 | 249,930.00 | 1.950% | 12/01/17 | 06/01/20 | 306 | MONTHLY |
| Nthwt Dist Ch8 | 250,000 | 249,380.00 | 1.700% | 06/16/17 | 06/16/20 | 321 | MONTHLY |
| Tbk Bank Ssb | 250,000 | 249,590.00 | 1.800% | 06/23/17 | 06/23/20 | 328 | MONTHLY |
| Amer Natl | 250,000 | 249,325.00 | 1.700% | 07/12/17 | 07/13/20 | 348 | MONTHLY |
| Mb Financial Bank | 250,000 | 249,517.50 | 1.800% | 08/10/17 | 08/10/20 | 376 | MONTHLY |
| East Boston Svgs Bk Boston Ma | 250,000 | 249,422.50 | 1.800% | 09/28/17 | 09/28/20 | 425 | MONTHLY |
| Medallion Bk Salt Lake City Utah | 250,000 | 249,565.00 | 1.850% | 09/29/17 | 09/29/20 | 426 | MONTHLY |
| Eagle Bank | 250,000 | 251,432.50 | 2.500% | 03/29/19 | 09/29/19 | 60 | QUARTERLY |
| Illinois Cmnty | 250,000 | 249,950.00 | 2.000% | 11/28/17 | 11/30/20 | 488 | MONTHLY |
| First Bank | 250,000 | 250,220.00 | 2.300% | 02/06/18 | 02/08/21 | 558 | MONTHLY |
| Merchants Manufacturers | 250,000 | 250,030.00 | 2.300% | 02/16/18 | 02/16/21 | 566 | MONTHLY |
| Merrick Bank | 250,000 | 252,027.50 | 2.550% | 03/09/18 | 03/09/21 | 587 | MONTHLY |
| Towne Bank | 250,000 | 252,775.00 | 2.700% | 04/27/18 | 04/27/21 | 636 | MONTHLY |
| Citibank | 250,000 | 253,760.00 | 2.900% | 05/22/18 | 05/24/21 | 663 | MONTHLY |
| University Of Iowa Cmnty Fcu | 250,000 | 253,787.50 | 2.900% | 05/24/18 | 05/28/21 | 667 | MONTHLY |
| B Bay Llc | 250,000 | 254,315.00 | 3.000% | 06/15/18 | 06/15/21 | 685 | MONTHLY |
| Connectone Bk Englewood Cliffs | 250,000 | 254,325.00 | 3.000% | 06/15/18 | 06/15/21 | 685 | MONTHLY |
| Bar Harbor Bank Trust | 250,000 | 254,397.50 | 3.000% | 06/29/18 | 06/29/21 | 699 | MONTHLY |
| Keesler Fed Cr Un | 250,000 | 254,972.50 | 3.050% | 02/20/19 | 08/30/21 | 761 | QUARTERLY |
| Ubs Bank Usa | 250,000 | 256,185.00 | 3.200% | 11/07/18 | 11/08/21 | 831 | MONTHLY |
| Mountain America Fd Credit | 250,000 | 256,232.50 | 3.200% | 11/15/18 | 11/15/21 | 838 | MONTHLY |
| Saco Biddleford | 250,000 | 250,260.00 | 2.600% | 03/29/19 | 12/29/21 | 882 | QUARTERLY |
| Jp Morgan Chase | 250,000 | 251,172.50 | 3.000% | 01/18/19 | 01/18/22 | 902 | SEMI-ANNUALLY |
| Wells Fargo | 250,000 | 255,435.00 | 3.000% | 01/18/19 | 01/18/22 | 902 | MONTHLY |
| Security First | 250,000 | 251,265.00 | 3.000% | 01/25/19 | 01/25/22 | 909 | QUARTERLY |
| Goldman Sachs Bk USA Ny | 245,000 | 249,253.20 | 2.800% | 02/20/19 | 02/22/22 | 937 | QUARTERLY |
| Tiaa FSB Jacksonville Fla | 245,000 | 249,557.00 | 2.850% | 02/28/19 | 02/22/22 | 937 | QUARTERLY |
| Comenity Capital Bank | 250,000 | 252,937.50 | 2.550% | 04/30/19 | 04/29/22 | 1,003 | QUARTERLY |
| Jefferson Financial Bank | 250,000 | 251,397.50 | 2.650% | 05/15/19 | 05/16/22 | 1,020 | QUARTERLY |
| Synchrony Bank | 250,000 | 252,280.00 | 2.450% | 05/17/19 | 05/17/22 | 1,021 | QUARTERLY |
| First State Bank of Dequeen | 250,000 | 249,220.00 | 2.000% | 07/26/19 | 05/26/22 | 1,030 | QUARTERLY |
| Flagstar Bank | 250,000 | 252,655.00 | 2.500% | 06/12/19 | 06/13/22 | 1,048 | QUARTERLY |
| Capital One Bank | 250,000 | 251,617.50 | 2.350% | 06/19/19 | 06/20/22 | 1,055 | QUARTERLY |
| Morgan Stanley Bank | 250,000 | 249,832.50 | 2.100% | 07/25/19 | 07/25/22 | 1,090 | QUARTERLY |
| Negotiable CD TOTAL | \$ 12,180,000 | \$ 12,243,351 | | | | | |
| CD TOTAL | \$ 12,180,000 | \$ 12,243,351 | | | | | |

CITY OF CLOVIS
FINANCE DEPARTMENT
JULY 31, 2019 TREASURY RATES

Treasury Rates as of July 31, 2019

| | |
|-----------------------|------|
| 3 month Treasury bill | 2.08 |
| 6 month Treasury bill | 2.10 |
| 2 Yr Treasury note | 1.89 |
| 3 Yr Treasury note | 1.84 |
| 5 Yr Treasury note | 1.84 |
| 10 Yr Treasury note | 2.02 |



As indicated in the above graph, treasuries decline from 6-month to 3-year notes, followed by a slight increase from 5-year to 10-year notes

ATTACHMENT 4



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: General Services

DATE: November 4, 2019

SUBJECT: General Services – Approval – Res. 19-____, Authorizing the City Manager to execute agreements with the California Department of Transportation and CALSTART associated with the FY2020-21 Sustainable Transportation Planning Grant application for the City of Clovis Transit Fleet Electrification Study.

ATTACHMENTS: 1. Resolution Authorizing the Agreements

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve a resolution authorizing the City Manager to execute agreements with the California Department of Transportation and CALSTART associated with the FY2020-21 Sustainable Transportation Planning Grant application for the City of Clovis Transit Fleet Electrification Study.

EXECUTIVE SUMMARY

The City of Clovis is an eligible applicant for a California Department of Transportation (Caltrans) FY 2020-21 Sustainable Transportation Planning Grant. In December 2018, the California Air Resources Board (CARB) approved a rule that requires all public transit operators in California to transition to 100 percent zero-emission bus (ZEB) fleets by 2040. Additionally, any bus purchase after 2030 must be zero-emission. For Clovis, the required transition begins with a deadline to provide a “ZEB Rollout Plan” by July 1, 2023 and a requirement that 25% of new bus purchases must be a ZEB in 2026. Through the FY 2020-21 Caltrans Sustainable Communities Grant Program, Clovis Transit has prepared a grant proposal, The City of Clovis Transit Fleet Electrification Study, in the amount of \$180,024 that will be used to prepare the required ZEB Rollout Plan. This grant is competitive in nature and funding awards will be based on project evaluations by Caltrans staff. Clovis Transit has identified CALSTART as a sub recipient due to their technical expertise with vehicle

electrification projects, their extensive experience with this type of project, and positive relationship with Caltrans.

BACKGROUND

The Sustainable Transportation Planning Grant Program was created to support the Caltrans mission to provide a safe, sustainable, integrated and efficient transportation system to enhance California’s economy and livability. The Road Repair and Accountability Act of 2017 (SB1) provides a reliable source of funds to maintain and integrate the State’s multi-modal transportation system. Approximately \$25 million in SB1 funds for Sustainable Communities Grants is available for the FY2020-21 grant cycle.

Eligible planning projects must have a transportation nexus and are expected to directly benefit the multi-modal transportation system. Funding distribution for the competitive program will depend on the quality and number of applications. Clovis Transit is required by CARB to begin the conversion to zero-emission vehicles by submitting a planning document, the ZEB Rollout Plan, by July 1, 2023. This type of planning falls within the guidelines of the Sustainable Communities Grant and will be a foundation for eventual conversion to zero-emission vehicles.

Clovis Transit has identified CALSTART as a sub-recipient on this application. CALSTART is a non-profit organization that works with public and private sectors to develop high-tech clean transportation projects. They were identified as a partner on this grant based on their extensive experience in developing projects that implement electric vehicle solutions. A collaboration with CALSTART also makes the grant application more competitive.

The scope of work funded by the grant will include the following project objectives:

- Assess current conditions and risks of transitioning to an electric transit fleet.
- Building on any existing transit electrification efforts.
- Evaluate current operational needs and costs versus operational needs and costs with an electric fleet.
- Conduct stakeholder outreach with relevant City departments and external partners.
- Evaluate current market to determine vehicle and charging options.
- Evaluate infrastructure needs and determine best location for charging infrastructure.
- Develop a timeline for bus replacement/purchases and infrastructure development.
- Evaluate on-route charging opportunities.
- Work with power supplier to identify infrastructure needs for supply.
- Develop a funding plan.

The ZEB Rollout Plan will be used in conjunction with other studies for long-term planning of Clovis Transit fleet operations. Other efforts are also underway including the Clovis Transit Electric Bus Pilot Project, an origin-to-destination study with the Fresno Council of Governments to determine ridership patterns, and a Route Redesign Project that will include electric bus range limitations in the recommendations for updating the current service model. Using all the information available, staff will have the key data needed to successfully manage the required conversion. Additionally, the fleet electrification study will be used as a

template to plan for electrification of other city fleets as may be required by CARB in the future.

FISCAL IMPACT

The cost of the program is \$180,024, of which \$161,500 will be funded through the Caltrans Sustainable Communities Grant Program if the City of Clovis is chosen as a grant recipient. The grant requires a local match of \$18,524 which will be met using Local Transit Funds.

REASON FOR RECOMMENDATION

Initial grant documents have been submitted; however, Caltrans requires a resolution authorizing the City Manager to execute all agreements associated with this grant.

ACTIONS FOLLOWING APPROVAL

Staff will submit an original resolution to Caltrans. If Clovis is selected as a grant recipient, the General Services Manager will complete the required program reporting and documentation requirements.

Prepared by: Amy Hance, General Services Manager

Reviewed by: City Manager LS

RESOLUTION 19-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION AND CALSTART ASSOCIATED
WITH THE FY2020-21 SUSTAINABLE TRANSPORTATION PLANNING GRANT
APPLICATION FOR THE CITY OF CLOVIS TRANSIT FLEET ELECTRIFICATION STUDY

WHEREAS, the City of Clovis is eligible to receive federal and/or state funding for certain transportation planning related plans, through the California Department of Transportation; and,

WHEREAS, a Restricted Grant Agreement is needed to be executed with the California Department of Transportation before such funds can be claimed through the Transportation Planning Grant programs; and,

WHEREAS, the City of Clovis wishes to delegate authorization to execute these agreements and any amendments thereto;

NOW, THEREFORE, BE IT RESOLVED, that the City of Clovis authorizes the City Manager, or designee, to execute all Restricted Grant Agreements and any amendments thereto with the California Department of Transportation.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on the 4th day of November, 2019 by the following vote, to wit.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

DATED: November 4, 2019

Mayor

City Clerk



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: General Services Department

DATE: November 4, 2019

SUBJECT: General Services - Approval – Res. 19___ , Amending the City’s FY 19-20 Position Allocation Plan by deleting one (1) Administrative Assistant Position and adding one (1) Management Analyst Position within the Fire Department.

ATTACHMENTS: 1. Resolution Position Allocation Plan

CONFLICT OF INTEREST

None

RECOMMENDATION

For City Council to Approve Resolution 19- ____, Amending the City’s FY 19-20 Position Allocation Plan by deleting one (1) Administrative Assistant position and adding one (1) Management Analyst position within the Fire Department.

EXECUTIVE SUMMARY

Currently, the Fire Department is authorized for one (1) Administrative Assistant position. It is recommended that the City’s Position Allocation Plan be amended by deleting one (1) Administrative Assistant position and adding one (1) Management Analyst position. Council approval is required for changes to the Position Allocation Plan.

BACKGROUND

The Fire Department has evaluated the work assignments in the department and has determined the need to add one (1) Management Analyst position and delete one (1) Administrative Assistant position. This will more efficiently support the current demands of the department. The Fire Department has also determined that it is necessary to have a management position with the capabilities to perform employee evaluations and other administrative management duties. This position allocation change would more effectively support the current requirements of the department. The desired change would result in the need to modify the current City’s Position Allocation Plan, which requires Council approval.

FISCAL IMPACT

The fiscal impact of salary and benefits for the remainder of FY 19-20 is approximately an additional \$15,000. There are adequate funds in the Fire Department budget to cover the costs of this position.

REASON FOR RECOMMENDATION

The addition of one (1) Management Analyst and the elimination of one (1) Administrative Assistant better suits the staffing needs of the Fire Department. The change must be reflected in the authorized FY 19-20 Fire Department position allocation. Modification of the Position Allocation Plan requires Council Approval.

ACTIONS FOLLOWING APPROVAL

The position allocation for the Fire Department will be modified as noted in Attachment A of Attachment 1. The position vacancy will be filled through the current eligible list.

Prepared by: Lori Shively, Personnel/Risk Manager

Reviewed by: City Manager LS

RESOLUTION 19-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
APPROVING AMENDMENTS TO THE CITY'S FY 2019-20 POSITION ALLOCATION PLAN

The City Council of the City of Clovis resolves as follows:

WHEREAS, the FY 2019-20 Position Allocation Plan in the Fire Department was approved as part of the FY 2019-20 City budget adoption process; and

WHEREAS, a review of the staffing needs of the City indicates that the addition of one (1) Management Analyst position and the deletion of one (1) Administrative Assistant is necessary in order to provide the administrative management duties necessary for the Fire Department; and

WHEREAS, amending the City's adopted FY 2019-20 Position Allocation Plan requires City Council authorization.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Clovis that the City's FY 2019-20 Position Allocation Plan shall be amended as noted in Attachment A of Attachment 1 attached.

* * * * *

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: November 4, 2019

Mayor

City Clerk

ATTACHMENT 1

POSITION ALLOCATION ADJUSTMENT BY DEPARTMENT FY 2019-20

| DEPARTMENT | | NUMBER OF POSITIONS |
|------------------------|--------------------------|---------------------|
| Fire Department | | |
| Add: | Management Analyst | 1.0 |
| Delete: | Administrative Assistant | 1.0 |



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Police Department

DATE: November 4, 2019

SUBJECT: Police - Approval - Res. 19-__, Authorizing the Police Department to submit an application for the San Joaquin Valley Air Pollution Control District Public Benefits Grant Program New Alternative Vehicle Purchase and authorize the Chief of Police to implement this program.

ATTACHMENTS: 1. Resolution

CONFLICT OF INTEREST

None

RECOMMENDATION

1. Authorize the Police Department to apply for the SJVAPCD Public Benefits Grant.
2. Approve the use of grant funds to purchase two (2) 2019 Polaris Ranger electric vehicles.

EXECUTIVE SUMMARY

The Clovis Police Department will apply for the San Joaquin Valley Air Pollution Control District Alternative Fuel Vehicle Purchase Program. The grant is to provide public agencies as defined by the Government Code Section § 6252 with new electric, plug-in hybrid, or alternative fuel vehicles.

The Police Department is proposing that these funds be used to purchase two (2) 2019 Polaris Ranger electric vehicles. The vehicles will be used as light-duty transportation vehicles.

BACKGROUND

The purpose of this program is to provide funding to public agencies for the purchase of new electric or alternative fuel vehicles to promote clean technology. The program is targeted at reducing harmful emissions throughout the Valley.

FISCAL IMPACT

The Police Department could receive up to \$80,000 for the purchase of these clean-air vehicles. Any costs that may exceed the awarded money will be absorbed by the Police Department budget.

REASON FOR RECOMMENDATION

To comply with the requirements of the SJVAPCD Public Benefit Grant Program and authorize the Clovis Police Department to submit an application; authorizing the Chief of Police to implement this program if awarded.

ACTIONS FOLLOWING APPROVAL

The Police Department will apply for SJVAPCD Public Benefit Grant Program. A Budget Amendment will be submitted accordingly.

Prepared by: Sandi Macy, Management Analyst

Reviewed by: Luke Serpa, City Manager *LS*

RESOLUTION 19-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
APPROVING THE POLICE DEPARTMENT TO APPLY FOR SJVAPCD PUBLIC BENEFIT
GRANT PROGRAM AND AUTHORIZE THE CHIEF OF POLICE TO IMPLEMENT THE
PROGRAM

WHEREAS, the City Council of the City of Clovis approved the Police Department to apply for the San Joaquin Valley Air Pollution Control District Public Benefit Grant Program New Alternative Vehicle Purchase; and

WHEREAS, authorizes the Chief of Police to implement the Benefit Grant Program; and

WHEREAS, the Police Department will purchase new alternative vehicles in accordance with the Benefits Program; and

WHEREAS, the City Council determines that the expenditures are necessary.

NOW, THEREFORE, BE IT RESOLVED, that the City of Clovis authorizes the Police Department to apply for this grant program, and authorize the Chief of Police to implement the grant program.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019 by the following vote, to wit.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

DATED: November 4, 2019

Mayor

City Clerk



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Police Department

DATE: November 4, 2019

SUBJECT: Police - Approval – Res. 19__, Amending the Police Department’s Budget for FY 2019-2020 to reflect the award from the Office of Traffic Safety Selective Enforcement Traffic Program Grant in the amount of \$70,000.00.

ATTACHMENTS: 1. Resolution

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve a Resolution amending the 2019-2020 Budget for the Police Department to reflect the grant award from the Office of Traffic Safety Selective Enforcement Program.

EXECUTIVE SUMMARY

The Clovis Police Department has been awarded the amount of \$70,000.00 from the Office of Traffic Safety. These funds are for overtime operations related to traffic safety, pedestrian education, and traffic enforcement. The Grant period starts October 1, 2019, and ends September 30, 2020.

BACKGROUND

These grant funds are provided through the State of California, Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP). This grant will fund officers’ overtime and training to conduct DUI saturation details, warrant details, seat belt enforcement details, bicycle/pedestrian classroom workshops, child-passenger car seat details, and distracted driving enforcement operations. The grant award is for \$70,000.00 for one year.

FISCAL IMPACT

The Clovis Police Department has been awarded \$70,000.00 from Office of Traffic Safety and will use these funds for overtime traffic related details.

REASON FOR RECOMMENDATION

In compliance with the requirements of the Office of Traffic Safety Grant, it is necessary for the City Council to approve the acceptance of the grant and amend the Police Department budget.

ACTIONS FOLLOWING APPROVAL

After the Council approval, the 2019-2020 Police Department Annual Budget Resolution will be amended as described.

Prepared by: Sandi Macy, Management Analyst

Reviewed by: City Manager *JH*

RESOLUTION NO. 19-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
APPROVING AN AMENDMENT TO THE ANNUAL BUDGET FOR THE FISCAL
YEAR 2019-2020

WHEREAS, the City Council of the City of Clovis approved the 2019-2020 Budget on June 10, 2019; and

WHEREAS, the Police Department is to be awarded \$70,000 from the California Office of Traffic Safety to fund traffic enforcement operations; and

WHEREAS, the Police Department has need for enforcement, traffic safety, and education; and

WHEREAS, the City Council determines that the expenditures are necessary.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Clovis that the 2019-2020 Budget is amended as provided in the Attachment A "Summary of Expenditures By Department," " Summary of Expenditures by Fund."

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019 by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

DATED: November 4, 2019

Mayor

City Clerk

SUMMARY OF EXPENDITURES

SUMMARY OF EXPENDITURES BY DEPARTMENT

DEPARTMENT

| | |
|------------------|----------|
| POLICE | \$70,000 |
| TOTAL DEPARTMENT | \$70,000 |

SUMMARY OF EXPENDITURES BY FUND

| | |
|--------------|----------|
| GENERAL FUND | \$70,000 |
| TOTAL FUND | \$70,000 |

All expenditures will be from 56300 (Police Department Grants)



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Police Department

DATE: November 4, 2019

SUBJECT: Police – Approval – Res. 19__, Amending the FY 2019-2020 Police Department Budget to reflect the award of the Edward Byrne Memorial Justice Assistance Grants (JAG) Program in the amount of \$17,263.00.

ATTACHMENTS: 1. Resolution

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve a Resolution amending the 2019-20 Police Department Budget to reflect the grant award from the Department of Justice Edward Byrne Memorial Justice Assistance Program in the amount of \$17,263.00.

EXECUTIVE SUMMARY

The Clovis Police Department has been awarded the amount of \$17,263.00 from the JAG Program to fund one part-time Community Service Officer. The grant period starts October 1, 2019, and ends September 30, 2021.

The funds are provided through the U.S. Department of Justice, Edward Byrne Memorial Justice Assistance Grant Program. This program furthers the Department of Justice’s mission by assisting state and local efforts to prevent and/or reduce crime and violence. The Clovis Police Department will maintain one part-time Community Service Officer to assist patrol in several functions within the Police Department.

These functions could include, but are not be limited to, patrol, field work, jail duties, animal services duties in patrol, community events, and other duties which would prevent and reduce crime.

BACKGROUND

These funds are provided by the U.S. Department of Justice, Edward Byrne Memorial Justice Assistance Grant (JAG). This program furthers the Department of Justice’s mission by assisting state and local efforts to prevent and/or reduce crime and violence. The JAG Program has awarded grant 2019-DJ-BX-0380 in the amount of \$17,263.00

FISCAL IMPACT

The grant award will be used to maintain one Part-Time Community Service Officer.

REASON FOR RECOMMENDATION

To approve the amendment of the FY 2019-20 Police Department Budget to reflect the award of Justice Assistance Grant funds in the amount of \$ 17,263.00.

ACTIONS FOLLOWING APPROVAL

After the Council approval, the 2019-2020 Police Department Annual Budget Resolution will be amended as described.

Prepared by: Sandi Macy, Management Analyst

Reviewed by: City Manager *JH*

RESOLUTION 19-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
APPROVING THE POLICE DEPARTMENT USE OF JAG FUNDS FOR
FISCAL YEAR 2019-2020

WHEREAS, the City Council of the City of Clovis approved the 2019-2020 Budget on June 10, 2019; and

WHEREAS, the Police Department requests approval of the City Council to apply for and use grant funds from the Bureau of Justice Assistance Grant (JAG); and

WHEREAS, the Police Department has need for one part-time Community Service Officer; and

WHEREAS, the Police Department will receive JAG funds in the amount of \$17,263 to use towards law enforcement services; and

WHEREAS, the City Council determines that the expenditures are necessary.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Clovis that the 2019-2020 Budget is amended as provided in the Attachment A "Summary of Expenditures by Department," "Summary of Expenditures by Fund."

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019 by the following vote, to wit.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

DATED: November 4, 2019

Mayor

City Clerk

SUMMARY OF EXPENDITURES

SUMMARY OF EXPENDITURES BY DEPARTMENT

DEPARTMENT

| | |
|------------------|----------|
| POLICE | \$17,263 |
| TOTAL DEPARTMENT | \$17,263 |

SUMMARY OF EXPENDITURES BY FUND

| | |
|--------------|----------|
| GENERAL FUND | \$17,263 |
| TOTAL FUND | \$17,263 |

All expenditures will be from 56300 (Police Department Grants)



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: November 4, 2019

SUBJECT: Planning and Development Services - Approval - Res. 19-____, Supporting and Implementing the "Timely Use of Funding" as required by AB1012 for Candidate 2019-20 Federal Transportation Act, FAST Act Projects.

ATTACHMENTS: 1. Resolution

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to consider approval of the attached Resolution, supporting and implementing the "Timely Use of Funding," as required by AB 1012, for the 2019-20 Federal Transportation Act, Fixing America's Surface Transportation (FAST) Act projects.

EXECUTIVE SUMMARY

On September 26, 2019, the Fresno Council of Governments (FCOG) Policy Board approved initiation of the 2019-20 Surface Transportation Block Grant (STBG) and Congestion Mitigation and Air Quality (CMAQ) call for projects. The FCOG requires all entities requesting federal funding consideration to submit an approved Resolution stating each project will meet its proposed delivery schedule (See Attachment 1).

The FCOG expects to award a total of \$32,200,803 (\$11,784,035 – STBG and \$20,416,768 – CMAQ) in competitive funding under this call for projects. In addition to the competitive funds, the FCOG also expects to program \$26,426,096 (\$17,676,052 – STBG and \$8,750,044 – CMAQ) of non-competitive funding. Non-competitive funds are distributed to eligible entities on a per capita basis based on Department of Finance population numbers. The City of Clovis is earmarked to receive a total of \$3,036,483 (\$2,031,062 - STBG and \$1,005,421 - CMAQ)

of non-competitive funding. All funds (competitive and non- competitive) will be programmed in the Federal Transportation Improvement Program in federal fiscal years 2020/21, 2021/22, 2022/23 and /or 2023/24 depending on available financial capacity.

The applications are due to FCOG on November 15, 2019 (CMAQ applications) and December 6, 2019 (STBG applications). Staff plans to submit a total of eight competitive funding applications (five STBG and three for CMAQ). Once the competitive funding recommendations are announced staff will submit a list of our candidate non-competitive projects for funding. Project submittals for non-competitive funding are due no later than February 28, 2020.

Between the time of STBG and CMAQ competitive applications submission and early January, and late March of 2020, the FCOG will convene a scoring committee, recommend selected projects for funding award, hold public hearings, adopt a conformity determination, and program the projects in the Federal Transportation Improvements Program (FTIP) and Regional Transportation Plan (RTP). By October 2020, the FCOG expects the updated FTIP and RTP to be submitted to Caltrans and Federal Highway Administration for approval sometime in December 2020.

BACKGROUND

Fresno COG, acting in its role as a Metropolitan Planning Organization, is in the process of Programming federal transportation revenues that will come to the Fresno region under the Federal Transportation Act, Fixing America's Surface Transportation (FAST) Act. The (FAST) Act was signed into law by the President on December 4, 2015. The (FAST) Act provides funding for surface transportation programs during fiscal years 2016 through 2020.

Under the current call for projects, competitive funds are being awarded in two federal-aid programs: Surface Transportation Block Grant Program (STBG) and Congestion Mitigation and Air Quality Improvement Program (CMAQ). In general, the STBG program is aimed at funding projects that emphasize system preservation through new construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements. The maximum reimbursement ratio for STBG funds is 88.53%, and the minimum local match is 11.47%. The CMAQ program funds projects that will contribute to the attainment or maintenance of the national ambient air quality standards. Specifically, CMAQ funds are awarded to projects that reduce ozone precursor emissions, carbon monoxide, and particulate matter emissions. The maximum reimbursement ratio for CMAQ is also 88.53%, with a minimum local match of 11.47%. The total amount of competitive funding available under both the STBG and CMAQ programs is \$32,200,821.

In addition to the competitive funds, eligible jurisdictions will receive \$26,426,096 of non-competitive funds (also known as lifeline funding). Non-competitive funds are distributed based on per capita. The City of Clovis is earmarked to receive a total of \$3,036,483 in non-competitive STBG and CMAQ funds. Staff will submit candidate lifeline projects to FCOG once the competitive funding recommendations are announced.

A summary of the competitive and non-competitive funds are identified below:

**2019-20 Federal Transportation Act, FAST Act
Summary of Revenues**

| Funding Program | Competitive | Non-Competitive | | |
|-----------------|---------------------|---------------------|--------------------|---------------------------------------------|
| | Region | Region | Clovis | Per Capita %: Based on DOF Population |
| STBG | \$11,784,035 | \$17,676,052 | \$2,031,062 | 11.49% |
| CMAQ | \$20,416,768 | \$8,750,044 | \$1,005,421 | 11.49% |
| Total | \$32,200,803 | \$26,426,096 | \$3,036,483 | |

City staff evaluated a number of eligible projects for STBG and CMAQ funding consideration under this current call for projects and narrowed down the list to a total of five applications for STBG. The following table summarizes the City’s submitted projects for the competitive funding consideration.

**2019-20 Federal Transportation Act, FAST Act
Summary of Competitive STBG Funding Requests**

| Priority | STBG Candidate Project | Type of Improvement | Total Project Cost | Federal Funds Requested 88.53% | Local Match 11.47% |
|----------|---------------------------|---------------------|--------------------|--------------------------------|--------------------|
| 1/5 | Villa, Barstow-Shaw | Street Improvements | \$816,480 | \$722,830 | \$93,650 |
| 2/5 | Fowler, Nees-Alluvial | Street Improvements | \$1,196,690 | \$1,059,430 | \$137,260 |
| 3/5 | Villa, Bullard-Barstow | Street Improvements | \$885,720 | \$784,128 | \$101,592 |
| 4/5 | Fowler, Ashlan-City limit | Street Improvements | \$550,000 | \$486,915 | \$63,085 |
| 5/5 | Sunnyside, Nees-Alluvial | Street Improvements | \$891,770 | \$789,484 | \$102,286 |
| | | Totals | \$4,340,660 | \$3,842,787 | \$497,873 |

The five STBG project applications focus on local street improvements. Total STBG funds requested is \$3,842,787 or approximately 33% of the total competitive regional funds available. The required local match for all five projects totals \$497,873 and will be funded through Gas Tax revenues or Measure “C” Local Pass-Through funds.

Staff narrowed down the list to a total of three applications for CMAQ. The following table summarizes the City’s submitted projects for the competitive funding consideration.

**2019-20 Federal Transportation Act, FAST Act
Summary of Competitive CMAQ Funding Requests**

| Priority | CMAQ Project Submittal | Improvement | Total Project Cost | Federal Funds Requested 88.53% | Local Mat 11.47% |
|-----------------|--------------------------------------|---------------------|---------------------------|---------------------------------------|-------------------------|
| 1/3 | DeWolf and Owens Mountain Roundabout | Roundabout | \$967,000 | \$856,085 | \$110,915 |
| 2/3 | Nees/Sunnyside Traffic Signal | Traffic Signal | \$1,370,738 | \$1,213,514 | \$157,224 |
| 3/3 | Shepherd Signal Interconnect | Signal Interconnect | \$1,421,000 | \$1,257,869 | \$163,131 |
| | | Totals | \$3,758,738 | \$3,327,468 | \$431,270 |

The CMAQ projects are all traffic flow improvements. The projects include a roundabout, traffic signal, and a signal interconnect. All the projects will relieve congestion, improve traffic flow and safety, and help improve air quality. Total CMAQ funds requested is \$3,327,468 or approximately 16% of the regions total competitive funds. The local match for the projects total \$431,270 and would be funded through either Gas tax revenues or Measure “C” Local Pass-Through funds.

Once the competitive funding recommendations are announced staff will identify candidate lifeline projects and will then request FCOG program all our non-competitive STBG and CMAQ funds (\$3,036,483) accordingly.

Approval of AB 1012 requires that both State and Federal funds be used in a “timely” manner. That is, they meet project delivery schedules as proposed and programmed within the FTIP. In order to avoid losing any federal or state funds to our region, the “use it or lose it” requirements of AB 1012 place local governmental agencies in a position that they must be able to deliver their projects on time. Given AB 1012 requirements, FCOG is requiring all agencies that submit federal funding applications to also submit an approved resolution, stating each project will meet its proposed delivery schedule. Approved resolutions must be submitted with the applications. Staff has requested all our competitive funds be programmed in the FTIP within the four year triennial element (2020/21-2023/24) as financial capacity allows. Staff will also request our non-competitive lifeline funds be programmed within the same timeframe.

FISCAL IMPACT

The City is required to match at a minimum all awarded federal-aid funds at a ratio of no less than 11.47% (of the total project cost). The local match dollars for all candidate projects will be funded out of the capital streets account, specifically utilizing a combination of either Gas taxes or Measure “C” Local Pass-Through funds.

REASON FOR RECOMMENDATION

To complete the grant application, Council must approve a resolution certifying approval of the City's application for Surface Transportation Block Grant (STBG) and Congestion Mitigation and Air Quality Improvement (CMAQ) Program Funds.

ACTIONS FOLLOWING APPROVAL

Staff will submit to COG the approved resolution certifying the "Timely Use of Funding" as required by AB 1012.

Prepared by: Ryan Burnett, AICP, Engineering Program Supervisor

Reviewed by: City Manager *JH*

RESOLUTION 19-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS SUPPORTING AND IMPLEMENTING THE “TIMELEY USE OF FUNDING” AS REQUIRED BY AB 1012 FOR FEDERAL TRANSPORTATION PROJECT SELECTION - FEDERAL TRANSPORTATION ACT: FAST ACT

WHEREAS, AB 1012 has been enacted into state law in part to provide for the “timely use” of State and Federal funding; and

WHEREAS, the City of Clovis is able to apply for and receive federal and state funding under the Federal Transportation Act; and

WHEREAS, the City of Clovis desires to ensure that its projects (Attachment A) are delivered in a timely manner to preclude the Fresno Region from losing those funds for non-delivery; and

WHEREAS, it is understood by the City of Clovis that failure for not meeting project delivery dates for any phase of a project may jeopardize federal or state funding to the Region; and

WHEREAS, the City of Clovis must demonstrate dedicated and available local matching funds; and

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Clovis hereby agrees to ensure that all project delivery deadlines for all project phases will be met or exceeded.

BE IT FURTHER RESOLVED, that failure to meet project delivery deadlines may be deemed as sufficient cause for the Fresno Council of Governments Policy Board to terminate an agency’s project and reprogram Federal/State funds as deemed necessary.

BE IT FURTHER RESOLVED that the City Council of the City of Clovis does direct its management and engineering staffs to ensure all projects are carried out in a timely manner as per the requirements of AB 1012 and the directive of the City Council of the City of Clovis.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019 by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

- DATED:

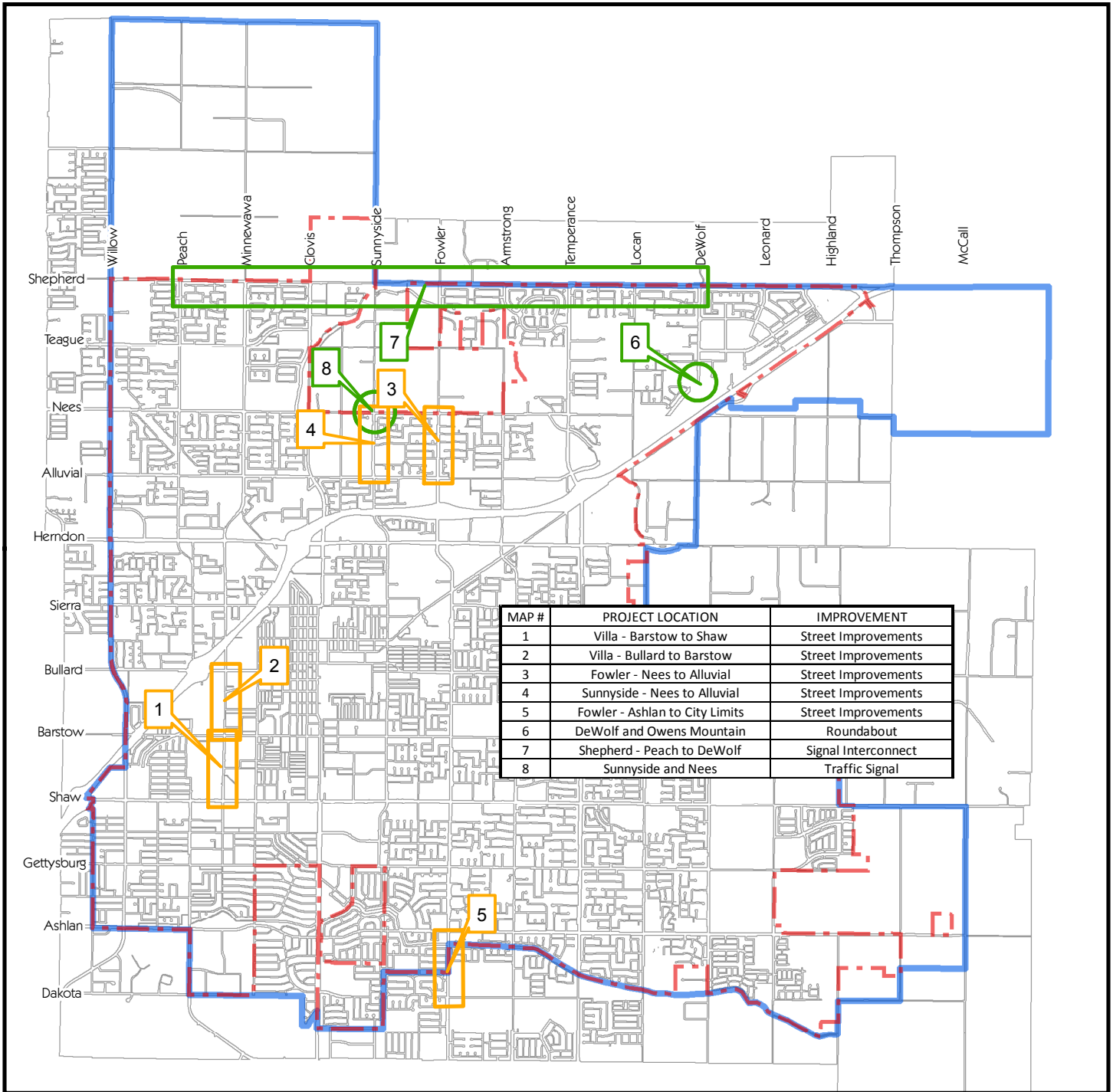
Mayor

City Clerk

VICINITY MAP

AGENDA ITEM NO. 13.

CANDIDATE 2019-20 FEDERAL TRANSPORTATION ACT PROJECTS



Attachment A



Date: 10/23/2019

- STBG PROJECTS (COMPETITIVE)
- CMAQ PROJECTS (COMPETITIVE)

- City Limits
- Sphere of Influence



1 in = 6,000 49



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services Department

DATE: November 4, 2019

SUBJECT: Planning and Development Services - Approval – Bid Award for CIP 19-09, Recreation Center Athletic Court Resurfacing, and Authorize City Manager to Execute the Contract on Behalf of the City

ATTACHMENTS: 1. Vicinity Map

CONFLICT OF INTEREST

None

RECOMMENDATION

1. For the City Council to authorize award of the subject project to Sport Court Northern California, in the amount of \$88,366.30, and;
2. For the City Council to authorize the City Manager to execute the contract on behalf of the City.

EXECUTIVE SUMMARY

Staff is recommending that City Council authorize the City Manager to award and execute the contract to Sport Court Northern California who was the lowest responsible bidder from a bid opening that took place on October 8, 2019.

The project includes installation of modular athletic flooring with an underlayment at the Clovis Area Recreation Center (3495 Clovis Avenue). The project also includes, but is not limited to, painting an official size basketball court and volleyball court.

BACKGROUND

The following is a summary of the bid results of October 8, 2019:

| BIDDERS | BASE BIDS |
|---------------------------------|---------------------|
| Sport Court Northern California | \$88,366.30 |
| Coastal Sports Flooring | \$116,801.25 |
| Geary Floors, Inc. | \$129,648.75 |
| ENGINEER'S ESTIMATE | \$110,410.00 |

All bids were examined and found to be in order. Staff confirmed that Sport Court Northern California is properly licensed and in good standing.

FISCAL IMPACT

This project was budgeted in the 2019-2020 Community Investment Program. The project is supported by the General Government Facilities Fund.

REASON FOR RECOMMENDATION

Sport Court Northern California is the lowest responsible bidder. There are sufficient funds available for anticipated cost of this project.

ACTIONS FOLLOWING APPROVAL

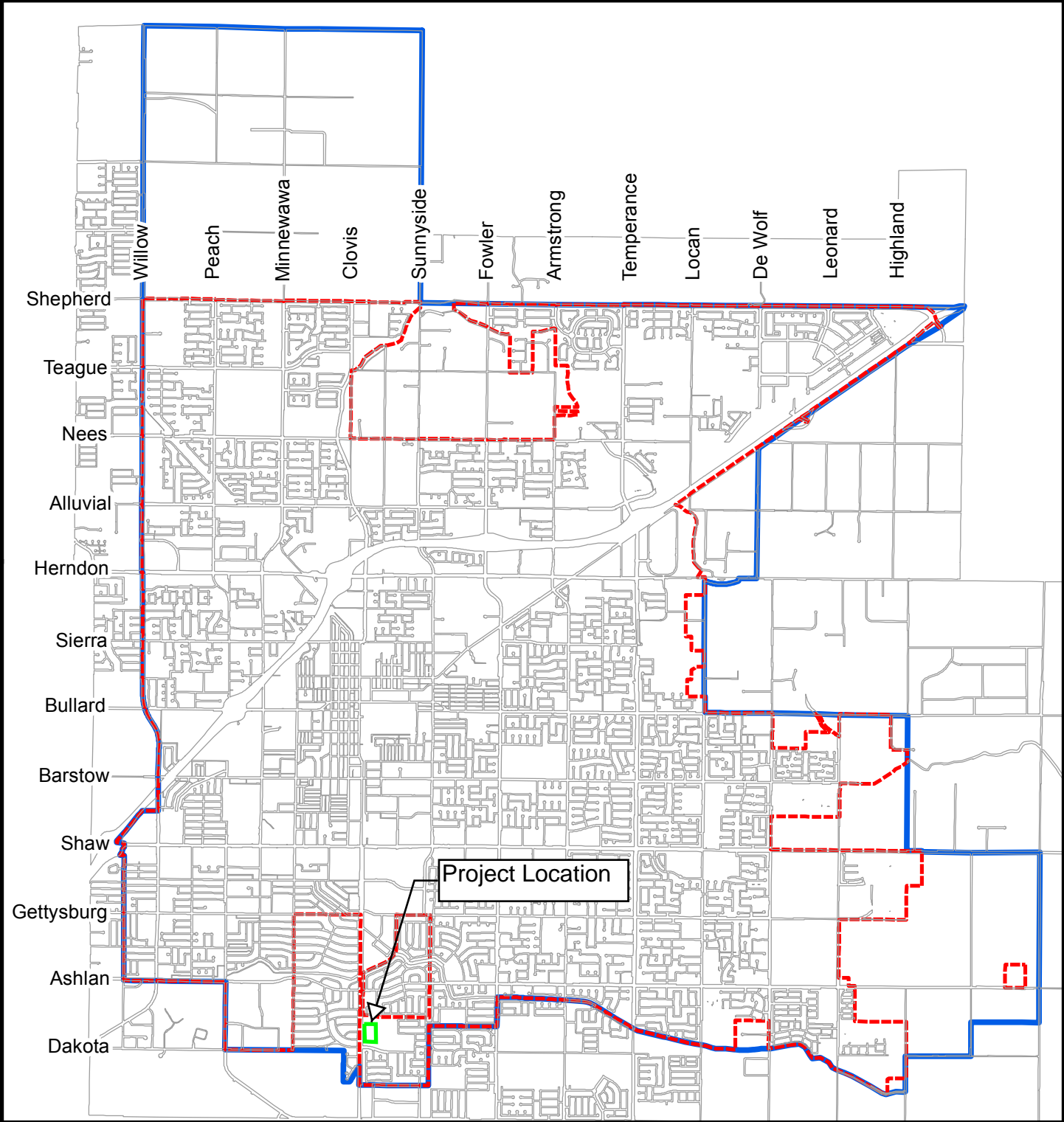
1. The contract will be prepared and executed, subject to the Contractor providing performance security that is satisfactory to the City.
2. Construction will begin approximately two (2) weeks after contract execution and be completed not more than five (5) working days thereafter.

Prepared by: John Cross, Engineer II

Reviewed by: City Manager *JH*

VICINITY MAP

AGENDA ITEM NO. 14.



ATTACHMENT 1



 CITY LIMITS  SPHERE OF INFLUENCE

Prepared By:



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: November 4, 2019

SUBJECT: Planning and Development Services – Approval – Res. 19-____, Final Map Tract 6228, located at the northwest area of Gettysburg Avenue and Leonard Avenue. (Wilson Premier Homes, Inc.).

ATTACHMENTS: 1. Res. 19-____
2. Vicinity Map
3. Copy of Final Map

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve a Res. 19-____, which will:

1. Accept the offer of dedication of parcels and public utility easement within Tract 6228, and;
2. Authorize recording of the final map.

EXECUTIVE SUMMARY

The owner, Wilson Premier Homes, Inc., acting as the subdivider, has submitted a final map. The improvement plans are being processed by City staff. The improvements to be installed include curb, gutter, sidewalk, street lights, a fire hydrant, street paving, sanitary sewer, water main and landscaping. The subject tract is located on the northwest area of Gettysburg Avenue and Leonard Avenue. It contains approximately 8.31 acres and consists of 90 units, zoned R-3.

FISCAL IMPACT

The subdivider will be installing curb, gutter, sidewalk, street paving, sanitary sewers, water mains, and landscaping which will be perpetually maintained by the City of Clovis.

REASON FOR RECOMMENDATION

The subdivision agreement has been executed by the subdivider and all development fees paid or deferred in accordance with Municipal Code. The agreement provides for the developer to complete a technically correct map and improvement plans and to complete all required improvements in compliance with the conditions of approval. The improvements are adequately secured.

ACTIONS FOLLOWING APPROVAL

The final map will be filed with the Fresno County Recorder's office for recording.

Prepared by: David Gonzalez, Civil Engineer

Reviewed by: City Manager *JH*

RESOLUTION 19-___

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
APPROVING FINAL SUBDIVISION MAP FOR TRACT NO. 6228**

WHEREAS, a final map has been presented to the City Council of the City of Clovis for Tract 6228, by the City of Clovis, a Municipal Corporation; and

WHEREAS, said final tract conforms to the requirements of Chapter 2, Part 2, of Division 4 of the Business and Professions Code and to local ordinances.

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

1. The final map of Tract 6228, consisting of two (2) sheets, a copy of which is on file with the City Clerk, be and the same is hereby approved.

2. Approval of the Subdivision improvement plans for said tract are being completed by City staff.

3. The preliminary Engineer's Cost Estimate of development cost of said tract, a copy of which is on file with the City Clerk, be and the same is hereby approved and adopted as the estimated cost of improvements for said subdivision in the sum of \$2,935,000.00.

4. The offer and dedication for public use of the parcels and easements specified on said map are accepted by the City of Clovis and the City Clerk is authorized and directed to execute said subdivision map.

5. This Council finds that the proposed subdivision, together with the provisions for its design and improvement, are consistent with applicable general and specific plans of the City of Clovis.

6. Improvement Security, as provided hereunder and in said Subdivision Agreement, is fixed at one hundred percent (100%) of the remaining improvements to be constructed or the sum of \$2,935,000.00 for guaranteeing specific performance of said agreement and fifty percent (50%) of the remaining improvements or the sum of \$1,468,000.00 for payment of labor and materials furnished by contractors, subcontractors, laborers and materialmen in connection with the improvements required to be made or constructed by said subdivider in conformity with said subdivision map or said agreement.

7. Subdivider shall furnish a bond in the sum of \$293,500.00 being the amount determined by the City Council of the City as necessary for the guarantee and warranty of the work for a period of one year following the completion and acceptance of the tract against any defective work or labor done, or defective materials furnished. Said bond is required to be furnished prior to acceptance of the tract by the City Council.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED:

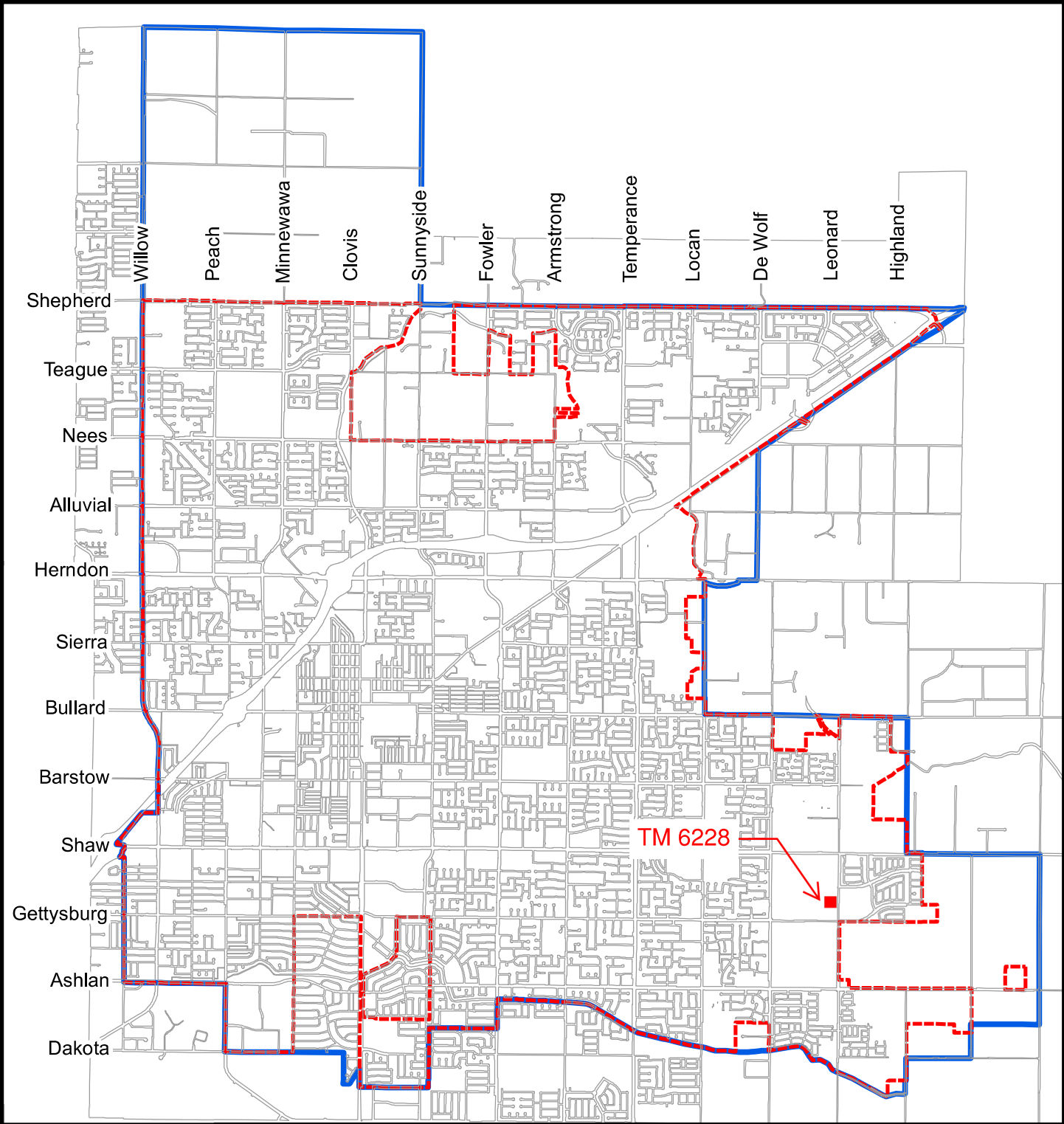
Mayor

City Clerk

VICINITY MAP

AGENDA ITEM NO. 15.

Project - TM 6228



ATTACHMENT 2



 CITY LIMITS  SPHERE OF INFLUENCE

SUBDIVISION MAP OF
TRACT NO. 6228

AGENDA ITEM NO. 15.

IN THE CITY OF CLOVIS, FRESNO COUNTY, CALIFORNIA
SURVEYED AND PLATTED IN MARCH, 2019 BY HARBOUR & ASSOCIATES
CONSISTING OF 2 SHEETS
SHEET 1 OF 2

OWNER'S STATEMENT

THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND WITHIN THIS SUBDIVISION, HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP AND OFFER FOR DEDICATION FOR PUBLIC USE THE PARCELS AND EASEMENTS SPECIFIED ON SAID MAP AS INTENDED FOR PUBLIC USE FOR THE PURPOSES SPECIFIED THEREIN.

WILSON PREMIER HOMES, INC., A CALIFORNIA CORPORATION

BY: [Signature]
LEO A. WILSON
PRESIDENT

U.S. BANK NATIONAL ASSOCIATION
d/b/a/ HOUSING CAPITAL COMPANY
AS BENEFICIARY

BY: [Signature]
JENNY D. SAUBERT
VICE-PRESIDENT

LEGAL DESCRIPTION

OUTLOT U OF TRACT NO. 6168, ACCORDING TO THE MAP THEREOF FILED FOR RECORD DECEMBER 11, 2018 IN BOOK 88, AT PAGES 41 THROUGH 43 OF PLATS, FRESNO COUNTY RECORDS.



SURVEYOR'S STATEMENT

THE SURVEY FOR THIS MAP WAS MADE BY ME OR UNDER MY DIRECTION AND IS TRUE AND COMPLETE AS SHOWN.

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF WILSON PREMIER HOMES, INC., ON MARCH 1, 2019. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN THOSE POSITIONS ON OR BEFORE ONE YEAR AFTER THE DATE THIS MAP IS RECORDED, OR ANY TIME EXTENSION APPROVED BY THE CITY ENGINEER. THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

GARY J. DIXON L.S. 5277 [Signature] 10-18-19
DATE

NOTARY ACKNOWLEDGEMENTS

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF Fresno)

ON 10-22-, 2019, BEFORE ME Donna Brown, NOTARY PUBLIC, PERSONALLY APPEARED LEO A. WILSON, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT, WITNESS MY HAND.

NAME Donna Brown SIGNATURE [Signature]
MY COMMISSION EXPIRES 11-19-2019 COUNTY OF Fresno
COMMISSION NUMBER 2131247

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF Fresno)

ON October 22, 2019, 2019, BEFORE ME Karriane Kasparian, NOTARY PUBLIC, PERSONALLY APPEARED JENNY D. SAUBERT, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT, WITNESS MY HAND.

NAME Karriane Kasparian SIGNATURE [Signature]
MY COMMISSION EXPIRES 07/22/2023 COUNTY OF Fresno
COMMISSION NUMBER 2298285

THIS LAND IS SUBJECT TO THE FOLLOWING:

1. SAID LAND LIES WITHIN THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT AND IS SUBJECT TO DRAINAGE FEES AND/OR REQUIREMENTS TO CONSTRUCT PLANNED LOCAL DRAINAGE FACILITIES, AS DISCLOSED BY INSTRUMENT ENTITLED "RESOLUTION NO. 1816 - THE BOARD OF DIRECTORS OF THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT", RECORDED JULY 31, 1995 AS SERIES NUMBER 95092128, O.R.F.C.
2. ANY SPECIAL TAX WHICH IS NOW A LIEN AND THAT MAY BE LEVIED WITHIN THE COMMUNITY FACILITIES DISTRICT NO. 2004-01, A NOTICE OF WHICH WAS RECORDED AS FOLLOWS: ANNEXATION MAP NO. 48 COMMUNITY FACILITIES DISTRICT NO. 2004-1, RECORDED MARCH 24, 2017 IN OFFICIAL RECORDS UNDER RECORDER'S SERIAL NUMBER 2017-0037281.
3. STATEMENT OF COVENANTS AND CREATION OF LIEN (DEFERMENT OF DEVELOPMENT REQUIREMENTS), RECORDED DECEMBER 11, 2018 IN OFFICIAL RECORDS UNDER RECORDER'S SERIAL NUMBER 2018-0147280.
4. STATEMENT OF COVENANTS AND CREATION OF LIEN (GENERAL DEVELOPMENT IMPACT FEES DEFERMENT), RECORDED DECEMBER 11, 2018 IN OFFICIAL RECORDS UNDER RECORDER'S SERIAL NUMBER 2018-0147281



CITY ENGINEER'S STATEMENT

I, MICHAEL J. HARRISON, CITY ENGINEER OF THE CITY OF CLOVIS, HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THAT THE SUBDIVISION SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND OF ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH, AND THAT I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT.

MICHAEL J. HARRISON, P.L.S. 8088 _____ DATE
CITY ENGINEER

CITY CLERK'S STATEMENT

I, JOHN HOLT, HEREBY STATE THAT THE CITY COUNCIL OF THE CITY OF CLOVIS, BY RESOLUTION ADOPTED _____, APPROVED THE WITHIN MAP AND ACCEPTED, SUBJECT TO IMPROVEMENT, ON BEHALF OF THE PUBLIC, ANY REAL PROPERTY AND EASEMENTS OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFER OF DEDICATION.

DATED _____ JOHN HOLT, CITY CLERK

RECORDER'S CERTIFICATE

DOCUMENT NO. _____ FEE PAID \$ _____
FILED THIS _____ DAY OF _____, 20____, AT _____ M. IN VOLUME _____
OF PLATS, AT PAGE(S) _____, FRESNO COUNTY RECORDS, AT THE REQUEST
OF OLD REPUBLIC TITLE COMPANY.

PAUL A. DICTOS, CPA
FRESNO COUNTY ASSESSOR-RECORDER

BY: _____
DEPUTY

Harbour & Associates
Civil Engineers
389 Clovis Avenue, Suite 300 • Clovis, California 93612
(559) 325-7676 • Fax (559) 325-7699

SUBDIVISION MAP OF TRACT NO. 6228

PHASE 2 OF VESTING TENTATIVE TRACT MAP No. 6168
 BEING IN THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 13
 SOUTH, RANGE 21 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE
 CITY OF CLOVIS, COUNTY OF FRESNO, STATE OF CALIFORNIA
 SURVEYED AND PLATTED IN MARCH, 2019
 BY HARBOUR & ASSOCIATES
 CONSISTING OF 2 SHEETS
 SHEET 2 OF 2 SHEETS

LEGEND:

- Ⓢ INDICATES OUTLOT PER THIS TRACT.
- THE BLUE BORDER INDICATES THE LIMITS OF THIS SUBDIVISION.
- INDICATES WAIVER OF DIRECT VEHICULAR ACCESS RIGHTS AS SHOWN ON THE MAP OF TRACT No. 6168, RECORDED IN VOLUME 88 OF PLATS AT PAGES 41-43, FRESNO COUNTY RECORDS.
- INDICATES PUBLIC UTILITY EASEMENT AS SHOWN ON THE MAP OF TRACT No. 6168, RECORDED IN VOLUME 88 OF PLATS AT PAGES 41-43, FRESNO COUNTY RECORDS.
- INDICATES STORM DRAIN EASEMENT RECORDED AS DOCUMENT No. 2019-_____, OFFICIAL RECORDS OF FRESNO COUNTY.
- INDICATES PREVIOUSLY DEDICATED FOR PUBLIC STREET AND UTILITY PURPOSES AS SHOWN ON THE MAP OF TRACT No. 6168, RECORDED IN VOLUME 88 OF PLATS AT PAGES 41-43, FRESNO COUNTY RECORDS.
- INDICATES FOUND 3/4" IRON PIPE TAGGED DIXON LS 5277 DOWN 6", UNLESS OTHERWISE NOTED.
- INDICATES RECORD DATA PER TRACT No. 6168, RECORDED IN VOLUME 88 OF PLATS AT PAGES 41-43, FRESNO COUNTY RECORDS, ALSO INDICATES MEASURED DATA.
- INDICATES RECORD DATA PER PARCEL MAP No. 1352 RECORDED IN BOOK 8 OF PARCEL MAPS AT PAGE 69, FRESNO COUNTY RECORDS.

BASIS OF BEARINGS:

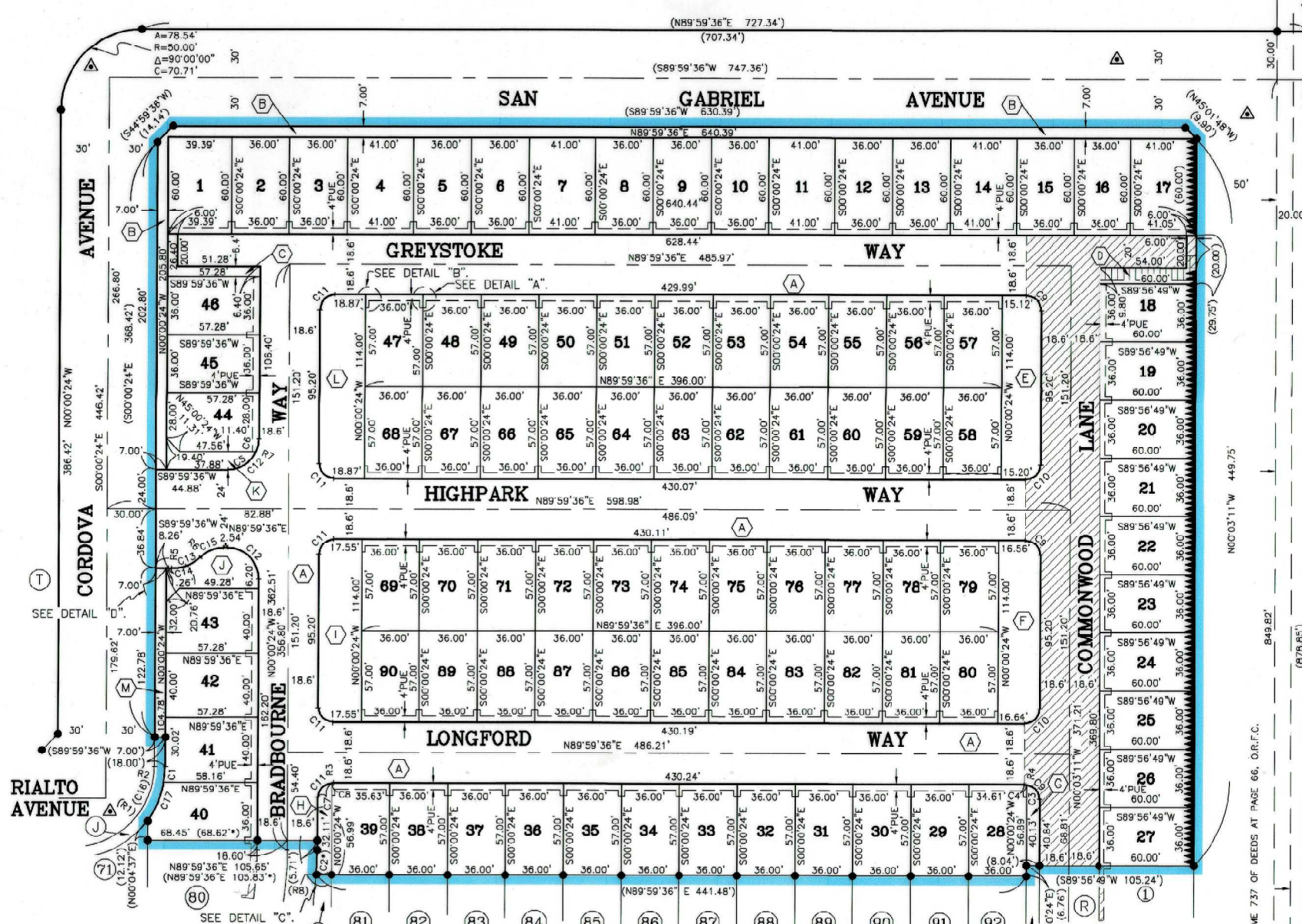
THE EAST LINE OF THE NORTHWEST QUARTER OF 13, TOWNSHIP 13 SOUTH, RANGE 21 EAST, MOUNT DIABLO BASE AND MERIDIAN, WAS TAKEN TO BE NORTH 00°03'11" WEST, AS SHOWN ON TRACT No. 6168, RECORDED IN VOLUME 88 OF PLATS AT PAGES 41-43, FRESNO COUNTY RECORDS.

NOTES:

1. 3/4" X 30" IRON PIPE, DOWN 0.5', TAGGED LS 5277 SET AT ALL LOT CORNERS, BLOCK CORNERS AND BEGINNING AND ENDING OF ALL CURVES, OR WILL BE SET WITHIN ONE YEAR OR ANY APPROVED EXTENSION THEREOF.
2. DISTANCES NOT MONUMENTED ARE CALCULATED.

NORTH QUARTER CORNER OF SECTION 13, TOWNSHIP 13 SOUTH, RANGE 21 EAST, MOUNT DIABLO BASE AND MERIDIAN. NOTHING FOUND OR SET. POSITION REESTABLISHED PER CORNER RECORD #8135.

10' RESERVED FOR ROAD PURPOSES PER DEED RECORDED MAY 17, 1920 IN VOLUME 737 OF DEEDS AT PAGE 66, O.R.F.C.
 20' EASEMENT FOR DITCH PURPOSES PER DEED RECORDED NOVEMBER 2, 1921 IN VOLUME 140 OF OFFICIAL RECORDS AT PAGE 388, F.C.R.
 20' EASEMENT FOR ROAD PURPOSES PER DEED RECORDED NOVEMBER 2, 1921 IN VOLUME 140 OF OFFICIAL RECORDS AT PAGE 388, F.C.R.
 10' RESERVED FOR ROAD PURPOSES PER DEED RECORDED MAY 17, 1920 IN VOLUME 737 OF DEEDS AT PAGE 66, O.R.F.C.
 20' EASEMENT FOR ROAD PURPOSES PER DEED RECORDED MAY 17, 1920 IN VOLUME 737 OF DEEDS AT PAGE 66, O.R.F.C.
 10' RESERVED FOR ROAD PURPOSES PER DEED RECORDED MAY 17, 1920 IN VOLUME 737 OF DEEDS AT PAGE 66, O.R.F.C.
 20' EASEMENT FOR ROAD PURPOSES PER DEED RECORDED MAY 17, 1920 IN VOLUME 737 OF DEEDS AT PAGE 66, O.R.F.C.



OUTLOT SCHEDULE:

- OUTLOT A: FOR PRIVATE STREET AND PUBLIC UTILITY PURPOSES.
- OUTLOTS B&M: FOR LANDSCAPING PURPOSES.
- OUTLOTS C,D,G,H,J,K: FOR LANDSCAPING AND PUBLIC UTILITY PURPOSES.
- OUTLOTS E,F,I,L: FOR LANDSCAPING, PRIVATE PARKING AND PUBLIC UTILITY PURPOSES.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES:

- PUE: PUBLIC UTILITY EASEMENT NOW OFFERED FOR DEDICATION.
- OUTLOTS A,C,D,E,F,G,H,I,J,K&L: NOW OFFERED FOR DEDICATION AS A PUBLIC UTILITY EASEMENT.

* RECORD DIMENSION SHOWN PER MAP OF TRACT No. 6168 DIFFERS FROM TRUE DIMENSION. TRUE DIMENSIONS WILL BE SHOWN ON CERTIFICATE OF CORRECTIONS FOR TRACT No. 6168 AND ON THIS MAP.

RADIAL DATA:

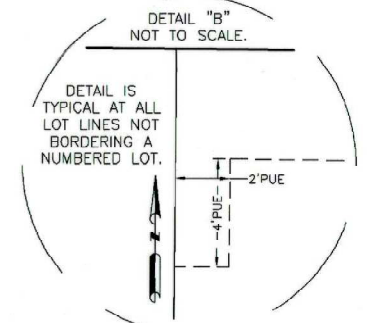
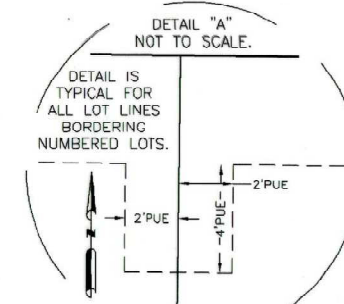
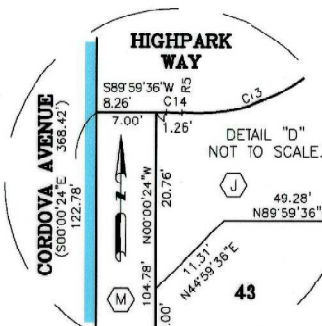
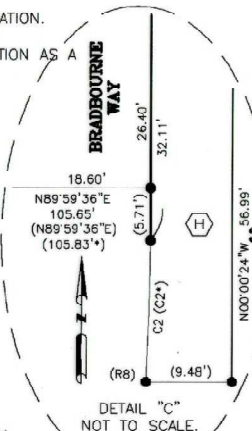
| RADIAL NUMBER | RADIAL BEARING | RADIUS |
|---------------|----------------|---------|
| R1 | S53°33'47"E | 57.00' |
| R2 | S79°55'22"E | 57.00' |
| R3 | N02°17'33"W | 9.40' |
| R4 | N08°30'45"E | 9.40' |
| R5 | S05°02'46"W | 22.00' |
| R6 | S46°20'20"E | 22.00' |
| R7 | S65°39'10"E | 19.40' |
| R8 | S86°42'05"E | 268.60' |

CURVE DATA:

| CURVE NUMBER | DELTA | RADIUS | ARC LENGTH | CHORD LENGTH |
|--------------|------------|-----------|------------|--------------|
| C1 | 10°05'02" | 57.00' | 10.03' | 10.02' |
| C2 | 3°18'19" | 268.60' | 15.49' | 15.49' |
| (C2) | (3°18'19") | (268.60') | (15.50') | (15.47') |
| C3 | 81°26'04" | 9.40' | 13.36' | 12.26' |
| C4 | 8°31'09" | 9.40' | 1.40' | 1.40' |
| C5 | 65°38'46" | 19.40' | 22.23' | 21.03' |
| C6 | 24°21'14" | 19.40' | 8.25' | 8.18' |
| C7 | 87°42'51" | 9.40' | 14.39' | 13.03' |
| C8 | 2°17'09" | 9.40' | 0.38' | 0.37' |
| C9 | 89°57'13" | 9.40' | 14.76' | 13.29' |
| C10 | 90°02'47" | 9.40' | 14.77' | 13.30' |
| C11 | 90°00'00" | 9.40' | 14.77' | 13.29' |
| C12 | 90°00'00" | 19.40' | 30.47' | 27.44' |
| C13 | 51°23'06" | 22.00' | 19.73' | 19.08' |
| C14 | 5°03'10" | 20.00' | 1.76' | 1.76' |
| C15 | 46°19'56" | 20.00' | 16.17' | 15.74' |
| C16 | 36°26'37" | 57.00' | 36.26' | 35.65' |
| C17 | 26°21'35" | 57.00' | 26.22' | 25.99' |



1" = 60'



GETTYSBURG

LEONARD AVENUE

CENTER QUARTER CORNER OF SECTION 13, TOWNSHIP 13 SOUTH, RANGE 21 EAST, MOUNT DIABLO BASE AND MERIDIAN, FOUND 3" CITY OF CLOVIS BRASS CAP MONUMENT, STAMPED LS.7800, DOWN 12". POSITION VERIFIED PER CORNER RECORD #7623.

Harbour & Associates
 Civil Engineers
 389 CLOVIS AVENUE # 300 • Clovis, California 93611
 (559) 325 - 7676 • Fax (559) 325 - 7999 • e-mail: ha_engr@comcast.net



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: November 4, 2019

SUBJECT: Planning and Development Services – Approval – Res. 19-____, Annexation of Proposed Tract 6228, located at the northwest area of Gettysburg Avenue and Leonard Avenue to the Landscape Maintenance District No. 1 of the City of Clovis. (Wilson Premier Homes, Inc.).

ATTACHMENTS: 1. Res. 19-____

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve Res. 19-____, that will annex proposed Tract 6228, located at the northwest area of Gettysburg Avenue and Leonard Avenue, to the Landscape Maintenance District No. 1 of the City of Clovis.

EXECUTIVE SUMMARY

The owner, Wilson Premier Homes, Inc., acting as the subdivider, has requested to be annexed to the Landscape Maintenance District No. 1 of the City of Clovis as set forth by the Conditions of Approval for Tentative Tract Map 6228.

BACKGROUND

Wilson Premier Homes, Inc., the developer of Tract 6228, has executed a covenant that this development be annexed to the City of Clovis LMD No. 1. An executed copy can be provided on request. Council formed the original District on July 15, 1985, for the purpose of funding the maintenance of landscaped areas and parks.

Under the provisions of the Landscaping and Lighting Act of 1972 and in accordance with Article XIII C and Article XIII D of Proposition 218, all the owners of property proposed for annexation have provided a written request and consent to annexation and have executed a covenant (petition) indicating acceptance of the annual assessment.

FISCAL IMPACT

This project will add landscaping to the Landscape Maintenance District No. 1 of the City of Clovis shown as follows:

| | <u>Tract 6228</u> | <u>Year to Date</u> |
|------------------------|-------------------|---------------------|
| LMD Landscaping added: | 0.56 acres | 2.821 acres |
| Resource needs added: | 0.056 person | 0.282 person |

The resource needs estimate is based on 1 person per 10 acres of landscaped area.

REASON FOR RECOMMENDATION

The property owners for the subject tract and parcel map have requested annexation into the City of Clovis LMD No. 1.

ACTIONS FOLLOWING APPROVAL

Tract 6228 shall become a part of City of Clovis LMD No. 1 and will be assessed next year for maintenance costs.

Prepared by: David Gonzalez, Civil Engineer

Reviewed by: City Manager *JH*

RESOLUTION 19-____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF CLOVIS, CALIFORNIA,
APPROVING ANNEXATION TO LANDSCAPING MAINTENANCE
DISTRICT NO. 1 OF THE CITY OF CLOVIS**

WHEREAS, City of Clovis Landscape Maintenance District No. 1 ("District") was formed by Resolution No. 85-78, adopted July 15, 1985, pursuant to Part 2 of Division 15 of the Streets and Highways Code (Landscape and Lighting Act of 1972), herein the "Act"; and

WHEREAS, all of the owners of property proposed to be annexed to the District consisting of proposed Tract No. 6228, as described in Attachment "A" attached hereto and incorporated herein by reference, have consented to said annexation and such annexation may be ordered without notice and hearing or filing of engineer's report, or both.

NOW, THEREFORE, IT IS RESOLVED AND ORDERED, as follows:

1. That the public interest and convenience require that certain property described in Exhibit "A" attached hereto and by reference incorporated herein be annexed into Landscape Maintenance District No. 1 of the City of Clovis for the maintenance and servicing of landscaping facilities.

2. The City Clerk shall receive and file the maps showing the boundaries of the areas annexed as set forth in Attachment "A" which boundaries shall be used for assessment proceedings until and unless a change of organization is approved pursuant to the Act.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED:

Mayor

City Clerk

LOTS 1 THROUGH 90, INCLUSIVE, OF TRACT MAP 6228, RECORDED IN VOLUME _____, PAGES _____ THROUGH _____ OF PLATS, FRESNO COUNTY RECORDS.



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: November 4, 2019

SUBJECT: Planning and Development Services – Approval – Final Acceptance Tract 5546, located at the southeast corner of Sunnyside and Nees Avenue. (Gary McDonald Homes).

ATTACHMENTS: 1. Vicinity Map

CONFLICT OF INTEREST

None

RECOMMENDATION

1. Accept the public improvements for Tract 5546; and authorize recording of the Notice of Completion; and
2. Authorize release of the Performance Surety immediately and then release of the Labor and Materials Surety ninety (90) days after the recordation of the Notice of Completion, provided no liens have been filed; and release of Public Improvements Maintenance Surety upon the expiration of the one-year warranty period, and provided any defective work has been repaired to the City's satisfaction.

EXECUTIVE SUMMARY

The owner, Gary McDonald Homes, has requested final acceptance of the public improvements constructed or installed in conjunction with this tract. The public improvements include all those shown on the subdivision improvement plans approved by the City Engineer.

The owner has requested a deferment of street tree and sidewalk improvements along the street frontages of lots to the building permits of those lots. All other landscaping, including sidewalk along the side yards of lots have been constructed. Construction of street tree and

sidewalk improvements will require an encroachment permit for each lot. The street trees and sidewalks will be installed and will be completed according to the approved plans and ADA specifications prior to finaling the lot.

With the exception of the street trees and sidewalks, the construction or installation of the public improvements is complete. The owner has requested final acceptance. Staff is recommending approval of their request.

FISCAL IMPACT

The costs for periodic routine maintenance, as well as repairs needed as the improvements deteriorate with age and usage, will be incorporated into the annual maintenance budget of the Public Utilities Department as these costs are identified.

REASON FOR RECOMMENDATION

The Subdivision Map Act requires that once construction of the required improvements has been completed in compliance with all codes, plans and specifications, and all other required documents have been completed and submitted, final acceptance is required and the appropriate sureties are released.

ACTIONS FOLLOWING APPROVAL

Record the Notice of Completion and release the Performance, Labor and Materials, and Maintenance Sureties as appropriate.

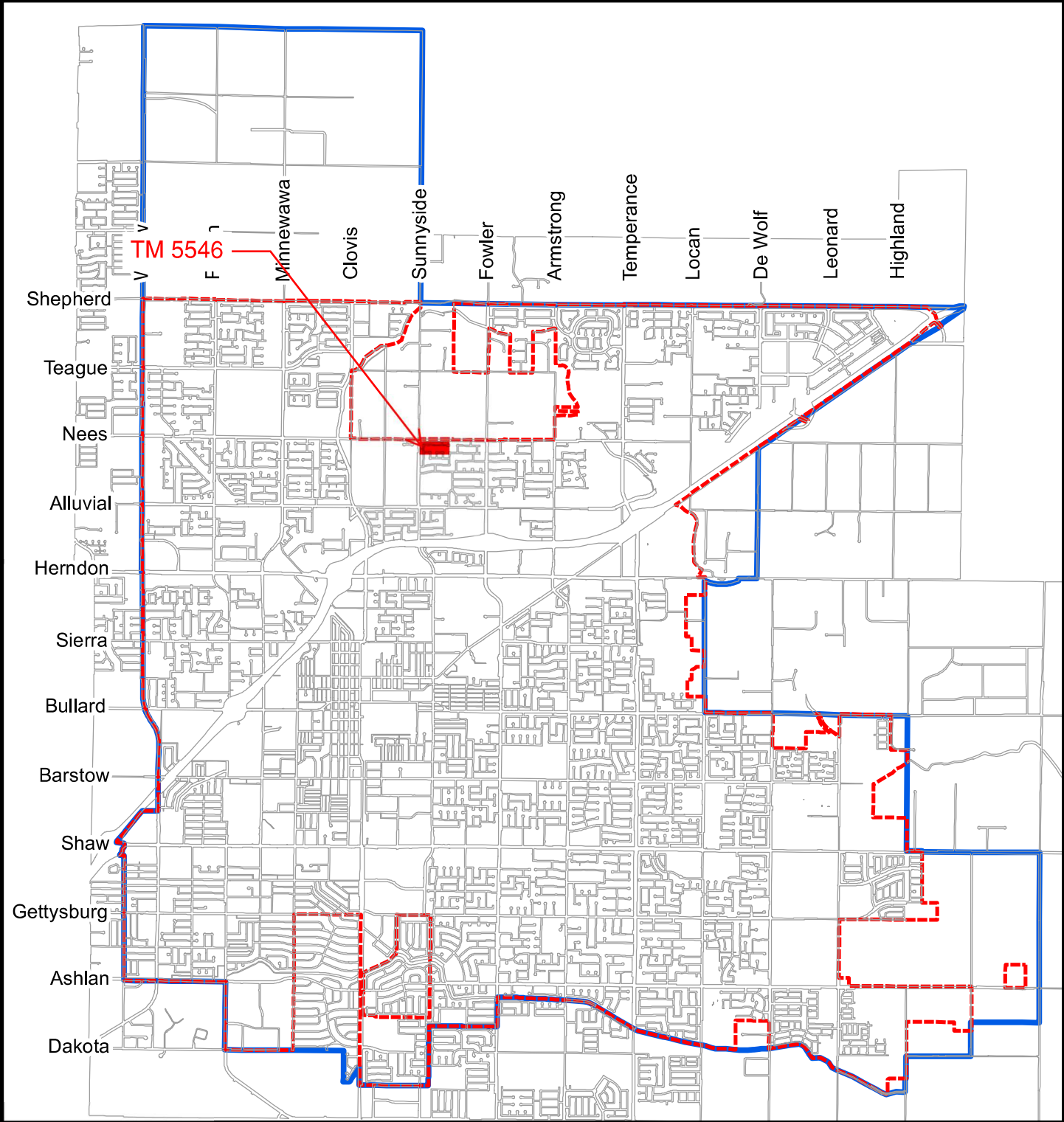
Prepared by: David Gonzalez, Civil Engineer

Reviewed by: City Manager JH

VICINITY MAP

AGENDA ITEM NO. 17.

Project - TM 5546



ATTACHMENT 1



 CITY LIMITS  SPHERE OF INFLUENCE



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Community and Economic Development

DATE: November 4, 2019

SUBJECT: Consider Approval - Res. 19-___, Adoption of the City of Clovis Analysis of Impediments to Fair Housing Choice.

Staff: Heidi Crabtree, Housing Program Coordinator
Recommendation: Approve

ATTACHMENTS: 1. Resolution
 2. Analysis of Impediments to Fair Housing Choice

CONFLICT OF INTEREST
 None.

RECOMMENDATION
 For the City Council to approve a resolution adopting the City of Clovis Analysis of Impediments to Fair Housing Choice for submission to the U.S. Department of Housing and Urban Development (HUD).

EXECUTIVE SUMMARY
 As a recipient of funds from HUD, the City of Clovis is required to conduct an Analysis of Impediments to Fair Housing Choice, and to review the analysis and update as necessary on a periodic basis. This document includes analysis of local factors that may impact Fair Housing Choice, the identification of specific impediments to Fair Housing Choice, and action steps to address the identified impediments. The review identified six (6) impediments to Fair Housing Choice, as follows:

- 1. IMPEDIMENT: Lack of Sufficient Affordable Housing Supply**
 - 1.1 Action:** Provide assistance to preserve existing affordable housing and to create new affordable housing.
 - 1.2 Action:** Assure the availability of adequate sites for the development of affordable housing.

1.3 Action: Develop strategies to mitigate or preserve affordable multi-family units at risk of conversion to market rate units.

2. IMPEDIMENT: Insufficient Funding for Affordable Housing Programs

2.1 Action: Research and apply and partner for alternative private and public funding opportunities that can provide additional support to the City’s affordable housing programs and/or developer projects.

Fair Housing Education and Enforcement

Promoting fair housing includes both education and enforcement. The City will continue to support both education and enforcement efforts.

This analysis reported very few complaints to enforcement agencies. This indicates the need for ongoing education to continue the trend of minimal complaints.

3. IMPEDIMENT: Lack of knowledge of fair housing rights

3.1 Action: Support efforts to educate persons, including occupants, owners, and agents of both rental and purchase units regarding their fair housing rights and responsibilities.

3.2 Action: Support local advocate agencies and community stakeholders in efforts to disseminate fair housing information to the community at large.

4. IMPEDIMENT: Lack of information on the nature and basis of housing discrimination

4.1 Action: Monitor the incidence of housing discrimination complaints.

4.2 Action: If deemed necessary, create an action item in the City’s Annual Action Plan that addresses the trend of discrimination complaints.

Governmental Barriers

Local government can play a significant role in the provision of a full range of housing types and to assuring availability of housing suitable to all sectors of the public. The City offers a wide variety of affordable housing programs and implements land use policies that encourage equitable choice for all persons in Clovis. A key part of housing choice is transportation and due to the City’s current density and financial condition, the public transit system is not as robust as the City wishes. The City also needs to work with other governmental agencies to seek funding for rental subsidies and housing projects that reduce housing costs for low-income families.

5. IMPEDIMENT: Lack of sufficient public transportation for low-income and special needs populations

5.1 Action: The City will continue to recommend improvements as funds allow to better serve all populations, including low-income and special needs households.

6. IMPEDIMENT: Shortage of rental subsidy vouchers

6.1 Action: The City will continue to partner with the Fresno County Housing Authority on both affordable housing projects and obtaining additional funds to support the Housing Choice Voucher Program that is currently oversubscribed and develop additional units.

BACKGROUND

As a recipient of funds from HUD, the City of Clovis is required to conduct an Analysis of Impediments to Fair Housing Choice, and to review the analysis and update as necessary on a periodic basis. The City of Clovis is dedicated to meeting the needs of its current and future residents by creating an environment of fair and equal treatment to all persons within the housing field. To affirmatively further fair housing, a community must work to remove impediments to Fair Housing Choice. An impediment to Fair Housing Choice is defined in the Fair Housing Planning Guide published by HUD in 1996, as follows:

- Any actions, omissions, or decisions taken because of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, or any other arbitrary factor which restrict housing choices or the availability of housing choices; or
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status or any other arbitrary factor.

The previous Analysis of Impediments to Fair Housing Choice was approved by City Council on September 13, 2010.

FISCAL IMPACT

None.

REASON FOR RECOMMENDATION

HUD requires the City Council to adopt an updated Analysis of Impediments to Fair Housing Choice. The recommended action meets HUD’s requirements to receive Community Development Block Grant funds as an entitlement city.

ACTIONS FOLLOWING APPROVAL

The Analysis of Impediments to Fair Housing Choice will be submitted to HUD for their review.

Prepared by: Heidi Crabtree, Housing Program Coordinator

Reviewed by: City Manager *JH*

RESOLUTION NO. 19-_____

**A RESOLUTION OF THE CITY COUNCIL OF CLOVIS ADOPTING
THE ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE**

WHEREAS, the City Council of the City of Clovis is a U. S. Department of Housing and Urban Development (HUD) entitlement city for the purpose of receiving Community Development Block Grant funds; and

WHEREAS, HUD requires the City of Clovis to adopt an Analysis of Impediments to Fair Housing Choice;

NOW, THEREFORE, BE IT RESOLVED that the Clovis City Council approves and adopts the Analysis of Impediments to Fair Housing Choice.

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on the 4th day of November, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: November 4, 2019

Mayor

City Clerk



CITY OF CLOVIS

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

FOR SUBMISSION TO THE CITIZENS OF CLOVIS
AND
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
NOVEMBER 2019

Attachment 2

Contents

EXECUTIVE SUMMARY 4

INTRODUCTION 6

COMMUNITY PROFILE 8

Demographics Introduction 8

 Population Growth 9

 Race and Ethnicity 9

 Education 10

 Immigration 11

 Single Parent Households 11

 Persons with Disabilities 12

 Age Composition 13

 Number of Households 15

 Household Income 15

 Employment Rates and Employment Centers 18

Housing Profile 20

 Household Characteristics 20

 Households 21

 Household Size 21

 Vacancy Rates 21

 Existing Housing Needs 21

 Housing Affordability 22

 Housing Quality 23

 Overcrowding 24

 Special Need Populations 24

 Projected Single-Family Housing Demand for All Income Levels 31

PRIVATE SECTOR PRACTICES 32

Real Estate Sales Practices 32

 Rental and Property Management 32

 Advertisements 33

 Use of Restrictive Covenants 33

 Mortgage Lending 33

Fair Housing Complaints and Enforcement 37

PUBLIC POLICIES 39

City Programs 39

 First-Time Homebuyer Program 39

 Home Repair Grants Program 39

 Affordable Multi-Family Development Program 39

 Capital Improvement Program 39

 Code Enforcement 39

Building and Planning Practices 39

 Building Codes 40

 Housing Element Law and Compliance 40

 Land Use Policies and Practices 40

 Residential Care Facilities and Disabled Persons Housing 44

 Multifamily 45

 Farmworker/Employee Housing 45

 Emergency Shelters; Transitional and Supportive Housing 45

| | |
|-------------------------------------------------------------|-----------|
| Fees and Exactions | 47 |
| Density Bonus | 50 |
| Available Vacant Land | 50 |
| Accessibility of Public Transit | 50 |
| Sale of Subsidized Housing and Possible Displacement | 52 |
| Property Tax Impacts | 53 |
| Public Housing Authority Assistance Programs | 53 |
| Assessment of Fair Housing Practices | 53 |
| FINDINGS AND ACTIONS | 54 |
| Affordable Housing | 54 |
| Fair Housing Education and Enforcement | 55 |
| Governmental Barriers | 55 |

EXECUTIVE SUMMARY

As a recipient of funds from the U.S. Department of Housing and Urban Development (HUD), the City of Clovis is required to conduct an Analysis of Impediments to Fair Housing Choice (AI) and to review the analysis and update as necessary on a periodic basis. This document includes an analysis of local factors that may impact fair housing choice, the identification of specific impediments to fair housing choice, and action steps to address the identified impediments.

As the City of Clovis grows in population the importance of accessible fair housing, education, services, policies and other resources is increasing in the community. The City has a diverse population in regards to both socioeconomic and demographic populations. The City of Clovis is dedicated to meeting the needs of its current and future residents by creating an environment of fair and equal treatment to all persons within the housing field.

What is an Impediment to Fair Housing Choice?

As defined in the Fair Housing Planning Guide published by HUD in 1996 impediments to fair housing choice are:

- Any actions, omissions, or decisions taken because of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, or any other arbitrary factor which restrict housing choices or the availability of housing choices; or
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, or any other arbitrary factor.

To affirmatively further fair housing, a community must work to remove impediments to fair housing choice.

Impediments Identified

This analysis has identified the following impediments to fair housing choice, and supplies the following actions to address the impediments. The section entitled “Findings and Actions” of this document includes additional details of the analysis.

1. IMPEDIMENT: Lack of Sufficient Affordable Housing Supply

- 1.1 Action:** Provide assistance to preserve existing affordable housing and to create new affordable housing.
- 1.2 Action:** Assure the availability of adequate sites for the development of affordable housing.
- 1.3 Action:** Develop strategies to mitigate or preserve affordable multi-family units at risk of conversion to market rate units.

2. IMPEDIMENT: Insufficient Funding for Affordable Housing Programs

- 2.1 Action:** Research and apply and partner for alternative private and public funding opportunities that can provide additional support to the City’s affordable housing programs and/or developer projects.

Fair Housing Education and Enforcement

Promoting fair housing includes both education and enforcement. The City will continue to support both education and enforcement efforts.

This analysis reported very few complaints to enforcement agencies. This indicates the need for ongoing education to continue the trend of minimal complaints.

3. IMPEDIMENT: Lack of knowledge of fair housing rights

3.1 Action: Support efforts to educate persons, including occupants, owners, and agents of both rental and purchase units regarding their fair housing rights and responsibilities.

3.2 Action: Support local advocate agencies and community stakeholders in efforts to disseminate fair housing information to the community at large.

4. IMPEDIMENT: Lack of information on the nature and basis of housing discrimination

4.1 Action: Monitor the incidence of housing discrimination complaints.

4.2 Action: If deemed necessary, create an action item in the City’s Annual Action Plan that addresses the trend of discrimination complaints.

Governmental Barriers

Local government can play a significant role in the provision of a full range of housing types and to assuring availability of housing suitable to all sectors of the public. The City offers a wide variety of affordable housing programs and implements land use policies that encourage equitable choice for all persons in Clovis. A key part of housing choice is transportation and due to the City’s current density and financial condition, the public transit system is not as robust as the City wishes. The City also needs to work with other governmental agencies to seek funding for rental subsidies and housing projects that reduce housing costs for low-income families.

5. IMPEDIMENT: Lack of sufficient public transportation for low-income and special needs populations

5.1 Action: The City will continue to recommend improvements as funds allow to better serve all populations, including low-income and special needs households.

6. IMPEDIMENT: Shortage of rental subsidy vouchers

6.1 Action: The City will continue to partner with the Fresno County Housing Authority on both affordable housing projects and obtaining additional funds to support the Housing Choice Voucher Program that is currently oversubscribed and develop additional units.

INTRODUCTION

The City of Clovis is situated in the core of California’s agriculturally rich San Joaquin Valley. It is one of 15 cities located in Fresno County. The City was incorporated in 1912 and has experienced robust growth since 1980. Between 1990 and 2018 the population has risen from approximately 42,000 to 117,003 people. Clovis has enjoyed being known for its “Clovis Way of Life” including high quality schools, well maintained public spaces, and environment where all persons have an opportunity to succeed. This growth has been diverse on all levels and illustrates the need to ensure barriers to fair housing choice are addressed.

What is Fair Housing Choice?

Equal access to housing is fundamental to each person being able to meet essential needs and to pursuing personal, educational, employment, or other goals. In recognition of equal housing access as a fundamental right, the United States and State of California governments have both established fair housing as a right protected by law.

Federal fair housing laws prohibit discrimination in the sale, rental, lease, or negotiation for real property based on race, color, religion, sex, national origin, familial status, and disability. The California fair housing laws are built upon the federal laws and add marital status, ancestry, source of income, sexual orientation, and any arbitrary factor as protected categories under the laws.

Factors, as defined by HUD that impede equal access to housing or fair housing choice are:

- Any actions, omissions, or decisions taken because of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, or any other arbitrary factor which restrict housing choices or the availability of housing choices; or
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, or any other arbitrary factor.

To affirmatively promote equal housing opportunities, Clovis must work to remove barriers to fair housing choice. The City of Clovis is dedicated to providing fair housing opportunities to all residents and to ensure all applicable laws are complied with.

What is an Analysis of Impediments to Fair Housing Choice?

This Analysis of Impediments to Fair Housing Choice adheres to the recommended guidelines issued by HUD found in the Fair Housing Planning Guide. In order to meet these guidelines, the analysis must assess how laws, governmental policies, real estate practices, and local issues affect the availability, accessibility and location of housing. The analysis of these factors may reveal where corrections can be made thus expanding the availability of housing to persons protected under fair housing law. Per the HUD recommendation, this analysis utilizes this definition of a barrier or impediment to fair housing choice:

- Any actions, omissions, or decisions taken because of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, or any other arbitrary factor which restrict housing choices or the availability of housing choices; or
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, or any other arbitrary factor.

Goals of the Analysis of Impediments to Fair Housing Choice

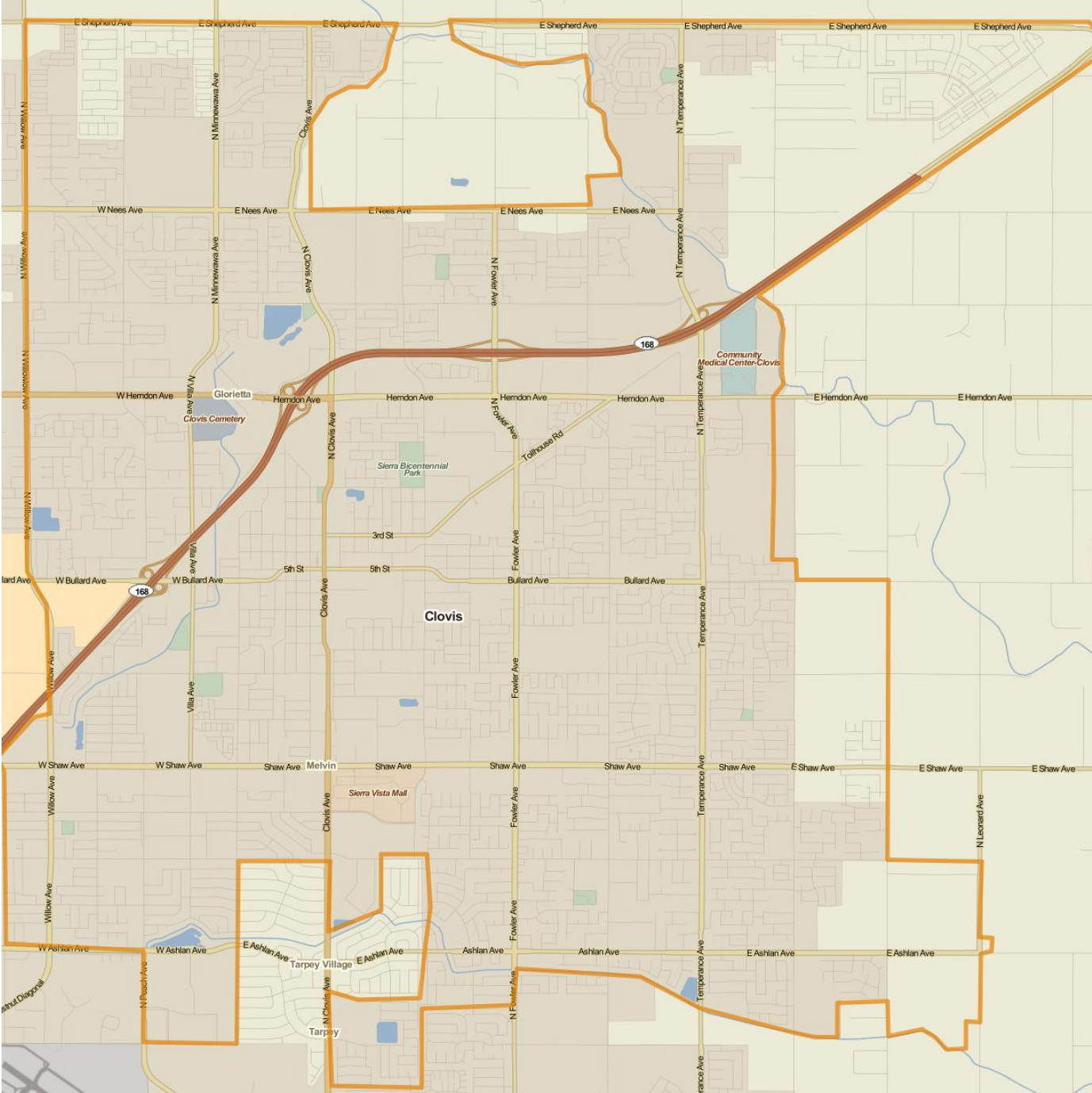
- To provide an overview of the current status of fair housing choice in the City of Clovis.
- Review policies of the City and how they impact fair housing choice, focusing on affordable housing and special needs households.
- Identify impediments to fair housing choice and determine actions the City will undertake to address the impediments.

COMMUNITY PROFILE

Demographics Introduction

The City of Clovis has experienced significant changes to the composition of its population over the past twenty years. Knowing and understanding these changes is imperative to creating policies and programs that will meet the City’s need for fair housing choice. The following is a detailed look at how much the City has changed and the present demographics of the City’s residents.

MAP 1: CLOVIS CITY LIMITS



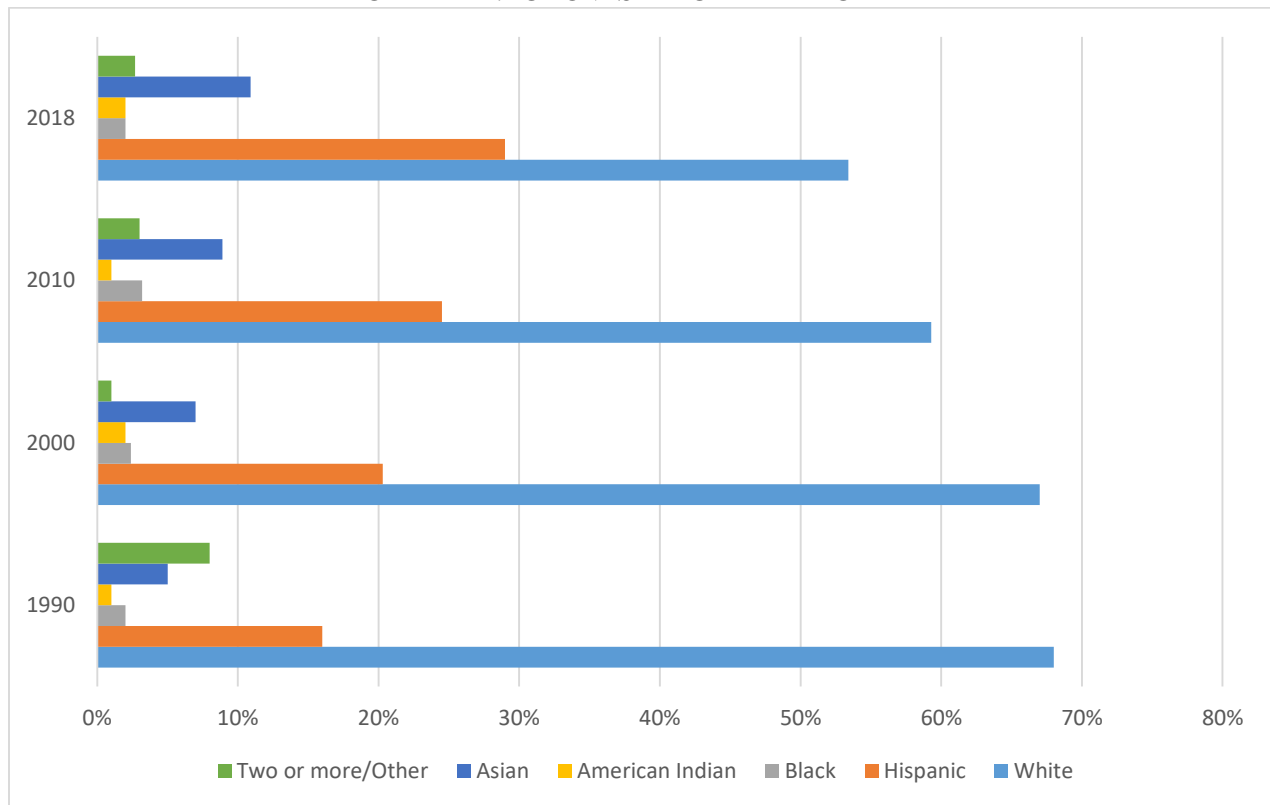
Population Growth

The City of Clovis is one of 15 cities located in Fresno County and is one of the fastest growing cities in the State of California. The City has experienced a notable increase in population over the last thirty years. The City’s 2018 population is 117,003; this was an approximate 134 percent increase from a population of 50,000 in 1990 (Department of Finance). The City’s population is anticipated to grow to 133,800 by the year 2030 (Clovis General Plan).

Race and Ethnicity

Over the past 25 years changes have occurred in the City’s racial makeup. As indicated in the charts below the percentage of white residents has been decreasing while the percentage of minorities has been increasing. From 1990 to 2018, all minority races have increased in numbers and several races have been increasing in overall percentages of the population with white alone decreasing; most notably the percentage of Asian residents has increased from 5% to 11% of the population. The changing demographics present new opportunities and challenges for the City as it addresses the needs of its citizens for adequate housing, infrastructure and services as unique needs are represented by each race category.

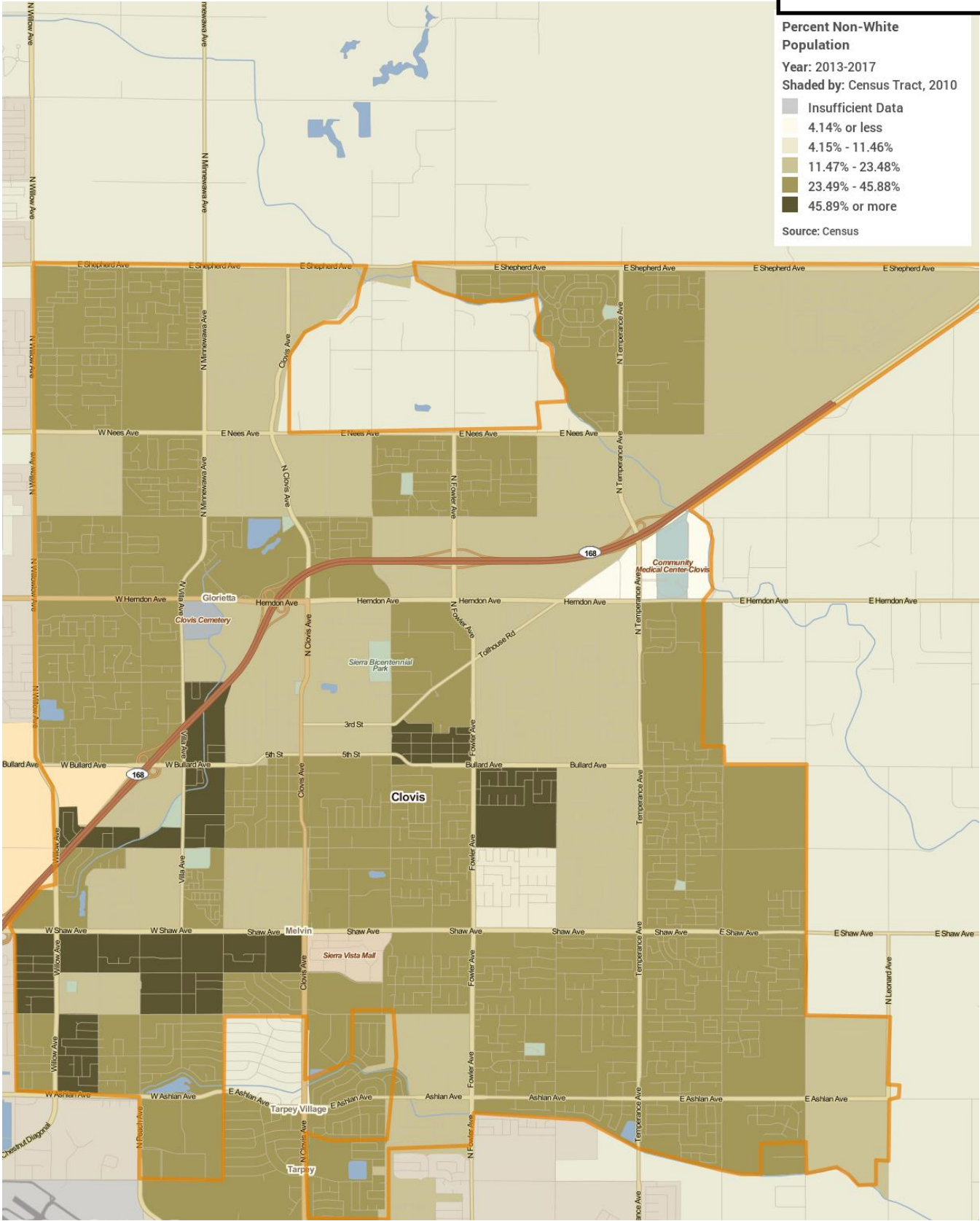
CHART 1: CLOVIS RACE BY DECADE



Source: U.S. Census Bureau, Census & American Communities Surveys

The geographical location of minorities that live in Clovis is depicted in Map 2. In general, minority concentrations are spread evenly throughout the City.

MAP 2: CITY OF CLOVIS MINORITY CONCENTRATION



Education

Only 8.5% of Clovis residents age 25 or older have less than a high school education or equivalency and nearly 33% have a bachelor’s degree. This is a huge asset for the City of Clovis and is used to increase

economic opportunities for the City’s residents. Continuing and expanding upon the current educational opportunities is crucial to increasing opportunities for low-income families to improve their economic situations.

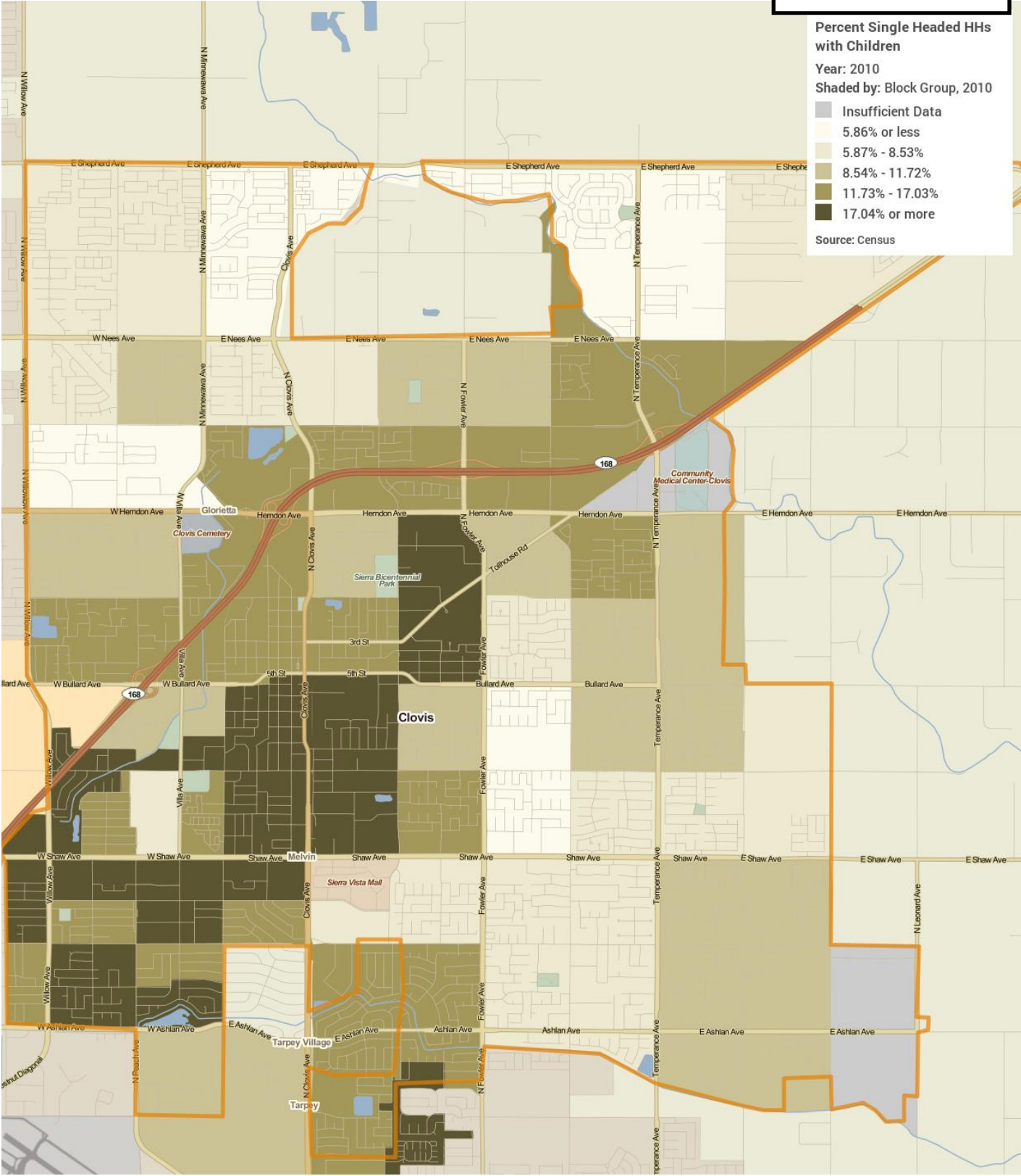
Immigration

Using 2017 American Communities Survey, 12,458 of the City’s residents are classified by the census as “foreign-born”, which is 12% of the total population, a 4% increase from the 2000 census. Many of these persons are from Asia and Latin America. 14.3% of this population, compared to 9.5% of native born residents, are determined to be living in poverty and face considerable challenges in meeting their basic needs. Understanding the needs of these populations is important to developing programs that will allow them to become successful citizens. Communicating in additional native languages may become necessary in implementing programs that are available to low-income families.

Single Parent Households

Of the total number of households (35,538), 4,335 are single, male or female headed households with children, which is 12% of the household population according to the 2017 American Communities Survey. As shown in Map 3, many of the census tracts with higher than average single-parent households are located in the southwest and central portions of Clovis.

MAP 3: CITY OF CLOVIS SINGLE PARENT HOUSEHOLD CONCENTRATION

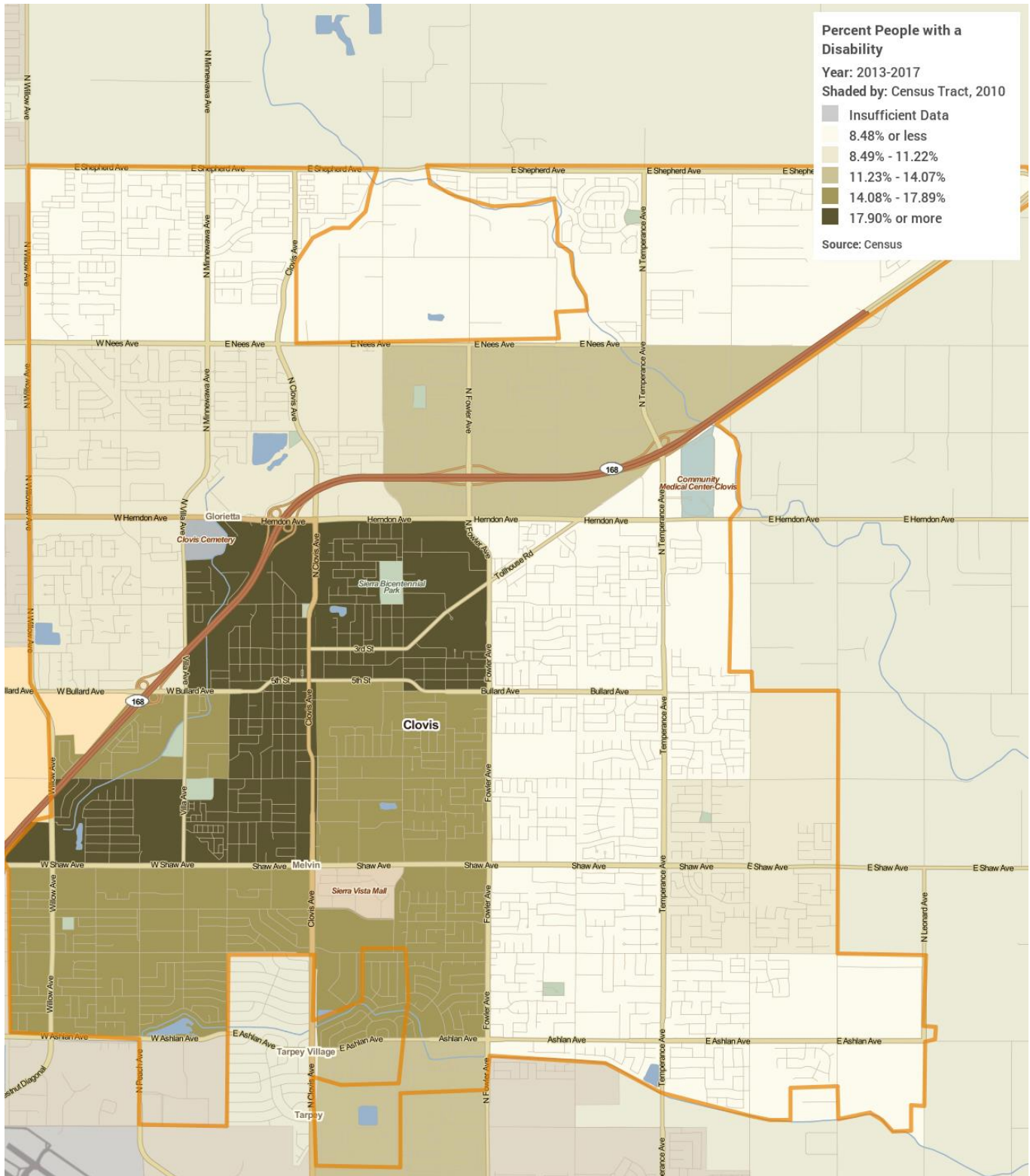


Persons with Disabilities

According to the 2017 American Community Survey, 12,305 residents of Clovis have some type of disability and 17%, are living in poverty. When compared to the overall poverty rate of 12.7% in the City,

it is apparent this group faces challenges in meeting their basic needs. Map 4 demonstrates that in the southwest and central portions of Clovis, there are concentrations of persons with disabilities.

MAP 4: CITY OF CLOVIS PERSONS WITH A DISABILITY CONCENTRATION

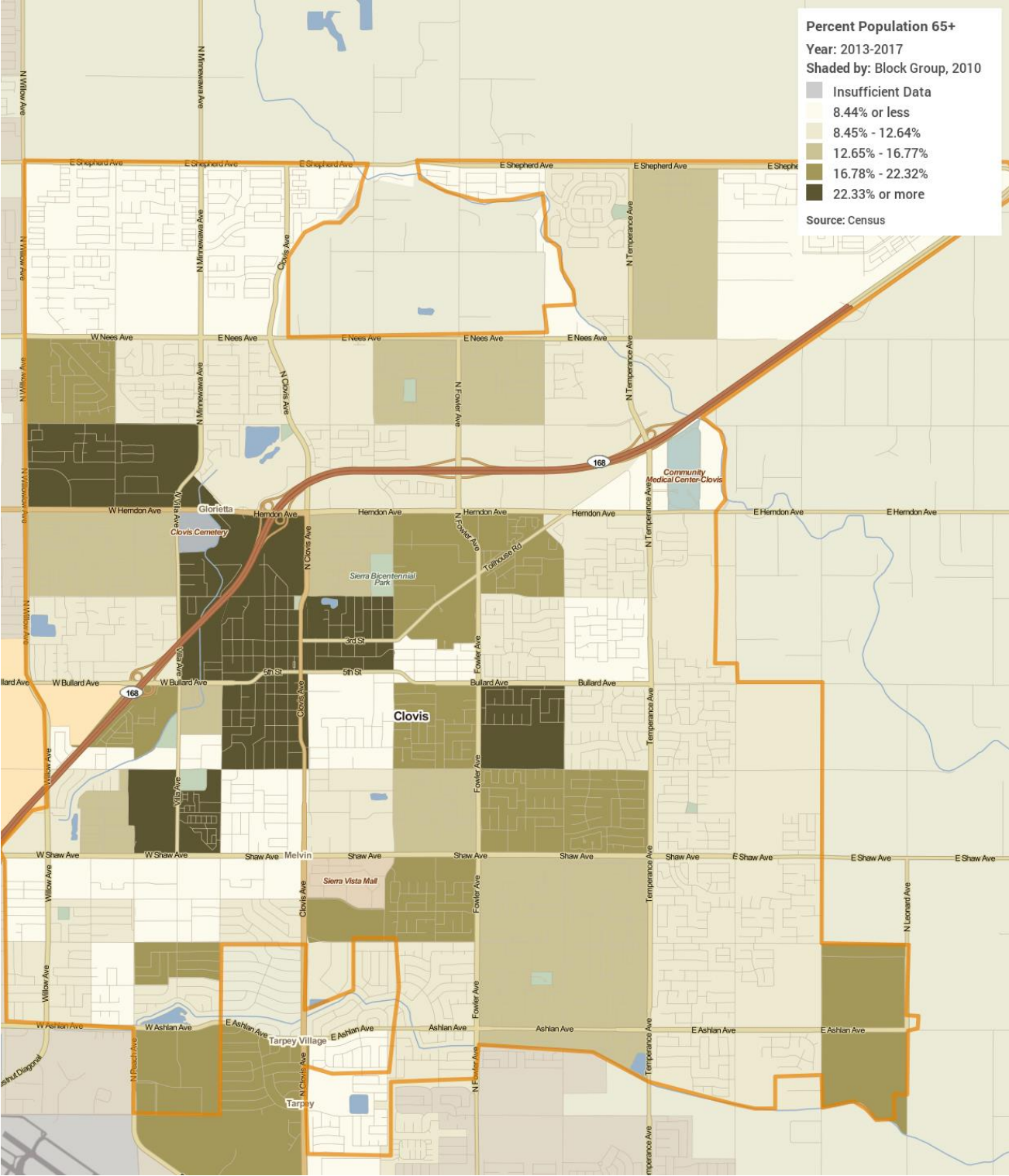


Age Composition

The current median age in Clovis is 34.4, a two-year increase since 2008. The current median age for the United States is 37.8. Map 5 indicates the concentration of individuals 65 and older in the City of Clovis

The highest concentration of senior citizens reside in the western portion of Clovis. As the age composition continues to shift to an older clientele in the City, programs must be analyzed to meet the changing needs of an aging population.

MAP 5: CITY OF CLOVIS ELDERLY PERSONS CONCENTRATION



Number of Households

The number of households in Clovis is estimated to have increased from 32,967 to 37,217 from 2008 to 2017 according to the 2017 American Communities survey, a 12.8 percent change between 2008 and 2017. Clovis has shown its ability to accommodate new housing units and the desire for households to move to Clovis. In 2018 the California State Department of Finance figures indicated Clovis was the second fastest growing City in the State with populations over 100,000.

Household Income

Household incomes increased significantly over the last ten years. Based on the U.S. Census in 1990, the median household income was \$36,981; in 2000 it was \$42,283; in 2010 it was \$63,229. Currently, the median household income is estimated to be \$68,682 in the 2017 American Communities Survey.

Map 6 indicates median income, showing a higher concentration of wealth in the City’s newer areas and a concentration of low median incomes in the City’s southwest, west, and central neighborhoods.

MAP 6: CITY OF CLOVIS MEDIAN INCOME CONCENTRATION

AGENDA ITEM NO. 18.

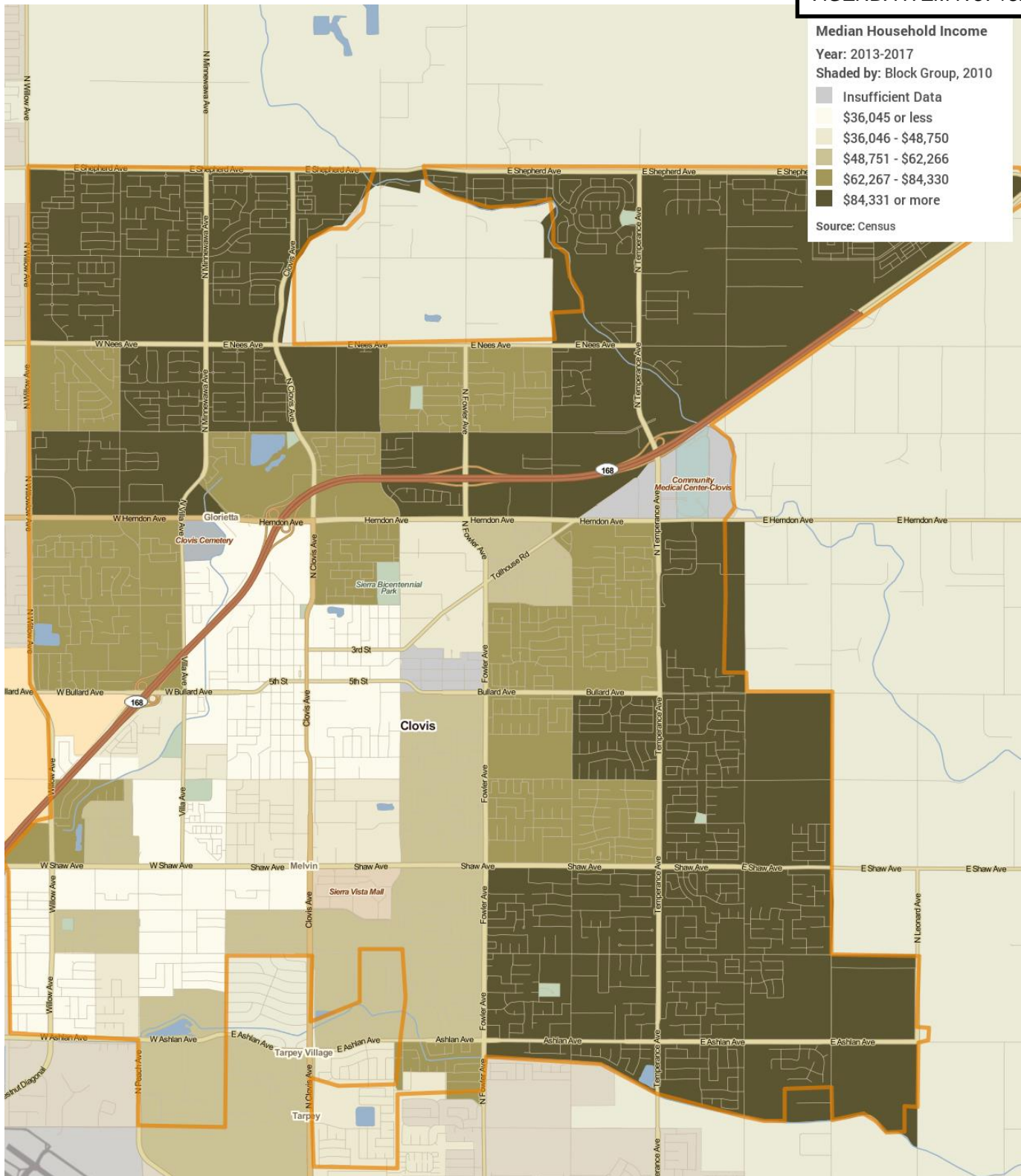


Table 1 shows median household incomes by race. The data shows disparities between races and ethnicities.

TABLE 1: CLOVIS HOUSEHOLD MEDIAN INCOME BY RACE

| Race/Ethnicity | Median Income |
|----------------------------------|---------------|
| Asian | 80,898 |
| Two or More Races | 74,250 |
| White | 71,731 |
| Native Hawaiian/Pacific Islander | 62,802 |
| Hispanic/Latino | 57,038 |
| African American | 55,031 |
| American Indian | 55,000 |
| Some Other Race | 41,277 |

Source: American Communities Survey 2017

Although the City income levels have increased, Map 7 shows that in some areas over 24 percent of residents live below the poverty level whereas the City’s poverty rate as a whole is 12.7 percent. Map 7 indicates there are much higher incidences of poverty in the City’s central and southwest areas. Providing programs and policies that enable lower income residents to obtain the resources necessary to improve their family’s financial position is clearly needed to improve the quality of life for all Clovis residents.

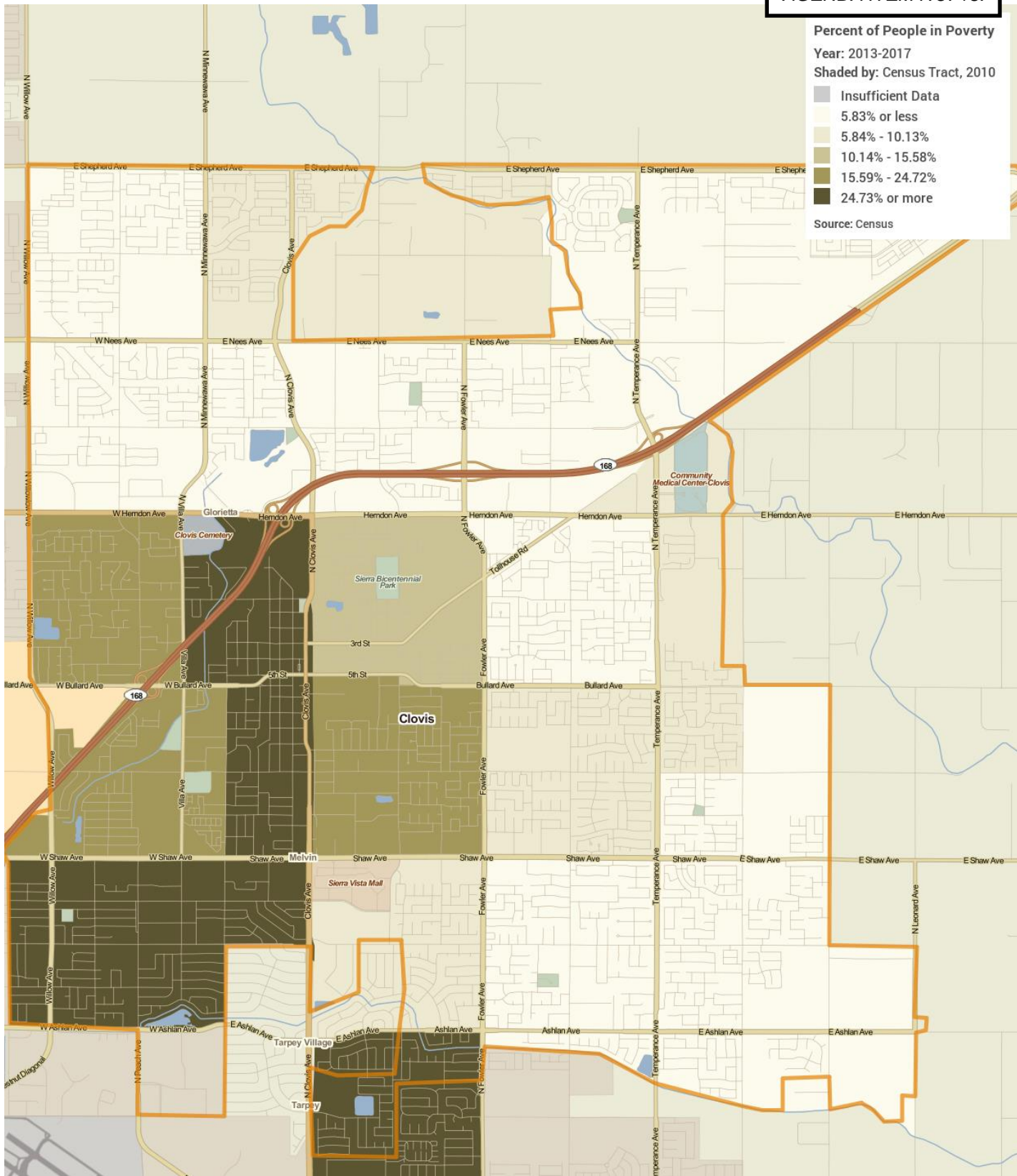
TABLE 2: INCOME DISTRIBUTION IN CLOVIS

| Income ₁ | % of Total Population ₂ | Households |
|-------------------------------------|------------------------------------|---------------|
| Very Low | 16% | 5,615 |
| Low | 14 % | 4,830 |
| Moderate | 9% | 2,960 |
| Above Moderate | 61% | 21,105 |
| TOTAL HOUSEHOLDS₃ | 100% | 34,510 |

2017 CHAS Data as provided by HUD

MAP 7: CITY OF CLOVIS POVERTY RATE

AGENDA ITEM NO. 18.



Employment Rates and Employment Centers

The City enjoys having lower unemployment rates than the region and the State of California as a whole. Table 3 shows unemployment rates for the City over the past nine years. These rates have been trending down during the economic recovery.

TABLE 3: CLOVIS UNEMPLOYMENT RATE

| Year | Rate |
|------|------|
| 2010 | 9.1 |
| 2011 | 10.7 |
| 2012 | 11 |
| 2013 | 11.4 |
| 2014 | 11.7 |
| 2015 | 10 |
| 2016 | 8.3 |
| 2017 | 7 |
| 2018 | 3.4* |

U.S. Census 2010-2017
 *California Employment Development Department, April 2019

There are many scattered employment centers throughout Clovis and the surrounding region. In the 2017 American Communities Survey, it was reported that the average Clovis resident commutes 21 minutes each way and only 148 persons out of 46,962 took public transportation to work on a regular basis. Of the persons who took public transportation, the commute times were on average at least 30 minutes and surpassed one hour for a majority. This indicates a regional public transit system that may not allow persons without the means to own and/or operate a vehicle to access employment centers as easily as the general population. Major employers in Clovis are indicated in Table 4.

TABLE 4: MAJOR CLOVIS EMPLOYERS

| Company | Employees |
|-----------------------------|-----------|
| Clovis Unified School Dist. | 7,469 |
| Clovis Community Hospital | 1,923 |
| Walmart | 715 |
| City of Clovis | 674 |
| Wawona Frozen Foods | 537 |
| Alorica | 501 |
| Target | 343 |
| Anlin Industries | 324 |
| Costco | 311 |
| Lowe's | 215 |

Source: City of Clovis 2019-20 Annual Budget

Housing Profile

Data from the U.S. Bureau of Census indicates that the housing stock in the City of Clovis increased by 1,911 units between 2010 and 2018. This change represents a 5.4 percent increase. The data summarized in Table 5 indicates that the growth of the housing inventory in the City slowed during the 2010's likely due to the great recession. Housing starts have increased dramatically during the past two years and are likely not represented in the American Communities Survey data provided.

There are three basic types of housing units for which data is presented: single-family detached units (including planned unit developments), multiple-family units ranging from duplexes to large apartment developments, and mobile homes located in mobile home parks and on individual lots.

The predominant type of dwelling unit continues to be the conventional single-family residence in the City. The construction of single family, detached homes has been steadily increasing. Significant increases can also be seen during 2000 and 2006. As indicated in Table 6, growth of single-family units in Clovis occurred in the early 1980's and between 2000 and 2010. Multi-family has just recently been growing again, making up over half of the permits being issued in the City during 2018.

TABLE 6: TOTAL DWELLING UNITS BY TYPE

| Dwelling Type | 1980 | | 1990 | | 2000 | | 2010 | | 2017 | |
|----------------------------------------|---------------|-------------|---------------|------------|---------------|-------------|---------------|-------------|---------------|-------------|
| | Units | % of Total | Units | % of Total | Units | % of Total | Units | % of Total | Units | % of Total |
| CITY OF CLOVIS | | | | | | | | | | |
| Single Family | 7,267 | 57.3% | 11,341 | 60.0% | 16,802 | 66.8% | 24,001 | 70.7% | 27,250 | 73.2% |
| Multi-Family | 4,744 | 37.4% | 6,551 | 34.7% | 7,426 | 29.5% | 9,236 | 27% | 9,967 | 26.8% |
| Mobile Homes | 667 | 5.3% | 898 | 4.8% | 889 | 3.5% | 918 | 2.7% | 759 | 2% |
| Total Year Round Dwelling Units | 12,678 | 100% | 18,888 | 100 | 25,250 | 100% | 34,155 | 100% | 37,217 | 100% |

Source: 1980, 1990, 2000 Census Data and American Community Survey 2010 & 2017

Household Characteristics

Before current housing problems can be understood and future needs anticipated, housing occupancy characteristics need to be identified in the City of Clovis. The following is an analysis of household size, household growth, tenure, and vacancy trends. By definition, a "household" consists of all the people occupying a dwelling unit, whether or not they are related. A single person living in an apartment is a household, just as a couple with two children is considered a household.

TABLE 7: TOTAL DWELLING UNITS BY TENURE

| Tenure | 1990 | 2000 | 2006 | 2010 | 2017 |
|------------------|--------|--------|--------|--------|--------|
| Total Households | 18,155 | 24,347 | 29,752 | 31,867 | 35,538 |
| Owner Occupied | 51.0% | 60.4% | 56.2% | 62.3% | 60.5% |
| Renter Occupied | 49.0% | 39.6% | 43.8% | 37.7% | 39.5% |

Source: 1980, 1990, 2000 Census Data and American Community Survey 2010 & 2017

Households

From 1990 - 2017, the City grew at a higher rate in the number of households than experienced by Fresno County or the State of California, as shown in Table 5. The total number of households in the City of Clovis in 2017 was 37,217.

Household Size

In the years before 1990, there was a small, but steady decline in the average household size throughout Fresno County, including the City of Clovis. However, this trend reversed slightly in Clovis between 1990 and 2000, with average household size increasing from 2.75 persons to 2.79 persons. It dropped again by 2010 most likely due to the large amount of vacant homes due to the housing crisis. In 2017, the average household size increased to 2.81. Household size is important, as the City uses the average household size to plan for most public improvements and services and to project population.

TABLE 8: HOUSEHOLD SIZE

| Households | 1990 | | 2000 | | 2010 | | 2017 | |
|-------------------------------|---------------|----------|---------------|----------|---------------|----------|---------------|----------|
| CITY OF CLOVIS | 18,261 | % | 24,347 | % | 31,867 | % | 35,538 | % |
| 1 Person | 3,924 | 21.5 | 5,420 | 22.2 | 6,947 | 21.8 | 7,543 | 21.2 |
| 2 Person | 5,534 | 30.3 | 7,038 | 28.9 | 10,070 | 31.6 | 10,990 | 30.9 |
| 3 Person | 6,758 | 37.0 | 8,736 | 35.9 | 5,321 | 16.7 | 6,649 | 18.7 |
| 4+ Person | 2,045 | 11.0 | 3,153 | 13.0 | 10,626 | 29.9 | 10,356 | 29.1 |
| AVERAGE HOUSEHOLD SIZE | 2.75 | | 2.79 | | 2.66 | | 2.81 | |

Source: 1980, 1990, 2000 Census Data and American Community Survey 2010 & 2017

Housing Tenure

The number of owner-occupied housing units in the City of Clovis increased between 1990 and 2017 from about 51% of the total units to 60.5%. According to the American Communities Survey (2017) renter occupied housing in Clovis is at 39.5%.

Vacancy Rates

The vacancy rate is a measure of the general availability of housing. It also indicates how well the types of units available meet the current housing market demand. A low vacancy rate suggests that households may have difficulty finding housing within their price range; a high vacancy rate may indicate either the existence of a high number of units undesirable for occupancy, or an oversupply of housing units.

The Bureau of Census reported Clovis' vacancy rate has decreased to 4.5% in 2017 from 6.7% in 2010. This is likely due to the recovery from the housing crisis. Approximately 1,679 housing units were vacant in 2017.

TABLE 9: CITY OF CLOVIS VACANCY RATE

| 1990 | 2000 | 2010 | 2017 |
|------|-------|------|------|
| .30% | 3.60% | 6.7% | 4.5% |

Existing Housing

Source: 1980, 1990, 2000 Census Data and American Community Survey 2010 & 2017

Needs

The following analysis of current City of Clovis housing conditions presents housing needs and concerns relative to various segments of the population.

Housing in Clovis is a complex issue, consisting of at least three major components: housing affordability, housing quality, and number of housing units. In addition, certain segments of the population have traditionally experienced unusual difficulty in obtaining adequate housing. Unusual difficulties experienced by the elderly, the disabled, female headed households, large families of five or more persons, homeless persons, and farm workers are discussed as special housing needs in this section.

Housing Affordability

Affordability is defined as the expenditure of no more than 30 percent of the household income for housing costs. A hypothetical family of four persons is used to analyze housing affordability in Clovis. 2006 American Community Survey Census data provides information on the percentage of gross household income spent on housing. Table 11 lists housing costs as a percentage of gross income.

According to the 2017 HUD CHAS data, the majority of households pay less than 30 percent of gross income on housing costs. A significant number of households, however, pay more than the 30 percent or even 50 percent of their gross income on housing. Approximately 17,385 households spent 30 percent or more of household income on housing.

Table 10 shows a disproportionate number of households (9,085) reported overpaying for rental costs. A higher proportion of renters to homeowners pay 30 percent or more of their monthly income for housing in the lower- and moderate-income categories. This reflects the need for affordable rental housing and for purchase housing particularly for very low- and low-income households.

TABLE 10: CITY OF CLOVIS HOUSING AFFORDABILITY BY INCOME GROUP

| Income Category | Cost burden > 30% | | Cost burden > 50% | | Total | |
|--------------------------|-------------------|-------------|-------------------|-------------|--------------|-------------|
| | Number | Percent | Number | Percent | Number | Percent |
| OWNER HOUSEHOLDS | | | | | | |
| <= 30% | 720 | 12% | 575 | 26% | 1295 | 16% |
| >30% to <=50% | 650 | 11% | 425 | 19% | 1075 | 13% |
| >50% to <=80% | 1120 | 18% | 665 | 30% | 1785 | 22% |
| >80% to <=100% | 850 | 14% | 195 | 9% | 1045 | 13% |
| >100% | 2730 | 45% | 370 | 17% | 3100 | 37% |
| Sub Total | 6070 | 100% | 2230 | 100% | 8300 | 100% |
| RENTER HOUSEHOLDS | | | | | | |
| <= 30% | 1380 | 22% | 1230 | 44% | 2610 | 29% |
| >30% to <=50% | 1670 | 26% | 990 | 36% | 2660 | 29% |
| >50% to <=80% | 2030 | 32% | 430 | 15% | 2460 | 27% |
| >80% to <=100% | 590 | 9% | 75 | 3% | 665 | 7% |
| >100% | 640 | 10% | 50 | 2% | 690 | 8% |
| Sub Total | 6310 | 100% | 2775 | 100% | 9085 | 100% |
| Total | 12380 | | 5005 | | 17385 | |

2017 HUD CHAS Data

Table 11 identifies the affordable rents and purchase prices by income category. The rents and purchase prices are predicated on maximum affordable payments based on approximately 30 percent of income

expended. The maximum purchase price calculations are based on conventional 30 year loan at a 4.5% interest rate with a 5% down payment. Neither rent nor purchase price account for utility costs.

**TABLE 11: CLOVIS AFFORDABLE RENT/PURCHASE PRICE
BY ANNUAL INCOME**

| Type | Annual Income | Affordable Rent or Mortgage Payment ¹ | Maximum Affordable Purchase Price ² |
|-------------------------------|---------------|--------------------------------------------------|------------------------------------------------|
| HOUSEHOLD INCOME | | | |
| Extremely Low (<=30% AMI) | \$29,850 | \$746 | \$110,000 |
| Very Low (>30% to <=50% AMI) | \$31,920 | \$798 | \$121,000 |
| Low (>50% to <=80% AMI) | \$35,820 | \$895 | \$135,000 |
| Moderate (>80% to <=100% AMI) | \$47,750 | \$1,193 | \$175,000 |
| Above Moderate (>100%) | \$47,750+ | \$1,193+ | \$175,000+ |

1. Based on 30 percent of income.
 2. Based on conventional 30 year loan at a 4.5% interest rate with a 5% down payment.

As a measure of affordability in Clovis, the above available expenditures, as shown on Table 11, should be compared with rental and purchase prices in the City. According to the 2017 American Communities Survey, average rents in Clovis are \$1,140 per month.

As reported by the American Community Survey 2017, 39.5 percent of the housing units in Clovis are renter occupied and the residents have experienced overall rent increases. An extremely low-income household with an income of \$29,850 can afford a housing payment/rent of \$746 per month.

As reported by the American Community Survey 2017, the average resale asking home price was \$284,200. According to Zillow.com in June of 2018, the median sale price in Clovis is \$314,600. Based on this information, it is apparent that generally only families with above moderate incomes can afford to buy a house.

Families in the above moderate-, moderate-, and low-income groups can generally afford the rent for an average two-bedroom rental unit. Low-income families may find it difficult to pay for the necessary number of bedrooms adequate for their family size, and very low-income households will find it difficult to find affordable housing within the existing housing stock.

This information indicates that the majority of the households that are in the very low-income category must pay more than 30 percent of their income for housing costs for any single family home or apartment larger than one bedroom. In low-income households, a high percentage of large families and those who want to be owner occupants must pay over 30 percent of their household incomes for housing.

Housing Quality

The condition of the City’s housing stock is determined by several factors. Although age does not necessarily precipitate physical deterioration, deferred maintenance in combination with age commonly causes older housing to decline in quality.

The 2007 survey found that 95 percent of the City's housing was in standard condition. Of those units requiring work, 4 percent of the housing structures in Clovis require minor rehabilitation, and approximately 1 percent require moderate to substantial rehabilitation (which may cost more than the value of the dwelling), or are dilapidated to the point of needing demolition. The number of houses in

need of substantial rehabilitation or demolition has declined due to in-fill development of underutilized properties and the City’s effort over the past 20 years to purchase and tear down or provide loans to replace dilapidated housing. The 2017 American Communities Survey estimated 51 units lacked complete or operable plumbing facilities.

Overcrowding

The Bureau of Census defines overcrowded housing units as "those in excess of one person per room average". Overcrowding is often reflective of one of three conditions: 1) either a family or household is living in too small a dwelling; 2) a family is required to house extended family members (i.e., grandparents or grown children and their families living with parents, termed doubling); 3) a family is renting inadequate living space to nonfamily members, which also represents doubling. In terms of a number, overcrowded is considered more than 1 person per room. Whatever the cause of overcrowding, there appears to be a direct link to housing affordability. Either homeowners/renters with large families are unable to afford larger dwellings, older children wishing to leave home are prohibited from doing so because they cannot qualify for a home loan or are unable to make rental payments, or grandparents on fixed incomes are unable to afford suitable housing or have physical handicaps that force them to live with their children. Families with low incomes may permit overcrowding to derive additional income, or there may be insufficient supply of housing units in the community to accommodate the demand. Lack of appropriate size housing units, low incomes, and large families encourage severe overcrowding, especially during harvest season when farm workers expand the local labor force and compete for housing accommodations.

TABLE 12: CLOVIS OVERCROWDING

| | 1980 | 1990 | 2000 | 2010 | 2017 |
|------------------------------|-------------|-------------|-------------|-------------|-------------|
| Total Occupied Housing Units | 12,437 | 18,888 | 24,240 | 31,867 | 35,538 |
| Overcrowded | 416 | 1,033 | 1,674 | 1,037 | 1,407 |
| Incidence of Overcrowding | 3.30% | 5.50% | 6.90% | 3.3% | 3.9% |

¹ Housing Units that exceed 1.0 or more persons per room.
 Source: U. S Bureau of Census. 1980, 1990, 2000. American Community Survey 2010 & 2017

Table 12 shows that 3.3 percent of the total housing units within the City of Clovis were overcrowded in 1980, and 5.5 percent of the units were overcrowded in 1990 as reported by the Bureau of Census. According to the American Community Survey of 2017, 3.9 percent of the units were overcrowded.

Special Needs Populations

The State Housing law requires that the special needs of certain disadvantaged groups be addressed. The needs of the elderly, handicapped, large families, female heads of household, and farm workers are addressed below.

Elderly Persons

The special housing needs of the elderly are an important concern of the City of Clovis since many retired persons are likely to be on fixed low incomes. Besides the affordability concern, the elderly maintain special needs related to housing construction and location. The elderly often require ramps, handrails, lower cupboards and counters, etc., to allow greater access and mobility. They also may need special security devices for their homes to allow greater self-protection. The elderly also have special needs regarding location. They need to have access to public facilities (i.e., medical and shopping) and public transit facilities. Many would rather remain in their homes rather than relocate to a retirement community and may need assistance to make home repairs. Every effort should be made to maintain their dignity, self-respect, and quality of life.

As reported in the 2017 American Communities Survey, 10,107 City residents, or 10.6 percent of the total population, were 65 years of age or older in 2017.

The City has a number of apartment complexes for occupancy by elderly or handicapped households. Following is a list of apartment complexes that are designated for seniors/disabled.

Disabled Accessible Rental Housing

- Ashtree Apartments, 3131 Willow Avenue
- Briarwood Apartments, 275 W. Alamos Avenue
- Claremont (seniors only), 2151 Sunnyside Avenue
- Claremont II (seniors only), 2152 Stanford Avenue
- Clovis Village Apartments, 250 W. Bullard Avenue
- Creek Park Village (seniors only), Third and Minnewawa
- Creekside Apartments, 4751 E. Gettysburg Avenue
- Dry Creek Meadows, 740 N. Villa Avenue
- Eastview Apartments, 647 W. Barstow Avenue
- Hotchkiss Terrace, 51 Barstow Avenue
- Magnolia Crossing, 32 W. Sierra Avenue
- Monte Vista Apartments, 3140 Peach Avenue
- Park Creek Apartments, 1108 Villa Avenue
- Park Villa Apartments, 361 W. Santa Ana Avenue
- Peach Wood Apartments, 391 Peach Avenue
- Royal Villa Apartments, 280 W. Alamos Avenue
- Roseview Terrace, 101 Barstow Avenue
- Santa Ana Villa, 2216 #1 Peach Avenue
- Scottsman #2, 55 W. Bullard Avenue
- Shadow Brook Apartments, 111 W. Ninth Street
- Sierra Heartlands (seniors only) 1994 Shaw Avenue
- Sierra Meadows, 139 W. Portals Avenue
- Sierra Ridge Apartments, 100 Fowler Avenue
- Silver Ridge Apartments, 88 N. DeWitt Avenue
- Villa Apartments, 505 Villa Avenue
- Villa Sierra, 139 Santa Ana Avenue
- Village Arms, 1253 Pollasky Avenue
- Willow Lake Apartments, 697 W. Santa Ana Avenue
- Willow Ridge Apartments, 2800 Willow Avenue

Woodbridge Apartments, 1099 Sylmar Avenue
Woodside Village Apartments, 1050 Minnewawa Avenue

Disabled Persons

Two major housing needs of the disabled are access and affordability. There are many types of physical and mental disabilities. Section 22511.5 of the California Administrative Code for vehicle and building code enforcement defines a disabled person as:

1. Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.
2. Any person who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.
3. Any person who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume when measured for one second by spirometry is less than one liter or his arterial oxygen tension (pO2) is less than 60 mm/Hg on room air at rest.
4. Any person who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as Class III or Class IV according to standards accepted by the American Heart Association.

Disabled persons often require specially designed dwellings to permit free access not only within the dwelling, but also to and from the unit. Special modifications to permit free access are very important in maintaining independence and dignity. The California Administrative Code Title 24 Requirements sets forth access and adaptability requirements for the physically handicapped. These regulations apply to public buildings such as motels, and require that ramp ways, larger door widths, restroom modifications, etc., be designed which enable free access to the handicapped. Such standards are not mandatory of new single-family residential construction.

Like the elderly, the disabled also have special needs with regard to location. There is typically a desire to be located near public facilities, and especially near public transportation facilities that provide service to the disabled. Many government programs which group seniors and disabled persons together (such as HUD Section 202 housing) are inadequate and often do not serve the needs of the disabled. A number of disabled persons receive supplemental Social Security Income (SSI) and are on fixed incomes. Increasing inflation and housing costs adversely affect these individuals in terms of securing housing.

The Census Bureau defines disability as a long-lasting sensory, physical, mental, or emotional condition or conditions that make it difficult for a person to do functional or participatory activities such as seeing, hearing, walking, climbing stairs, learning, remembering, concentrating, dressing, bathing, going outside the home, or working at a job. 12,319 persons have a disability in Clovis according to the 2017 American Communities Survey representing 11.9% of the population. 38.8% of persons over 65 are reported to have a disability.

The mobility or self-care limitation does not necessarily translate into a need for specially constructed housing units. Therefore, it is difficult to estimate the number of disabled persons in need of housing. A number of the senior apartment complexes provide handicapped features on their lower level apartment units.

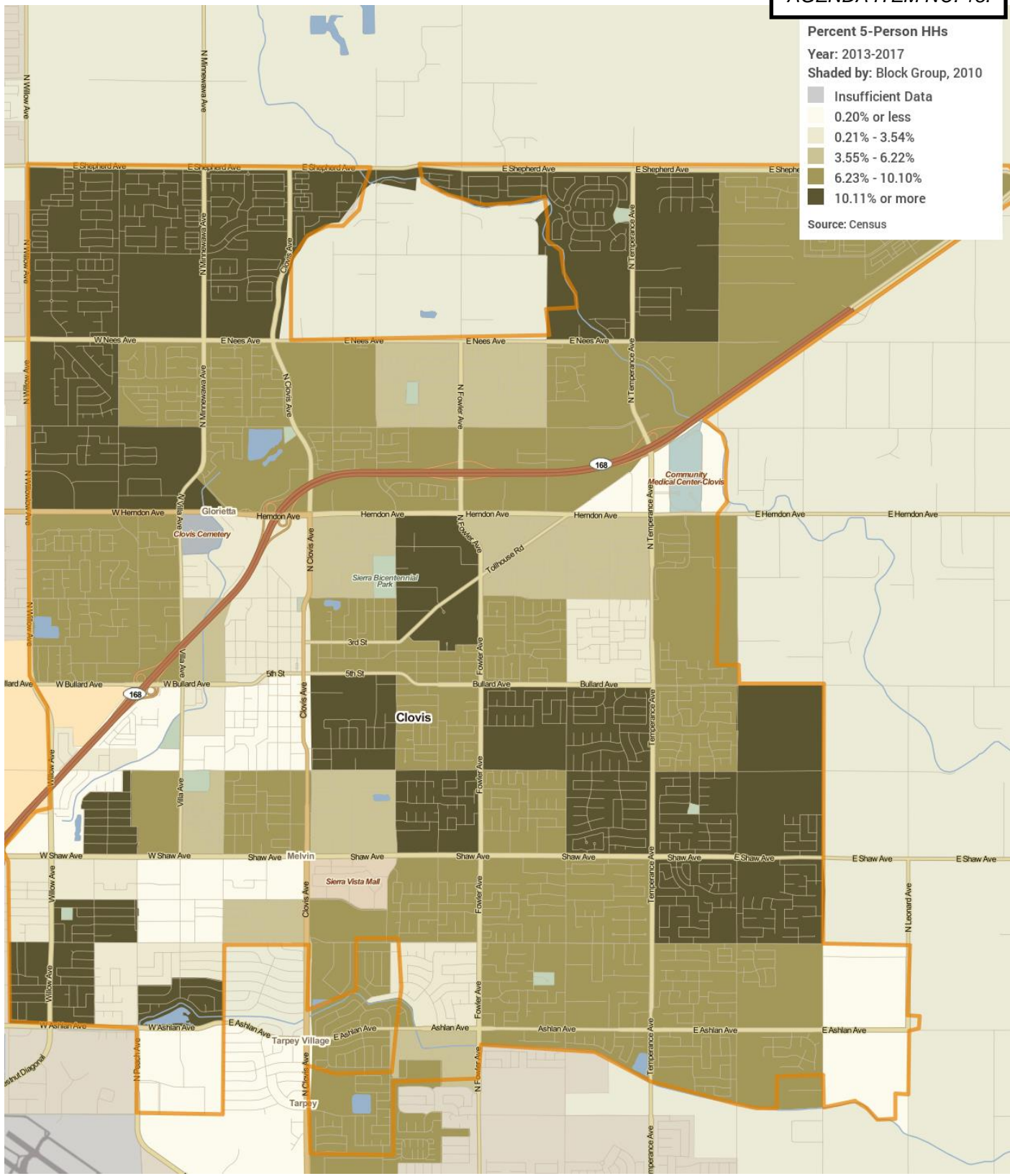
When contacted regarding accessibility issues, City staff will provide for the participation of disabled individuals by supplying assisted listening devices, print enlargers, sign language interpreters, and other necessary accommodations, as well as generally providing for the physical mobility of all participants.

Large Family Households

Large households are defined as households with four or more persons. Most recent data provided by the U.S. Census Bureau, 2017 American Community Survey reported 10,356 households in the City of Clovis with four or more persons. Large families are indicative of households that require larger dwellings, with more bedrooms to meet their housing needs.

MAP 8: LARGE FAMILY CONCENTRATIONS

AGENDA ITEM NO. 18.



Female Heads of Household

Single female heads of household form a distinguishable group in the Clovis housing market. In 1990, 12.2 percent of all Clovis households consisted of single female heads of household. The 2000 Census shows that females head 3,219 households, which was 13.2 percent of the total households. The American Community Survey of 2017 shows that females head 4,554 households, which represents 13.4 percent of the total households, while single female heads of household constitute a group with serious housing concerns. Families with female heads of household experience a high incidence of poverty.

The Census provides data on the number of female-headed households below the poverty line. Poverty status is the relationship of income to the number of children under 18 for a household. In 2017, the percent of female-headed households in Clovis below the poverty level represented 33.2 percent.

Census data does not analyze the relationship between poverty status and housing tenure. Therefore, it is difficult to estimate the housing needs of low-income female-headed households. The total resources of assisted units in the City are not adequate to serve the number of these households that would potentially require low-income housing. Resources in the community to assist single female heads of household generally include Section 8 Vouchers and other forms of public assistance. This type of assistance is limited by funding and the number of Section 8 vouchers available. Single female heads of household who make slightly more than upper qualifying limits for public assistance in many respects fall through the cracks in the community.

Increases in the numbers of single female heads of household in Clovis can be attributed to several factors. One factor that appears to stand out is the interest in placing children in the Clovis Unified School District. While the school district extends beyond the border of the City of Clovis, a substantial number of the housing opportunities in lower- to moderate-priced rental units lie in the City of Clovis.

Farm Workers

Based on the American Community Survey of 2017, workers in farming or related industries in Clovis are approximately 1.4 percent of all workers. During the seasons when large numbers of migrant and seasonal farm workers and their families are in Fresno County, there is increased pressure on the affordable housing stock. That pressure may take the form of lower vacancy rates, tenants with inadequate facilities (garages or other out buildings), and overcrowding.

The small numbers of farm worker households in Clovis are typically able to find housing within the affordable housing stock. Farm worker households in Clovis can be served through the City’s affordable housing projects.

Homeless

Understanding the extent of homelessness in Clovis has been difficult because there are no shelters or other services available. If a person or family finds himself or herself homeless, they must go to facilities in the City of Fresno for assistance. The following is a listing of the homeless facilities in Fresno County:

TABLE 13: HOMELESS SERVICES IN FRESNO COUNTY

| Type of Shelter | Organization Name | Project Type | Subpopulation | Beds |
|-------------------|----------------------|-------------------------|--------------------------|------|
| Emergency Shelter | County of Fresno ETA | Vouchers | Households with children | 70 |
| Emergency Shelter | Fresno EOC | Sanctuary Youth Shelter | Youth (under 18) | 10 |

| | | | | |
|----------------------------------------------|-----------------------|-------------------------------|--------------------------|--------------|
| Emergency Shelter | Fresno EOC | Transitional Youth Emergency | Youth (18-24) | 16 |
| Emergency Shelter | Marjaree Mason Center | Domestic Violence Shelter | Domestic Violence | 89 |
| Emergency Shelter | Marjaree Mason Center | MMC DV CalOES | Domestic Violence | 7 |
| Emergency Shelter | Poverello House | Voucher Program | Children or Veterans | 4 |
| Emergency Shelter | Poverello House | Naomi's House | Women only | 28 |
| Emergency Shelter | Turning Point (TPOCC) | Bridge Point | | 11 |
| Emergency Shelter | VA Central CA Health | Birdie's Guest Home | Veterans | 6 |
| Emergency Shelter | VA Central CA Health | Redux House | Veterans | 35 |
| Transitional | Fresno EOC | Bridge to Home 1 | | 17 |
| Transitional | Fresno EOC | Bridge to Home 2 | | 2 |
| Transitional | Marjaree Mason Center | CalOES Family Stabilization | Domestic Violence | 15 |
| Transitional | Marjaree Mason Center | Clovis Shelter | Domestic Violence | 18 |
| Transitional | Valley Teen Ranch | Transitional Living Home | Youth (18-24) | 4 |
| Transitional | West Care | Homefront (Bridge) | Veterans | 4 |
| Transitional | West Care | Homefront | Veterans | 12 |
| Transitional | West Care | Veteran's Plaza (Bridge) | Veterans | 8 |
| Transitional | West Care | Veteran's Plaza | Veterans | 20 |
| Rapid Re-Housing | Fresno EOC | Project Home Plate | | 7 |
| Rapid Re-Housing | Fresno Housing Auth | A Family Home | Households with children | 60 |
| Rapid Re-Housing | Fresno Housing Auth | A Rapid Way Home | | 0 |
| Rapid Re-Housing | Fresno Housing Auth | CalWORKS HSP | Households with children | 153 |
| Rapid Re-Housing | Fresno Housing Auth | Rapid Rehousing | Households with children | 23 |
| Rapid Re-Housing | Fresno Housing Auth | TBRA | | 51 |
| Rapid Re-Housing | Marjaree Mason Center | CalOES RRH Next Step | Domestic Violence | 30 |
| Rapid Re-Housing | Marjaree Mason Center | Housing First Rapid Rehousing | Domestic Violence | 46 |
| Rapid Re-Housing | Marjaree Mason Center | Rapid Re-housing | Domestic Violence | 27 |
| Rapid Re-Housing | Marjaree Mason Center | Welcome Home 1 | Domestic Violence | 11 |
| Rapid Re-Housing | Marjaree Mason Center | Welcome Home 2 | Domestic Violence | 43 |
| Rapid Re-Housing | Marjaree Mason Center | Welcome Home 2A | Domestic Violence | 11 |
| Rapid Re-Housing | Marjaree Mason Center | Welcome Home 3 | Domestic Violence | 35 |
| Rapid Re-Housing | West Care | ESG Project Unite | | 3 |
| Rapid Re-Housing | West Care | SSVF | Veterans | 26 |
| Rapid Re-Housing | WestCare | County Rapid Rehousing | | 0 |
| Rapid Re-Housing | WestCare | HDAP | | 8 |
| Permanent | Fresno EOC | Phoenix | | 19 |
| Permanent | Fresno EOC | Project Hearth | | 20 |
| Permanent | Fresno EOC | Project Homestead | | 21 |
| Permanent | Fresno Housing Auth | Alta Monte | | 29 |
| Permanent | Fresno Housing Auth | Renaissance at Santa Clara B | | 24 |
| Permanent | Fresno Housing Auth | S+C IV | | 58 |
| Permanent | Fresno Housing Auth | Santa Clara | | 24 |
| Permanent | Fresno Housing Auth | SPC I-III | | 146 |
| Permanent | Fresno Housing Auth | Trinity Project | | 20 |
| Permanent | Fresno Housing Auth | VASH Fresno | Veterans | 584 |
| Permanent | Mental Health Systems | Fresno Housing Plus III | | 9 |
| Permanent | Mental Health Systems | Hacienda | | 11 |
| Permanent | Turning Point (TPOCC) | Falcon Court | | 46 |
| Permanent | Turning Point (TPOCC) | Family Villa | Households with children | 104 |
| Permanent | Turning Point (TPOCC) | Serenity Village | | 7 |
| Permanent | Turning Point (TPOCC) | STASIS | | 28 |
| Permanent | West Care | HOPWA | | 35 |
| Permanent | WestCare | Project Lift Off | | 45 |
| Permanent | Fresno Housing Auth | Renaissance at Parc Grove | Veterans | 44 |
| Total Beds Available in Fresno County | | | | 2,184 |

The City of Clovis is an active member of the Fresno-Madera Continuum of Care (FMCOCC) that seeks federal funding for the region. This collaborative group addresses homeless issues including chronic homelessness, homelessness prevention, and discharge coordination policies on a region wide basis that includes the City of Clovis. In a point-in-time survey conducted by City staff in January, 2019, in

accordance with HUD requirements with the FMCOC, 27 homeless individuals were located and surveyed in Clovis.

Projected Single-Family Housing Demand for All Income Levels

The Council of Fresno County Governments (COG) is required by state law to identify future housing needs through 2013. The Regional Housing Needs Allocation establishes both the projected need for nonmarket rate housing and the "same share" distribution of the projected need to each jurisdiction in each market area. The need for nonmarket rate housing is defined as households in the very low-, low-, and moderate- income groups that pay over 30 percent of the total income for housing. It is assumed that households with an above moderate income are not in need of economic aid.

The RHNA calculates the projected new construction need necessary to accommodate the anticipated population through 2023. The basic construction need was calculated by factoring projected population, vacancy rates, housing market removals, and existing housing units. State housing law requires that cities and counties demonstrate adequate residential sites that could accommodate development of housing that satisfies the future housing need. The future need by income group is shown on the following Table 14. A projected need of 6,328 new housing units is assigned to Clovis in the RHNA, based upon current conditions.

TABLE 14: REGIONAL HOUSING NEEDS ALLOCATION 2013-23

| Income Category | Additional Units |
|------------------------|-------------------------|
| Extremely Low | 1,160 |
| Very Low | 1,161 |
| Low | 1,145 |
| Moderate | 1,018 |
| Above Moderate | 1,844 |
| Total | 6,328 |

PRIVATE SECTOR PRACTICES

This section of the AI analyzes the practices of the private sector as they relate to fair housing choice, including the policies and practices of real estate agents, property managers and lenders.

Real Estate Sales Practices

In the State of California, to engage in the business of real estate sales, a broker or salesperson must be licensed by the Department of Real Estate (DRE). The DRE also enforces violations of California real estate law including violations in the City of Clovis. The real estate industry is very organized with almost all brokers and salespersons being members of real estate associations. The two largest are the California Association of Realtors (CAR), which is a member of the National Association of Realtors (NAR), and the California Association of Real Estate Brokers (CAREB), associated with the National Association of Real Estate Brokers (NAREB).

NAR has a professional code of conduct that prohibits unequal treatment in services or employment practices. Article 10 of the NAR code of ethics states:

“Realtors shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin. Realtors shall not be party to any plan or agreement to discriminate against any person or persons on the basis of race, color, religion, sex handicap, familial status, or national origin.”

A Realtor pledges to uphold and conduct business in keeping with the code of ethics. The code of ethics is a strong statement in support of equal opportunity in housing. If a Realtor suspects discrimination they are required to report to the local board of realtors (Fresno Association of Realtors) who then has the responsibility to enforce the code of ethics including corrective action. The Fresno Association of Realtors provides trainings through its affiliation with the California Association of Realtors for fair housing requirements and issues. These courses ensure Realtors understand the law and their obligations under it and their status as a Realtor.

NAREB members also follow a strict code of ethics stating that “any NAREB member shall not discriminate against any person because of race, color, religion, sex, national origin, disability, familial status or sexual orientation.” (Part I, Section 2, NAREB Code of Ethics) This applies to the following transactions:

- In the sale or rental of real property
- In advertising the sale or rental of real property
- In financing real property
- In conducting business

In addition Part 1, Section 2 states “a NAREB member shall not be instrumental in establishing, reinforcing, or extending any agreement or provision that restricts or limits the use or occupancy of real property to any person or group of persons on the basis of race, color, religion, sex, national origin, disability, familial status, or sexual orientation.”

Rental and Property Management

The California Apartment Association (CAA) is the country’s largest statewide trade association for rental property owners and managers totaling over 1.5 million members. CAA supports all local, state and

federal fair housing laws for all residents without regard to color, race, religion, sex, marital status, mental or physical disability, age, familial status, sexual orientation, or nation origin. Members of the CAA agree to abide by the following provisions in their Code for Equal Housing Opportunity:

- We agree that in the rental, lease, sale, purchase, or exchange of real property, owners and their employees have the responsibility to offer housing accommodations to all persons on an equal basis;
- We agree to set and implement fair and reasonable rental housing rules and guidelines and will provide equal and consistent services throughout our resident’s tenancy;
- We agree that we have no right or responsibility to volunteer information regarding the racial, creed, or ethnic composition of any neighborhood, and we did not engage in any behavior or action that would result in steering; and
- We agree not to print, display or circulate any statement or advertisement that indicates any preference, limitations, or discrimination in the rental or sale of housing.

The CAA offers a Certification in Residential Management (CRM), which includes a course on fair housing law. In addition, local associations offer trainings to further educate professionals in the industry.

Advertisements

In June 2019, a review of rental housing advertisements for the City of Clovis was completed to identify fair housing violations or impediments. All advertisements were examined for language that indicates that housing would not be made available to persons in protected classes. No advertisements were found with indications of illegal or unfair practices being conducted. The review looked at 20% of 2004 listings on Craigslist and Zillow. A total of 450 were reviewed and no fair housing impediments or violations were identified.

Use of Restrictive Covenants

Covenants that restrict the ownership or use of real property based on membership in a protected class are prohibited under state and federal law. However, it has been found recorded documents with these terms can still exist.

In order to eliminate this occurrence, the California Department of Real Estate reviews Covenants, Conditions, and Restrictions for all subdivisions that have five or more units. This process is authorized by the Subdivided Lands Act and mandated by the Business Professions Code, Section 11000. The process includes a review for fair housing law compliance.

Mortgage Lending

Lending practices in the private sector may impact a household’s access to housing. A key aspect to fair housing choice is equal access to credit for the purchase or improvement of a home. In order to ensure and enforce equal access, the Community Reinvestment Act was passed in 1997. The following reviews the lending practices of financial institutions and the corresponding access to credit by all households including minority and low-income households.

Conventional vs. Government Backed Financing

Conventional financing is market-rate priced loans provided by private lending institutions such as banks and mortgage companies. To assist households that may have difficulty in obtaining home mortgage financing in the private market due to income and equity issues, several government agencies offer loan products that have below market interest rates and are insured by the agencies. Sources of government-backed financing include loans insured by the Federal Housing Administration (FHA – Insured) and the

Department of Veterans Affairs (VA-Guaranteed). These loans are typically provided through private lending institutions and allow a household to qualify when they would otherwise not.

Home Mortgage Disclosure Act (HMDA) Data Analysis

The Home Mortgage Disclosure Act (HMDA) was enacted by Congress in 1975 and is carried out by the Federal Reserve’s Bank. This Act provides the public loan data that:

- provides information on whether financial institutions are serving the house needs of their service areas;
- provides information to public entities to determine where a shortage of credit may exist and identifying any potential discrimination patterns.

This information is derived from loan applications where lenders are required to disclose race, gender and annual income of the applicant.

For this analysis HMDA data records were pulled for Clovis census tracts from the most recent year available, the calendar year of 2017. A total of 764 records were available for review and are analyzed in this section in great detail.

Home Purchase Lending

The records that indicate the environment for owner-occupant households to obtain credit for a purchase of a home indicate a total of 764 applications had been submitted in the 2017 reporting period. Table 15 shows the number of applications that were financed and the status for loan applications that were not approved.

TABLE 15: HOME PURCHASE LOANS IN CLOVIS

| Result | FHA/FSA/RHS/VA | Conventional | Total | Percentage |
|--------------------------------|----------------|--------------|------------|----------------|
| Loans Originated (funded) | 203 | 412 | 615 | 80.6% |
| App Denied | 21 | 35 | 56 | 7.3% |
| App Withdrawn | 32 | 47 | 79 | 10.3% |
| File Closed for Incompleteness | 5 | 9 | 14 | 1.8% |
| Total Applications | 261 | 503 | 764 | 100.00% |

Source: 2017 HMDA Data

Loan Type

The financed loans and denied loans are broken out by source of capital in Table 15. The bulk of the loans were underwritten by conventional banks but government backed mortgage programs made up a significant portion of the lending activity.

Race and Ethnicity

Table 16 indicates loan applicants by race and ethnicity. Fifty-one percent of loan applicants indicated being a minority. Determined separately is the race category, 28% indicated being Hispanic or Latino.

Lending Outcomes

Table 16 shows lending outcomes by race. Eighty percent of all primary residence loan applications are approved and financed. Eight percent of loan applications were denied distributed evenly across all groups. Table 17 shows lending denial reason by race, ethnicity and income. The most often denial reason for all groups lack of collateral.

TABLE 16: APPLICATIONS RECEIVED AND RESULTS BY RACE & ETHNICITY

| Category | Received | | Originated | | Applications Denied | | Withdrawn | | Incomplete | |
|-------------------------------|----------|------|------------|------|---------------------|-----|-----------|-----|------------|----|
| | # | % | # | % | # | % | # | % | # | % |
| Race | | | | | | | | | | |
| American Indian/Alaska Native | 11 | 1% | 9 | 82% | 1 | 9% | 1 | 9% | 0 | 0% |
| Asian | 70 | 9% | 58 | 83% | 5 | 7% | 4 | 6% | 3 | 4% |
| African American or Black | 12 | 2% | 10 | 83% | 1 | 8% | 4 | 8% | 0 | 0% |
| Nat Hawaiian/Pacific Islander | 4 | 1% | 4 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |
| White | 632 | 83% | 508 | 80% | 46 | 7% | 68 | 9% | 10 | 2% |
| Race Not Available | 35 | 4% | 26 | 74% | 3 | 8% | 5 | 14% | 1 | 3% |
| | 764 | 100% | 615 | 80% | 56 | 8% | 79 | 10% | 14 | 2% |
| Ethnicity | | | | | | | | | | |
| Hispanic or Latino | 198 | 26% | 151 | 76% | 16 | 8% | 28 | 14% | 3 | 2% |
| Not Hispanic or Latino | 538 | 70% | 447 | 83% | 37 | 7% | 45 | 8% | 10 | 2% |
| Ethnicity Not Available | 28 | 4% | 17 | 60% | 3 | 10% | 6 | 2% | 1 | 4% |
| | 764 | 100% | 615 | 80% | 56 | 14% | 79 | 10% | 14 | 3% |
| Summary | | | | | | | | | | |
| White/Non-Hispanic | 444 | 58% | 369 | 83% | 30 | 7% | 39 | 9% | 7 | 2% |
| Minorities, Incl. Hispanic | 295 | 39% | 246 | 83% | 26 | 9% | 28 | 10% | 6 | 2% |
| Race/Ethnicity Not Available | 25 | 3% | - | - | - | - | - | - | 1 | 4% |
| | 764 | 100% | 615 | 80% | 56 | 7% | 67 | 9% | 14 | 2% |

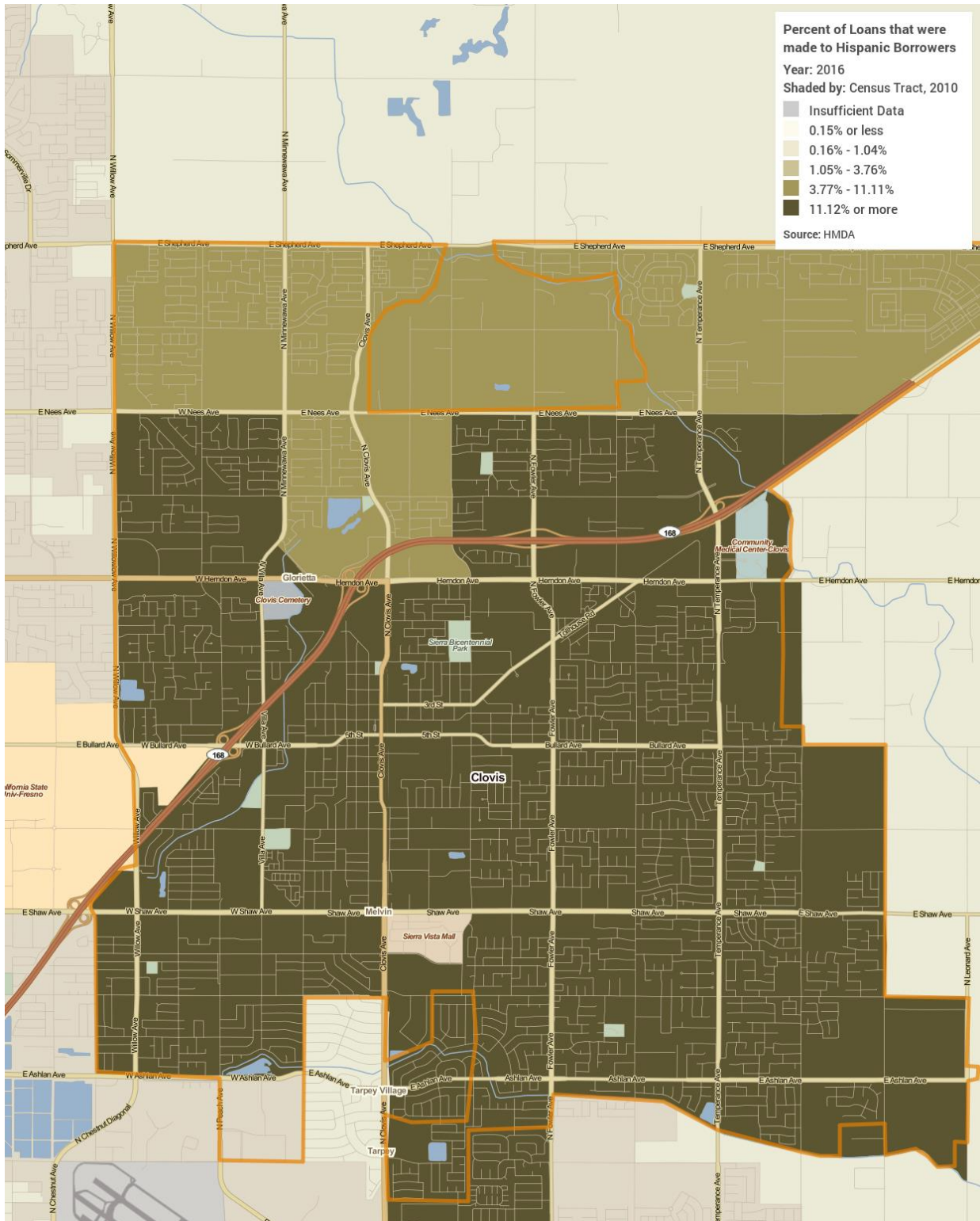
TABLE 17: REASONS FOR DENIAL BY RACE, ETHNICITY, and INCOME

| Race | Debt to Income Ratio | | Emp. History | | Credit History | | Collateral | | Insufficient Cash | | Unverifiable Information | |
|-------------------------------|----------------------|-----|--------------|------|----------------|-----|------------|-----|-------------------|------|--------------------------|------|
| | # | % | # | % | # | % | # | % | # | % | # | % |
| American/Alaska Native | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 8% | 0 | 0% | 0 | 0% |
| Asian | 2 | 25% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| African American or Black | 0 | 0% | 0 | 0% | 1 | 13% | 0 | 0% | 0 | 0% | 0 | 0% |
| Nat Hawaiian/Pacific Isl. | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| White | 5 | 67% | 1 | 100% | 6 | 75% | 11 | 84% | 2 | 100% | 4 | 100% |
| Race Not Available | 1 | 13% | 0 | 0% | 1 | 12% | 1 | 8% | 0 | 0% | 0 | 0% |
| | 8 | | 1 | | 8 | | 13 | | 2 | | 4 | |
| Ethnicity | | | | | | | | | | | | |
| Hispanic or Latino | 1 | 13% | 0 | 0% | 4 | 50% | 3 | 23% | 0 | 7% | 1 | 25% |
| Not Hispanic or Latino | 6 | 75% | 1 | 100% | 3 | 38% | 9 | 69% | 2 | 100% | 3 | 75% |
| Ethnicity Not Available | 1 | 12% | 0 | 0% | 1 | 12% | 1 | 8% | 0 | 0% | 0 | 0% |
| | 8 | | 1 | | 8 | | 13 | | 2 | | 4 | |
| Race/Ethnicity Summary | | | | | | | | | | | | |
| White/Non-Hispanic | 6 | 88% | 1 | 100% | 3 | 34% | 8 | 67% | 2 | 100% | 3 | 75% |
| Others, Incl. Hispanic | 1 | 12% | 0 | 0% | 4 | 66% | 4 | 33% | 0 | 0% | 1 | 25% |
| | 7 | | 1 | | 7 | | 12 | | 2 | | 4 | |
| Income | | | | | | | | | | | | |
| Less Than 50% | 1 | 12% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| 50-79% | - | 0% | 0 | 0% | 0 | 0% | 2 | 15% | 0 | 0% | 0 | 0% |
| 80-99% | 1 | 13% | 0 | 0% | 2 | 25% | 1 | 9% | 1 | 50% | 0 | 0% |
| 100-119% | 1 | 12% | 1 | 100% | 2 | 25% | 5 | 38% | 1 | 50% | 0 | 0% |
| 120% or more | 4 | 50% | 0 | 0% | 4 | 50% | 5 | 38% | 0 | 0% | 4 | 100% |
| Income Not Avail. | - | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| | 8 | | 1 | | 8 | | 13 | | 2 | | 4 | |

Mortgage Lending by Area

In addition to analyzing lending outcomes for individual applicant characteristics, it is important to analyze lending activity by area. Map 9 shows where the loans were made to Hispanic borrowers.

MAP 9: 2016 LOANS MADE TO HISPANIC BORROWERS



HMDA Data Analysis Summary

The analysis of the HMDA data does not show disparities in race and ethnicity in regards to obtaining financing to purchase a home. Geographically loans are being made across the City without deference to race or ethnicity.

Fair Housing Complaints and Enforcement

Patterns of complaints and enforcement are useful to assess the nature and level of potentially unfair or discriminatory housing practices in the private sector. Several public and private agencies may receive complaints about unfair housing practices or housing discrimination.

At the federal level, the Office of Fair Housing and Equal Opportunity (FHEO) of the Department of Housing and Urban Development receives complaints of housing discrimination. FHEO may act on complaints if they represent a violation of federal law and FHEO finds there is reasonable cause to pursue administrative action in federal court. The FHEO was contacted and provided the data as supplied in Table 18. Twelve Complaints were filed, eight have been closed over the five year reporting period. Seven of those were determined to not have cause, two were settled, and the remaining three have not been closed.

TABLE18: CLOVIS HOUSING DISCRIMINATION COMPLAINTS FILED WITH HUD/FHAP

| Filing Date | Closure Date | Closure Reason | Bases | Issues |
|-------------|--------------|------------------------------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 04/21/15 | 03/14/16 | No cause determination | Religion | Discriminatory refusal to rent; Discriminatory advertising, statements and notices |
| 09/24/15 | 07/01/16 | No cause determination | Disability | Failure to make reasonable accommodation |
| 10/27/15 | | | Disability | Using ordinances to discriminate in zoning and land use |
| 01/27/16 | 01/06/17 | No cause determination | Familial Status | Discriminatory refusal to rent and negotiate for rental; Discriminatory advertising, statements and notices |
| 04/05/16 | | | Disability | Using ordinances to discriminate in zoning and land use |
| 11/07/16 | 08/16/17 | No cause determination | Disability | Discriminatory refusal to rent; Discriminatory advertising, statements and notices |
| 03/22/17 | 04/20/17 | Conciliation/settlement successful | Disability | Discrimination in terms/conditions/privileges relating to rental; Failure to make reasonable accommodation |
| 05/18/17 | 05/18/18 | No cause determination | National Origin, Disability | Discriminatory advertising, statements and notices; Discriminatory terms, conditions, privileges, or services and facilities; Discriminatory acts under Section 818 (coercion, Etc.) |
| 08/02/18 | 10/18/18 | Conciliation/settlement successful | Religion | Discriminatory terms, conditions, privileges, or services and facilities |
| 09/25/18 | 11/26/18 | No cause determination | Race | Discrimination in terms/conditions/privileges relating to rental; Other discriminatory acts |
| 03/14/19 | | | Sex, Retaliation | Other discriminatory acts |
| 03/14/19 | | | Retaliation | Discriminatory acts under Section 818 (coercion, Etc.) |

At the state level, the Department of Fair Employment and Housing (DFEH) as a similar role to FHEO. DFEH also receives, investigates, attempts to settle, and can take administrative action to prosecute violations of the law. DFEH receives funding from HUD to enforce fair housing in the state. The DFEH was contacted and was only able to provide data at a county level. The report, located here: <https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2018/08/August302018AnnualReportFinal.pdf> shows 19 complaints were filed for 2017 for all of Fresno County. Details on the results of those cases were not broken out.

The City of Clovis does not appear to have a significant problem in the private sector regarding unfair housing practices or housing discrimination. A total of 12 complaints were filed over five years, of which 7 were closed due to no cause being found, 2 were settled and three have not been closed. However, the City needs to ensure all citizens are aware of fair housing law and the agencies available to assist in ensuring fair housing law compliance as residents unfamiliar with fair housing law may not know when their rights are being violated and thus should file a complaint.

PUBLIC POLICIES

City Programs

The City of Clovis offers multiple programs that encourage fair housing choice or support the City’s efforts to remove regulatory barriers to equal housing opportunities. Most of the programs promote affordable housing opportunities for low- to moderate income households (up to 80% or 120% of area median income) and preserve the City’s existing housing stock.

First-Time Homebuyer Program

The City of Clovis has a long tradition of providing first-time homebuyers with affordable purchasing opportunities. In partnership with local non-profits and the City’s Redevelopment Agency, the City constructs and sells new homes throughout the year. In addition, the City recently received an award of HOME funds from the State of California to begin a down payment assistance program. This will further bolster opportunities for low-income households to purchase homes in Clovis. There is significant demand for these programs despite the current downturn in the housing market.

Home Repair Grants Program

The City utilizes CDBG funds to provide grants to low-income homeowners in Clovis. The grants allow for repairs of health and safety issues. This program is very popular with strong interest year-to-year.

Affordable Multi-Family Development Program

The City works with non-profit developers to secure financing for the construction of affordable multi-family projects in Clovis. Recently this has resulted in the award of both new market tax credits for senior supportive housing (24 units) and low income housing tax credits for 60 multi-family units.

Capital Improvement Program

The City of Clovis allocates CDBG funding every year for the improvement of infrastructure in low-income neighborhoods. Improvements include street and alley reconstruction, park improvements, ADA improvements, and sidewalk repair. This targets funding into neighborhoods where the City is making an investment with its affordable housing funds to ensure a quality neighborhood.

Area-Based Policing/Code Enforcement

The City utilizes a Community Service Office utilizing CDBG funding to provide additional policing activities in eligible CDBG areas. Much of this effort has been targeting housing conditions with a goal of providing decent, safe, and sanitary housing for all residents of Clovis.

Building and Planning Practices

Public policies established at the state, regional, and local levels can affect housing development and therefore may have an impact on the range and location of housing choices available to residents. This section discusses the public policies enacted by the City and their potential impacts on housing development. Zoning and housing related documents (such as housing elements and consolidated plans) were reviewed to identify potential impediments to fair housing choice and affordable housing development.

Building Codes

The City of Clovis has adopted the California Building Code (2017), California Mechanical Code (2017), California Plumbing Code (2017), California Electrical Code (2017), and California Energy Code (2017). The City has not made substantive amendments to the code that would adversely affect standard types of housing.

Housing Element Law and Compliance

As part of identifying impediments to fair housing choice, the City of Clovis’ Housing Element was reviewed. California housing element law requires that local governments adequately plan to meet the existing and projected needs of all economic segments of the community. The housing element law requires the City to:

- Identify adequate sites which will be made available through appropriate zoning and development standards and with the services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels in order to meet the City’s regional housing needs.
- Assist in the development of adequate housing to meet the needs of extremely low-, very low-, low-, and moderate-income households.
- Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.
- Conserve and improve the condition of the existing affordable housing stock.
- Promote fair housing opportunities for all persons.

Land Use Policies and Practices

The City’s ordinances contain a variety of zoning districts that allow a range of housing opportunities. Table 19 indicates zoning districts and the types of housing allowed in each. No significant barriers were identified for any of the housing types indicated in Table 19 (see page 42).

Analysis of the City’s Zoning Ordinance provides for the following residential districts:

- Agricultural District (A): The A District identifies areas appropriate for the conservation of productive agricultural lands that can be sustained at an operational level and retain agricultural land in economically viable parcel sizes. The maximum allowable density is one dwelling unit per 20 acres. The A District is consistent with the Agricultural land use designation of the General Plan.
- Rural Residential District (R-R): The R-R District identifies areas appropriate for large lot single family uses, within a semi-rural environment. The allowable maximum density is one dwelling unit per two acres, with a density range of 0 to 0.5 dwelling units per acre. The R-R District is intended to provide for lower-density development and small scale agricultural operations. The R-R District is consistent with the Rural Residential land use designation of the General Plan.
- Single-Family Residential Very Low Density Districts (R-A, R-1-A, R-1-AH): The R-A, R-1-A, and R-1-AH Districts identify areas appropriate for large lot single family uses. The allowable

maximum density is one dwelling unit per 18,000 square feet in the R-1-A and R-1-AH Districts and one dwelling unit per 24,000 square feet in the R-A District, with a density range of 0.6 to 2.0 dwelling units per acre. The R-A, R-1-A, and R-1-AH Districts are consistent with the Very Low Density Residential land use designation of the General Plan.

- Single-Family Residential Low Density Zones (R-1, R-1-B, R-1-C): The R-1, R-1-B, and R-1-C Districts identify areas appropriate for conventional single family uses. The allowable density range is 2.1 to 4.0 units per acre, with not more than one dwelling unit per parcel. The R-1, R-1-B, and R-1-C Districts are consistent with the Low Density Residential land use designation of the General Plan when developed within the above density range.
- Single-Family Residential and Single-Family Residential Medium Density District (R-1, R-1-MD): The R-1 and R-1-MD Districts identify areas appropriate for single family uses, including attached and detached single family structures. The allowable density range is 4.1 to 7.0 units per acre, with the level of density determined by compliance with performance standards. The R-1 District is consistent with the Low and Medium Density Residential land use designations of the General Plan. The R-1-MD District is consistent with the Medium Density Residential land use designation of the General Plan.
- Single-Family Planned Residential Development District (R-1-PRD): The R-1-PRD District identifies areas appropriate for single family small lot uses, including attached and detached single family structures on small lots. The allowable density range is 4.1 to 15.0 units per acre, with the level of density determined by compliance with performance standards. The R-1-PRD District requires a planned development permit. The R-1-PRD District is consistent with the Medium and Medium-High Density Residential land use designations of the General Plan.
- Mobile Home, Single-Family District (R-1-MH): The R-1-MH District is appropriate for residential mobile homes and manufactured housing on individual lots. The R-1-MH District is intended as a single family planned unit development with individually owned parcels. The allowable density range is dependent on the underlying single family zoning for each parcel (R-1-18,000 sq. ft., R-1-9,500 sq. ft., R1-7,500 sq. ft., R-1-6,000 sq. ft.). The R-1-MH District is consistent with the Very Low, Low or Medium land use designations of the General Plan based upon the specific allowed minimum lot size.
- Multifamily Medium-High Density Districts (R-2, R-2-A): The R-2 and R-2-A Districts identify areas appropriate for moderately-dense residential uses, including multifamily apartments, duplexes, townhouses, and small parcel, attached and detached single family uses. The allowable density range is 7.1 to 15.0 dwelling units per acre. The R-2 and R-2-A Districts are consistent with the Medium-High Density Residential land use designation of the General Plan.
- Multifamily High Density Districts (R-3, R-3-A): The R-3 and R-3-A Districts identify areas appropriate for high-density residential uses, including attached and detached single family residential, multifamily apartments and condominiums. The allowable density range is from 15.1 to 25.0 units per acre. The R-3 and R-3-A Districts are consistent with the High Density Residential land use designation of the General Plan. Multifamily Very High Density District (R-4): The R-4 District identifies areas appropriate for high- and very high-density residential uses, particularly in association with mixed-use development. The allowable density range is from 15.1 to 25.0 units per acre, and up to 43 dwelling units per acre in association with mixed-use or transit-oriented development. The R-4 District is consistent with the High Density Residential, Mixed Use, and

Transit Center land use designations of the General Plan. Very high-density developments greater than 25 DU/acre up to 43 DU/acre will be allowed when specifically called out in the General Plan or in a specific plan.

- Mobile Home Park (MHP): The MHP District identifies areas appropriate for the accommodation of residential mobile homes and manufactured housing in a mobile home park. The MHP District is intended for multifamily development. The allowable density range is 7.1 to 15.0 dwelling units per acre. The MHP District is consistent with the Medium-High land use designation of the General Plan.

- Mixed Use Overlay District (M-U): The M-U Overlay District provides for the development and/or redevelopment and enhancement of existing developed areas appropriate for the creative mix of retail, professional office, industrial, business park, medical facilities, and residential uses located on the same parcel or within the same project area. Mixed-use development projects may either be freestanding within a project area, or combined within a single structure, and ensure compatible design standards, shared internal circulation, and related considerations. All uses allowable in the particular base zoning district with which the M-U Overlay District is combined shall be in compliance with Section 9.18.040 (M-U (Mixed Use) Overlay District standards). The M-U Overlay District is consistent with the Mixed Use land use designation of the General Plan Conclusion.

- In order to comply with the City’s Housing Element work plan the City rezoned nearly 200 acres to allow for 35 units or more per acre by right. This zone covers vacant parcels that are between 1-10 acres and have been reviewed for the ability to develop. Projects utilizing this overlay are held to the R-4 District as detailed above and have the ability to utilize the City’s Housing Density Bonus Ordinance as well.

The City’s Zoning Ordinance provides for a range of housing options.

TABLE 19: DEVELOPMENT STANDARDS BY RESIDENTIAL ZONE TYPE

| District | District Name | Density Units Per Acre | DUs Per Lot | Lot Coverage | Height | Minimum Lot Area | Minimum Lot Dimensions | | Minimum Setback | | |
|--------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------|----------------------------------------------|-----------------|-------------------------------------|-----------------------|-----------------------------------------|-----------------|-----------------|-----------------|-----------------|
| | | | | | | | Width | Depth | Front | Side | Rear |
| A | Agricultural | .05 | One | 30% | 35 Ft. | 20 acres | 250 | 500 | 35 | 10 | 20 |
| R-R | Rural Residential | .5 | One | 30% | 35 Ft. | 2 acres | 110 | 130 | 35 | 10 | 20 |
| R-A | Single Family Residential | 1.82 | One | 30% | 35 Ft. | 24,000 Sq. Ft. | 110 | 130 | 35 | 10 | 20 |
| R-1-A R-1-AH | | 2.42 | One | 30% | 35 Ft. | 18,000 Sq. Ft. | 110 | 130 | 35 | 10 | 20 |
| R-1-B | | 3.63 | One | 35% | 35 Ft. | 12,000 Sq. Ft. | 80 | 110 | 35 | 10 | 20 |
| R-1-C | | 4.84 | One | 40% | 35 Ft. | 9,000 Sq. Ft. | 70 | 110 | 25 | 7 | 20 |
| R-1 (7,500) (8,500) (9,500) (18,000) (24,000) | | Single Family Residential Min. lot size 6,000 SF | 7.26 5.80 5.12 4.59 2.42 1.82 | One | 40% | 35 Ft. | Designated by Zone Classification | 60 | 100 | 20 | 5 |
| R-1-MD | Single-Family Residential Medium Density | | One | 45% | 35 Ft. | 4,000 sq. ft. | 50 | 90 | 15 | 5 | 15 |
| R-1-PRD | Single-Family Residential Planned Residential Development | PD ⁴ | One | PD ⁴ | 35 Ft. | PD ⁴ | PD ⁴ | PD ⁴ | PD ⁴ | PD ⁴ | PD ⁴ |
| R-1-MH | Single-Family Residential Mobile Home District | 15 | One | 40% | 35 Ft. | Based on sub- zone | 60 | 100 | 20 | 5 | 20 |
| MHP | Mobile Home Park, Multi-Family | 15 | One/ 2,904 Sq. Ft. | 45% | 35 Ft | 3 Acres | 110 | 130 | 15 | 5 | 10 |
| R-2 R-2-A | Low Density Multiple Family Residential | 14.52 | One/ 3,000 Sq. Ft. | 45% | 35 Ft. (20 Ft. in R-2-A) | 7,200 Sq. Ft | 60 | 100 | 20 | 5 | 20 |
| R-3 R-3-A | Medium Density Multiple Family Residential | 21.78 | One/ 2,000 Sq. Ft. | 45% | 35 Ft. (20 Ft. in R- 3-A) | 8,500 Sq. Ft. | 60 | 120 | 15 | 5 | 15 |
| R-4 | High Density Multiple Family Residential | 43.00 | One/ 1,000 Sq. Ft. | 60% | 50 Ft. or 4 stories ² | 10,000 Sq. Ft. | 65 | 110 | 15 | 5 | 15 |
| MHP | Trailer Park | 18.15 | One/ 2,400 Sq. Ft. | 45% | 35 Ft | 3 Acres ³ | 110 | 130 | 15 | 5 | 10 |

1 Standards based on normally-sized buildings on interior lots facing local streets.
 2 Heights over four stories are permitted subject to a conditional use permit.
 3 Under a planned unit development approval, individual lots in the mobile home park may be less than three acres.
 4 Determined during Planned Development approval.

**TABLE 20:
CLOVIS RESIDENTIAL PARKING REQUIREMENTS**

| Residential Use | | Required Parking Spaces |
|----------------------------|-------------------------------------------|------------------------------------------------------------------------|
| Single Family Units | | 2/unit |
| Multifamily Units | Studio | 1 covered & 1 uncovered / unit |
| | 1 BR | 1 covered & 1 uncovered / unit |
| | 2 BR | 1 covered & 1 uncovered / unit |
| | 3 or more BR | 1 covered & 2 uncovered / unit |
| | Residential planned unit development unit | 2-car garage and 1 uncovered / unit |
| Senior residential Housing | Semi-Independent/dependent units | 0.5 spaces per unit |
| | Independent units | 1.25/unit plus 1 per employee or established by conditional use permit |
| Second Dwelling Units | | 1 additional off-street space |

Under several Master Planned Community Zone Districts, parking requirements have been reduced for High and Very High Residential categories, to accommodate densities and to take advantage of shared parking facilities with other land use categories. The parking standards for multifamily units, particularly studio and one-bedroom multifamily units, exceed the standards in other nearby jurisdictions. The Housing Element includes a program to review residential parking standards and consider possible modifications to remove barriers.

Residential Care Facilities and Disabled Persons Housing

The City has actively removed constraints on the development of housing for persons with disabilities. These actions are intended to keep the cost of disabled-accessible housing as low as possible. Group homes are allowed in any zone district. Furthermore, the City has no requirements restricting the proximity of such homes to one another, nor requirements restricting the number of unrelated adults allowed in a single home beyond the adopted state regulations.

The Clovis Municipal Code as:

Two (2) or more people related by blood or legal status or persons not related who are functioning as a family or single-housekeeping unit, meaning that they have established ties and familiarity with each other, jointly use common areas, interact with each other, and share meals, household activities, expenses and responsibilities. Membership in the family is fairly stable as opposed to transient and members have some control over who becomes a member of the family. Family does not include a fraternity, sorority, club, or other group occupying a hotel, other transient lodging, or institution of any kind. This definition is potentially a constraint on housing for persons with disabilities since it defines a family based on membership.

There are no provisions in the CMC that describe any maximum concentration requirements for residential care facilities.

Although there is no provision in the City’s Municipal Code for parking requirement reductions for the development of disabled, there is a mechanism by which developers can receive a density bonus that may lead to such a reduction. The Density Bonus Ordinance (CMC Chapter 9.5) allows developers to provide fewer than the required parking spaces in a given development when 20 percent of the units in that

development are set aside for low- or moderate-income residents. This provision may directly benefit developments providing handicapped housing, as individuals with disabilities often rely on such low- to moderate-income housing projects.

The Building Division within the City reviews all proposed development for compliance with handicap accessibility requirements. The City has adopted the Uniform Building Code (2017) as a standard for development within the City, and has not adopted any amendments that could diminish the ability to accommodate persons with disabilities. Representatives from the Building Division have indicated that each proposed development that will be open to the public, including multi-family residential developments, are subject to review for ADA compliance and all other applicable regulations. Such reviews include field checks.

The City also makes every effort to accommodate disabled individuals at all public meetings. On each City Council and Planning Commission agenda, the following notice is included:

In compliance with the Americans with Disabilities Act, if you need special assistance to access the City Council Chamber to participate at this meeting, please contact the City Clerk or General Services Director at (559) 324-2060. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Council Chamber.

When contacted regarding accessibility issues, City staff will provide for the participation of disabled individuals by supplying assisted listening devices, print enlargers, sign language interpreters, and other necessary accommodations, as well as generally providing for the physical mobility of all participants.

Multifamily

Multiple family dwellings are permitted by right in the R-2, R-3 and R-4 zones. Manufactured Housing in compliance with State law, the City’s Development Code does not differentiate between single family homes and mobile homes on permanent foundations. The City allows manufactured homes in all zones allowing residential uses.

Farm worker/Employee Housing

Under California Health and Safety Code 17021.5 (Employee Housing Act), farm worker housing up to 12 units or 36 beds must be considered an agricultural use and permitted in any zone that permits agricultural uses. The City permits agricultural uses in the Agricultural (A), Rural-Residential (R-R), and Single-Family Residential Very Low Density (RA) zones, In addition, the Employee Housing Act requires employee housing for six or fewer employees to be treated as a single family use and permitted in the same manner as other dwellings of the same type in the same zone. The City did not comply with this stipulation when the 2016 Housing Element was adopted but now does.

Emergency Shelters; Transitional and Supportive Housing

State law requires jurisdictions to provide adequate sites for a variety of housing types including emergency shelters and transitional/supportive housing. The City Zoning Ordinance provides emergency and transitional housing "by right," in the C-2 zone district, and transitional housing in the R-3 zone district with the approval of a conditional use permit. There is currently 116 acres of vacant C-2 zoned property within the City. Emergency and transitional uses would only be subject to the same development standards as any other “by-right” use within the C-2 zone district. R-3 zoned areas correspond to the High Density residential designation of the General Plan as well as specific mixed-use area designations that provide for a proportion of high-density residential uses.

Single Room Occupancy Units

The City had no provisions in the Development Code to allow the development of SRO units when the 2016 Housing Element was adopted but now does.

Group Homes

The City complies with the Lanterman Act; State-licensed group homes for six or fewer are permitted in any residential district. Additionally, group homes for seven or more are allowed with a conditional use permitted in R-3 and C-2 zones.

Second Units

The City complies with State law. The City Development Code permits attached and detached second units ministerially in all single-family residential and multi-family residential zones. The development standards include a maximum size of 640 square feet for a second-unit and not more than one bedroom, and a parking requirement of one additional off-street parking space for the second-unit. The Planning Director approves second unit applications based upon the following conditions:

- the dwelling conforms to the development standards of the zoning district;
- the unit shall be architecturally compatible, having similar materials and style of construction, with the primary unit and shall be consistent with the residential neighborhood character;
- public and utility services are adequate to serve both dwellings;
- the accessory dwelling unit shall have separate services for water, sewer, gas, and electric;
- three off-street parking spaces are required for the main and accessory dwelling units.

The City recently provided free standard plans for residents to utilize and has had ten units constructed to date. Additionally, the City has piloted a special financing tool for low-income homeowners to be able to construct a unit in partnership with Self-Help Enterprises and CalHFA.

On- Off-Site Improvement Standards

Typical on- and off-site improvement requirements for a single family tract map and a multifamily project are as follows:

- Installation of transmission and distribution sewer, water, and non-potable mains, backflow preventer (multifamily only), and sewer and water services. If sewer and water mains already exist, the fees in the amount of \$19.80/foot and \$24.80/foot are required.
- Interior streets—standard 54 feet of right-of-way, which includes the installation of curb, gutter, sidewalks, street lights, drive approaches, and handicap ramps. Typical interior street widths are 40 feet from curb to curb.
- Major streets—standard 80 feet to 106 feet of right-of-way, which includes the installation of curb, gutter, sidewalks, street lights, drive approaches, handicap ramps, median islands with landscaping and irrigation, and landscape strips. Permanent street improvements construction costs can be used to offset certain major street development fees.

- Park improvements or fees in-lieu of improvements.
- Other agencies’ requirements–Installation of storm drain, irrigation, utilities lines.
- Trash enclosures (multifamily only).

Development requirements of the City of Clovis are considered standard in the Central Valley and are comparable to surrounding cities. The City does not consider the requirements to be greater than those necessary to achieve health and safety requirements.

Fees and Exactions

Table 29 shows development impact and permit fees for single-family and multi-family prototype developments. The single-family prototype is a single-family detached residential dwelling unit with 2,000 square feet of living area and a 440-square-foot garage that is designated Low Density Residential and developed at four units to the acre. The estimated construction cost for this prototype unit before permit fees is about \$200,000. The plan check, permit, and impact fees account for an additional sum of \$35,479, or approximately 17.7 percent of the estimated construction cost. The multi-family prototype is a 20-unit, two-story multi-family housing development located in the High Density Residential designation and developed at 20 units per acre. Each dwelling unit is 1,000 square feet. The estimated construction cost for this prototype before permit and impact fees is roughly \$170,000 per unit. In summary, the fees for plan check, permits, and development impact total \$32,661 per unit. This constitutes approximately 19.2 percent of the estimated construction cost.

In addition to City fees, several regional fees are also charged for residential development: Regional Transportation Mitigation and Indirect Source Review. For school fees, the Clovis Unified School District assesses a school impact fee of \$3.78 per square foot on all new residential development.

The table can only reflect a fee estimate, since it is not feasible to take all possibilities into consideration. Fees can vary considerably, dependent upon whether or not improvements such as water and sewer lines, streets, curbs, or gutters exist.

Development impact fees are an estimated 17.7 percent of the total development costs for single family development and 19.2 percent for multifamily development. The City’s development impact fees are well below the statewide average, constitute a relatively minor proportion of total development cost, and, therefore, do not constitute a constraint to the production or improvement of housing.

If fees are not paid, then either these improvements cannot be constructed or their cost must come from other services or increased taxes. The policies of the State in mandating local requirements have specified fees as the method of financing. If a developer installs public improvements, these are credited against their fees, reducing fee burden.

TABLE 21: TYPICAL FEES FOR SINGLE AND MULTI-FAMILY DEVELOPMENT

| Type of Fee | Cost Per Unit | |
|---------------------------------------------------|------------------------|------------------------|
| | Multi-Family | Single-Family |
| <i>Building Fees</i> | | |
| Site Plan Review | \$248 ¹ | \$775 ² |
| <i>Subtotal</i> | <i>\$248</i> | <i>\$775</i> |
| <i>Development Impact/Engineering Fees</i> | | |
| Sewer Major Facilities | \$9,002 | \$8,192 |
| Oversize Sewer | \$43 | \$215 |
| Major Facilities – Water | \$1,919 | \$4,886 |
| Oversize Water | \$62 | \$309 |
| Water Supply Fee (within the Jurisdiction of FID) | \$3,940 | \$0 |
| Transceiver | \$168 | \$168 |
| Non-Potable Water System | \$28 | \$140 |
| Outside Travel Lane | \$2,661 | \$4,435 |
| Center Travel Lane | \$1,315 | \$2,192 |
| Traffic Signal | \$462 | \$769 |
| Bridges | \$74 | \$124 |
| Quad Intersection Fee | \$33 | \$56 |
| Community Sanitation Fee | \$374 | \$212 |
| Parks and Recreation | \$3,230 | \$3,230 |
| Library | \$604 | \$494 |
| Fire Department | \$672 | \$672 |
| Police Department | \$100 | \$100 |
| School | \$7,560 | \$3,780 |
| Administration Fee (1% of fees) | \$247 | \$262 |
| <i>Subtotal</i> | <i>\$32,494</i> | <i>\$30,236</i> |
| <i>Regional Impact Fees</i> | | |
| Regional Transportation Mitigation ³ | \$1,637 | \$1,150 |
| Indirect Source Review ⁴ | \$1,100 | \$500 |
| <i>Subtotal</i> | <i>\$2,737</i> | <i>\$1,650</i> |
| TOTAL | \$35,479 | \$32,661 |

¹ Assumes development does not require Planning Commission meeting.
² Assumes lot is not part of a subdivision.
³ The regional impact fee is the RTMF (Regional Transportation Mitigation Fee) collected by COG for all Fresno County cities.
⁴ The Indirect Source Review fee is collected by the air district for projects larger than 50 units which generally are about \$500/unit.

Processing

The cost of holding land by a developer during the evaluation and review process is frequently cited by builders as a contributing factor to the cost of housing. The California Government Code establishes permitted time periods for local agencies to review and act upon private development proposals. These time restrictions are identified in Table 22.

TABLE 22: STATE DEVELOPMENT PROCESSING TIME LIMITS

| Item | State Maximum |
|-----------------------------------------------|----------------------|
| General Plan Amendment | None |
| Zone Change | None |
| Subdivision Action on Tentative Map (66452.1) | 50 Days |
| Environmental Documentation/CEQA | |
| Review of Application for Completeness | 30 Days |
| Determination of NEG DEC or EIR Requirement | 30 Days |
| Completion of NEG DEC Requirement | 180 Days |
| Certification of Final EIR | 1 Year |

Source: California Government Code and *Land Use Practice*, Lindgren et al, (2007)

The City permits most types of residential development by right with a site plan review by the staff. The City encourages concurrent processing of applications and considers all entitlement applications, including the environmental document, at single public hearings before the Planning Commission and City Council. The City's local processing times are identified defined in Table 23.

TABLE 23: CLOVIS DEVELOPMENT PROCESSING TIME LIMITS

| Item | Approximate Length of Time to Public Hearing |
|----------------------------------|--------------------------------------------------------|
| Conditional Use Permit | 4 to 6 Weeks to Commission 8 to 10 Weeks to Council |
| Site Plan Review | 4 Weeks |
| Tentative Parcel Map | 6 Weeks |
| Tentative Tract Map | 4 to 6 Weeks |
| Variance | 4 to 6 Weeks |
| Zoning Amendments or Zone Change | 8 to 10 Weeks |
| Environmental Documentation | 4 to 10 Weeks (Average 8 Weeks) |
| General Plan Amendment | 8 Weeks |

In response to the need for quality information before a project starts, Clovis instituted the Development Review Committee process (DRC) in 1977. This process allows, but does not require, a developer to submit a preliminary plan for review by City staff and receive verbal and written comments within a one-week time frame. While staff comments are not binding and do not constitute approval or disapproval of a project, the comments are valuable in terms of providing an early exchange of information. The availability of good preliminary information allows a developer to consider a project before committing to it and can save the developer time and money, making the proposed development more cost-effective and competitive in the marketplace, reducing the processing time for a formal application and increasing the success rate for development projects. The City of Clovis provides this service without costs to the developer.

In addition to the DRC, the time and funds expended by the City of Clovis in regard to specific plans also helps reduce the developer's costs associated with the review and evaluation process. Clovis currently implements four specific plans that provide for residential development. Cost reductions associated with the

development of land in a specific plan are substantial. Much of the preliminary work, such as obtaining a general plan designation and negotiating with the City regarding street and other off-site improvements, has been pre-determined in the specific plans. Also, when a developer proposes a residential project within five years of the adoption of the specific plan, the developer is excused from the preparation of an Environmental Impact Report (EIR).

Density Bonus

The Density Bonus Ordinance (CMC Chapter 9.5) complied with state law and allows developers to increase the density of a residential development by at least 25 percent if provisions are made for low-income housing. The City may use the density bonus provisions for all residential development areas, with special emphasis in the high and medium-high density residential areas, and mixed use areas, to promote the development of housing and densities appropriate to meet very low and low income housing needs.

Available Vacant Land

Based on permitted densities, vacant land in the City can accommodate an estimated 9,641 units, including 4,614 lower-income units, 2,951 moderate-income units, and 2,000 above moderate-income units. All of these sites are outside of FEMA 100-year flood zones and do not have other environmental constraints that could hinder future development.

Accessibility of Public Transit

Public transit plays an important role in determining the accessibility of housing. Public transit should provide a means for lower-income persons, who are often transit-dependent, to major employers where job opportunities may be available. The lack of an efficient transit system connecting residents to job opportunities and affordable housing may impede fair housing choice because persons who depend on public transit will have limited choice regarding places to live.

Elderly and disabled persons tend to be more transit-dependent than other persons. Specifically, many elderly and disabled persons rely on public transit to visit doctors, conduct shopping, and other day-to-day activities. Housing for elderly and the disabled persons is more attractive if it is located near transit routes. The City of Clovis is committed to providing effective transit services to all residents. The 2017 American Communities Survey found that 856 working residents do not have a vehicle available and 148 persons reported relying on the transit system for daily transportation needs. This is represented in Map 9 geographically. Due to budget constraints the transit system is not as robust as is desired in the community, none the less it does provide basic service for residents who need it the most.

MAP 9: ZERO VEHICLE HOUSEHOLDS

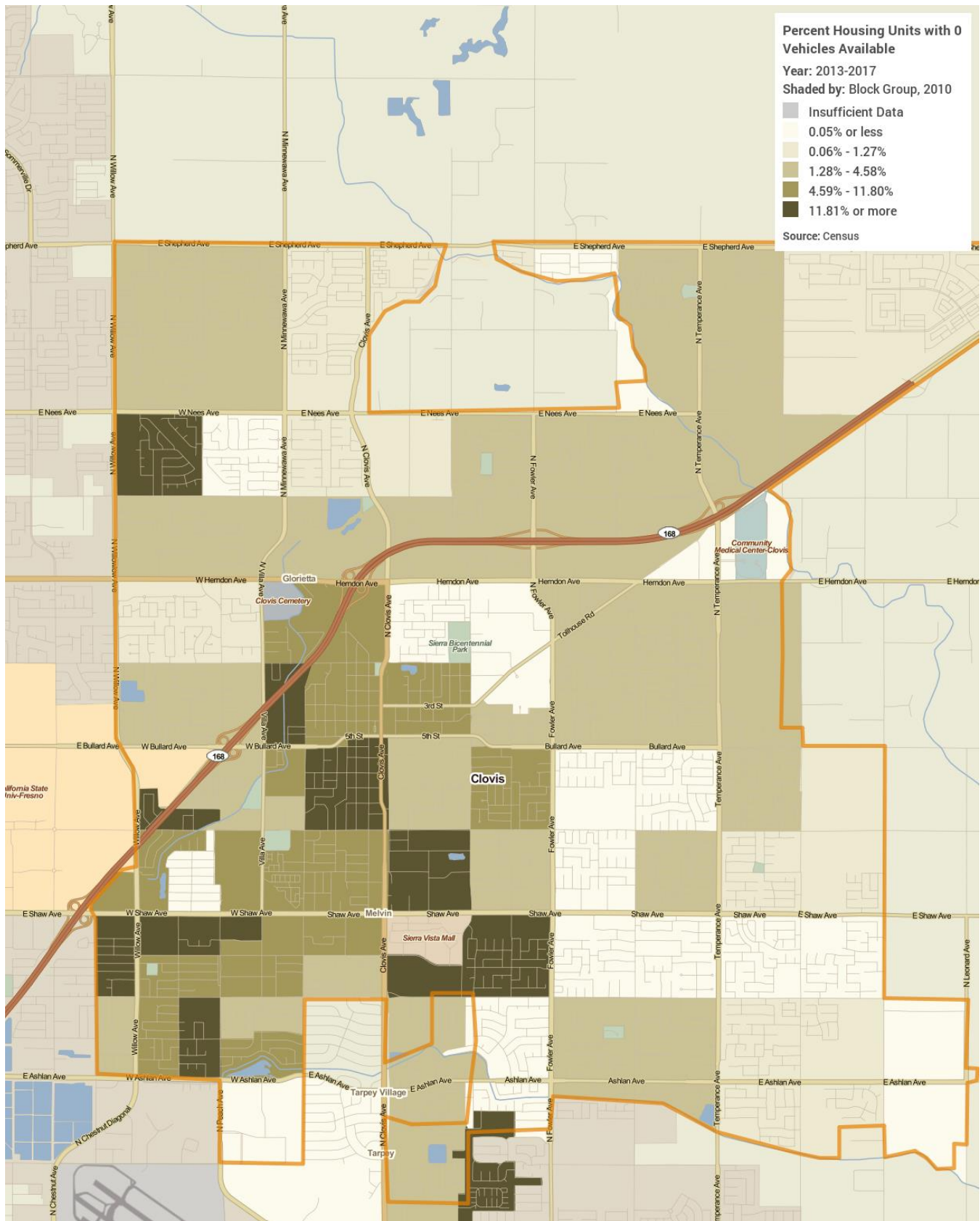


TABLE 24: CLOVIS AFFORDABLE UNITS AT RISK OF CONVERSION

| Name | Location | Type of Unit | Form of Assistance | Total/Units at Risk | | Subsidy Termination Date |
|-----------------------------|-----------------------|---------------------------|----------------------------------------------------|---------------------|-----|--------------------------|
| | | | | | | |
| Sierra Ridge Apartments | 100 Fowler Avenue | Multi-family | Multi-family Mortgage Revenue Bond | 180 | 36 | 2020 |
| Cottonwood Grove Apartments | 732 N. Clovis Avenue | Multi-family | Multi-family Mortgage Revenue Bond | 150 | 30 | 1/1/2022 |
| Sierra Hills Apartments | 643 Fowler Avenue | Multi-family | Multi-family Mortgage Revenue Bond | 114 | 23 | 2024 |
| Lexington Square Apartments | 1300 Minnewawa Avenue | Multi-family | Tax Exempt Bonds/Tax Credits | 130 | 130 | 2029 |
| Coventry Cove | 190 N. Coventry | Senior | LIHTC | 140 | 28 | 1/1/2034 |
| Silver Ridge Apartments | 88 N. DeWitt Avenue | Multi-family Seniors | Tax Credits/Tax Increment/CDBG | 100 | 100 | 9/30/2053 |
| Hotchkiss Terrace | 51 Barstow Avenue | Multi-family Seniors | HUD Section 202 Grant/Redevelopment Agency Funding | 75 | 75 | 2060 |
| Willow Family Apartments | 865 W. Gettysburg | Multi-Family | Tax Credits/Bonds/Joe Serna Farm Worker/HOME | 68 | 68 | 1/1/2060 |
| Roseview Terrace | 101 Barstow Avenue | Multi-family Seniors | HUD Section 202 Grant/Redevelopment Agency Funding | 59 | 59 | 11/5/2065 |
| Magnolia Crossing | 32 W. Sierra | Senior Supportive Housing | NMTC/ Redevelopment Agency Funding | 48 | 24 | 2073 |

Source: City of Clovis

Sale of Subsidized Housing and Possible Displacement

The apartments listed in Table 24 provide a total of 582 rent restricted low-income rental units in Clovis. A total of 89 units are at risk of conversion in the next ten years with 66 in the next several years. The cost that would be borne by the City of Clovis for preserving low income housing units would be less than the cost of replacement through new construction.

The cost of preserving the affordable units would be the cost associated with subsidizing those units should the entire rental structure of the complex be converted to average market rates represented in the City. The estimated cost to construct one affordable multiple-family housing unit in the City is \$400,000, which includes land, construction costs, and site improvement costs, based on recent estimated construction cost for a proposed 100% affordable housing project in the City. One method of calculating replacement cost is this figure multiplied by the total number of set-aside units.

There are two types of resources that can be engaged in efforts to preserve affordable units at risk of conversion to market rate: government funding and nonprofit organizations that can acquire and manage assisted units.

CDBG funding is the primary source of potential funding for preservation efforts. Community Development Block Grant funds are provided to local government for a range of community development activities that benefit low-income households. During the 2018-19 fiscal year, the City of Clovis received \$741,062 in CDBG funds. The focus of CDGB allocations has been on infrastructure improvements, affordable housing, and community service programs. Future CDBG funds represent an additional monetary resource for preservation efforts, although historically, funds have been used for public facilities and infrastructure improvements.

Preserving the set-aside units can be accomplished through purchase or management of the complex by a nonprofit organization. This preservation method would eliminate the costs cited above and would eliminate displacement of households while the units are constructed. Additionally, nonprofit organizations have the capacity to manage affordable apartment complexes, whereas local government may not be equipped to assume this role.

Property Tax Impacts

Due to Proposition 13 property taxes in California for long-time property owners are much lower than a recent buyer. This impacts first-time homebuyers significantly. Many buyers cannot afford both a mortgage payment and the corresponding property tax bill. This is true even for the City’s affordable housing programs. In cooperation with the County assessor, the City was able to get the tax valuation reduced to the sales price (rather than appraised) for homes participating in the City’s programs. Unfortunately, this does not assist buyers who may not be eligible or are pursuing other ownership opportunities. This results in households having to reduce the purchase price of a home, sometimes making home ownership out of reach.

Public Housing Authority Assistance Programs

The City of Clovis is served by The Housing Authority of Fresno County. The Authority does not have any public housing units in Clovis instead relying on the Section 8 Voucher Program to assist households in need. As with many public assistance programs, the funding does not meet the demand. The Authority has a very long waiting list and currently is not taking applications due to funds being oversubscribed. Residents who do not have a voucher assigned but need assistance to obtain housing face very long wait times. This endangers the household of having to choose housing that does not meet their needs. The programs are federally funded and the City is working with the Authority to create more affordable units in Clovis to meet the current demand. The City has assisted in supporting a funding application for Housing Authority of Fresno County project.

Assessment of Fair Housing Practices

At this time, the City refers, as many other Cities do, fair housing complaints to the HUD fair housing enforcement center and/or the Fair Housing Council of Central California. The City assumes a supportive and indirect role to other agencies but does not directly contract with a local fair housing agency. The City identifies activities in two documents with the intent of expanding housing choice, the Housing Element of the General Plan and the Annual Action Plan as part of the Community Development Block Grant program.
Housing Element

On page 2B-1 an Action Plan with various tasks to be completed to address increasing production of housing are provided in the 2016 Housing Element. All programs are being implemented and/or are complete. The document is located here:

<https://cityofclovis.com/wp-content/uploads/2019/02/Clovis-Housing-Element-1.pdf>

Findings and Actions

The purpose of this analysis is to determine possible existence of impediments to housing choices based upon race, religion, sex, color, national origin, disability, or familial status, and, where identified, suggest necessary steps to reduce and/or eliminate such impediments. This section describes those impediments and the corresponding actions identified through the analysis.

The identified impediments are grouped into four broad categories: affordable housing, mortgage lending, fair housing enforcement and education, and governmental barriers. Within each category are one or more impediments followed by one or more actions the City of Clovis plans to undertake to address each impediment. It is important to note that the identification of an impediment does not necessarily identify a deficiency. By identifying the presence of an impediment, this analysis is stating the nature of a problem which actions to address will serve to mitigate. These may be affirmative actions as much as responses to current conditions.

To facilitate reporting of accomplishments and the association of planned activities with impediments and actions to address, each impediment and action is identified by a number. Actions are labeled according to the impediment they address.

Please note that State law requires local jurisdictions in California to assess barriers to affordable housing as part of the General Plan Housing Element. Programs to address impediments to fair housing may be addressed through the implementation of the Housing Element.

Affordable Housing

The provision of affordable housing and the support of existing and new affordable housing is critical to assuring that all households have access to quality housing. The City has affordability issues in both the ownership and rental sectors of the housing market with 12,380 households of 35,538 total households paying more than 30% of their gross income towards housing costs. 5,005 households are paying more than 50% of their gross income towards housing costs, of these 4,315 households are considered low-income households. This equates to 12% of households in Clovis are low-income and paying more than 50% towards their housing costs. While this is better than affordability levels elsewhere in the State of California, it still is an issue in Clovis that warrants focused efforts to alleviate.

1. IMPEDIMENT: Lack of Sufficient Affordable Housing Supply

1.1 Action: Provide assistance to preserve existing affordable housing and to create new affordable housing.

1.2 Action: Assure the availability of adequate sites for the development of affordable housing.

1.3 Action: Develop strategies to mitigate or preserve affordable multi-family units at risk of conversion to market rate units.

2. IMPEDIMENT: Insufficient Funding for Affordable Housing Programs

2.1 Action: Research and apply and partner for alternative private and public funding opportunities that can provide additional support to the City’s affordable housing programs and/or developer projects.

Fair Housing Education and Enforcement

Promoting fair housing includes both education and enforcement. The City will continue to support both education and enforcement efforts.

This analysis reported very few complaints to enforcement agencies. This indicates the need for ongoing education to continue the trend of minimal complaints.

3. IMPEDIMENT: Lack of knowledge of fair housing rights

3.1 Action: Support efforts to educate persons, including occupants, owners, and agents of both rental and purchase units regarding their fair housing rights and responsibilities.

3.2 Action: Support local advocate agencies and community stakeholders in efforts to disseminate fair housing information to the community at large.

4. IMPEDIMENT: Lack of information on the nature and basis of housing discrimination

4.1 Action: Monitor the incidence of housing discrimination complaints.

4.2 Action: If deemed necessary, create an action item in the City’s Annual Action Plan that addresses the trend of discrimination complaints.

Governmental Barriers

Local government can play a significant role in the provision of a full range of housing types and to assuring availability of housing suitable to all sectors of the public. The City offers a wide variety of affordable housing programs and implements land use policies that encourage equitable choice for all persons in Clovis. A key part of housing choice is transportation and due to the City’s current density and financial condition, the public transit system is not as robust as the City wishes. The City also needs to work with other governmental agencies to seek funding for rental subsidies and housing projects that reduce housing costs for low-income families.

5. IMPEDIMENT: Lack of sufficient public transportation for low-income and special needs populations

5.1 Action: The City will continue to recommend improvements as funds allow to better serve all populations, including low-income and special needs households.

6. IMPEDIMENT: Shortage of rental subsidy vouchers

6.1 Action: The City will continue to partner with the Fresno County Housing Authority on both affordable housing projects and obtaining additional funds to support the Housing Choice Voucher Program that is currently oversubscribed and work to develop additional units.



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Community and Economic Development

DATE: November 4, 2019

SUBJECT: Consider Approval – Development Impact Fee Credit Program for Deed Restricted Affordable Housing Projects, and Consider Approval - Res. 19-___, Amending the FY 2019-20 Housing Successor Agency Budget to Increase the Funds Available by \$330,000.

Staff: Andy Haussler, Community and Economic Development Director

Recommendation: Approve

ATTACHMENTS: 1. Resolution

CONFLICT OF INTEREST

None

RECOMMENDATION

That the City of Clovis City Council approve the Deed Restricted Affordable Housing Development Impact Fee Credit Program.

EXECUTIVE SUMMARY

In 2012, the Clovis Community Development Agency was dissolved by state law. The law provided direction on the handling of Agency assets. One of the Agency assets was the Housing Fund. The law provided that the City was to manage the fund and any future deposits for the benefit of affordable housing projects.

Until recently there was not a significant amount of funding available but due to a large loan pay-off, the fund has \$1,000,000 in cash available to expend. This amount was included in the 2019-20 budget for use on an affordable housing project. While this is a sizeable amount, it is not enough for the City to take on an active role in the development of a major project as it has in the past.

Staff is recommending utilizing the funding to reduce development impact fees for affordable housing projects that provide deed-restricted units to households that make 80% or less of median household income.

BACKGROUND

In 2012, the Clovis Community Development Agency was dissolved by state law. The law provided direction on the handling of Agency assets. One of the Agency assets was the Housing Fund. The law provided that the City was to manage the fund and any future deposits for the benefit of affordable housing projects. Affordable Housing projects are defined as housing units where the monthly cost is affordable to a household that makes 80% or less of the area median income. These projects generally limit the cost of housing for an eligible family to no more than 30% of their gross monthly income.

Until recently there was not a significant amount of funding available but due to a large loan pay-off, the fund has approximately \$1,000,000 in cash available to expend. This amount was included in the 2019-20 budget for use on an affordable housing project. While this is a sizeable amount, it is not enough for the City to take on an active role in the development of a major project as it has in the past. It is not enough funding to purchase property and conduct pre-development activities. This was the model that was done when the Clovis Community Development Agency was active. Through this model, the City of Clovis was able to be active in the development process and created over 500 affordable units.

Increases in affordable housing funding at a state level has provided the potential for affordable housing to be developed by private developers. This provides the City of Clovis with an opportunity to partner with successful developments to create additional affordable units in the City of Clovis. In order to support these efforts, staff is recommending utilizing the funding to provide credits on development impact fees for affordable housing projects that provide deed-restricted units to households that make 80% or less of the median household income. Deed restrictions ensure the units are maintained as affordable units for a period of 30 years for ownership projects and at least 55 years for rental projects.

Staff recommends allocating \$1,000,000 of current funds plus future loan pay-offs on a first-come first-served basis towards the Affordable Housing Development Impact Fee Reduction Program. Future funds would be allocated during the annual budget process or via budget amendments as necessary.

The program would apply to the following projects:

- Project must provide a deed restriction that limits the occupant household to earn no more than 80% of area median income as provided by the California Department of Housing and Community Development.
- Project must limit housing cost to not exceed:
 - o Rental Project: "Affordable rents" as provided by the California Department of Housing and Community Development.
 - o Ownership Project: Monthly cost shall not exceed 30% of monthly income of household. Total debt of household shall not exceed 41% of household income.

- Project must have all permanent financing secured and documented.
- Project must be in position to pull a building permit from the City of Clovis.

The program would provide the following benefits to the project:

- Provide a credit for the City's Development Impact Fees for each affordable unit at the time development impact fees are due and payable. Funds will be held for the project for 3 months from time of approval. If the building permit is not issued or the project does not begin construction within 3 months or the project is not complete within 18 months, the funds will be pulled back and made available to another project.

Program timelines:

- Funds will be held for the project for 3 months from time of approval.
- Staff has 30 days to review application materials as provided below and provide a determination.
- If the building permit is not issued or the project does not begin construction within 3 months or the project is not complete within 18 months, the funds will be pulled back and made available to another project.

How a Project Applies:

- Developer submits a letter to the City of Clovis Community and Economic Development Director with the following:
 - o Project Details
 - Name
 - Location
 - Site Plan
 - Timeline
 - Unit Details
 - Number of Overall Units/Number of Affordable Units
 - Affordability Levels
 - o Project financing
 - Financial pro-forma and development budget
 - Funding commitment documents
 - o City of Clovis Development Impact Fee calculation/invoice for project
 - o Project entitlements and approvals to obtain a building permit:
 - Submit conditions of approval and evidence of compliance
 - Submit copy of building permit approval

Staff would then review the application for compliance with the program and provide for the fee credit as appropriate.

The program would operate if at least \$100,000 is on balance in the Housing Set-Aside Fund determined annually with the City's budget.

FISCAL IMPACT

Would provide the initial investment of \$1,000,000 in funding towards affordable housing. The funds are included in the 2019-20 budget.

REASON FOR RECOMMENDATION

This would leverage much more in investment in affordable housing in Clovis. Initially it is expected that the program would assist in creating 30-40 units. In the future, it is expected additional loan pay-offs over the next 50 years will provide \$3 million in funding to continue the program. As many borrowers pay off loans earlier than the term of their current loan, funding may come sooner than later but timing is uncertain at this time.

ACTIONS FOLLOWING APPROVAL

Staff will advertise the program on the Affordable Housing web site, with residential developers, and support projects that could utilize the funding.

Prepared by: Andy Haussler, Community and Economic Development Director

Reviewed by: City Manager LS

RESOLUTION 19-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
APPROVING AN AMENDMENT TO THE FY 2019-2020
HOUSING SUCCESSOR AGENCY BUDGET

WHEREAS, the City Council adopted the FY2019-2020 City budget on June 10, 2019; and

WHEREAS, the City of Clovis Development Impact Fee Credit Program for Deed Restricted Affordable Housing Projects with \$1,000,000 in initial funding being made available and requires an additional \$330,000 be made available from the Housing Successor Agency Fund Balance; and

WHEREAS, these revenues and expenditures were not included in the original adopted budget.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of The City of Clovis hereby approves the budget amendment as shown in the "Summary of Expenditures/Revenues by Department" and "Summary of Expenditures/Revenues by Fund" attached as Attachment A.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on November 4, 2019 by the following vote, to wit.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

- DATED:

Mayor

City Clerk

SUMMARY OF EXPENDITURES BY DEPARTMENT

HOUSING SUCCESSOR AGENCY

Affordable Housing Project \$330,000.00

TOTAL DEPARTMENT \$330,000.00

TOTAL ALL DEPARTMENTS \$330,000.00

SUMMARY OF EXPENDITURES BY FUND

Housing Successor Agency \$330,000.00

TOTAL DEPARTMENT \$330,000.00

SUMMARY OF REVENUES BY DEPARTMENT

HOUSING SUCCESSOR AGENCY

Housing Successor Agency \$330,000.00

TOTAL DEPARTMENT \$330,000.00

SUMMARY OF REVENUES BY FUND

Housing Successor Agency \$330,000.00

TOTAL DEPARTMENT \$330,000.00



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Fire Department

DATE: November 4, 2019

SUBJECT: Consider Introduction – Ord. 19-___, Amending various sections of Title 4, Chapter 4.4 Article 1 of the Clovis Municipal Code relating to adoption of the 2019 California Fire Code with local amendments, and making related findings.

Staff: Chad Fitzgerald, Life Safety Enforcement Manager

Recommendation: Approve

ATTACHMENTS: 1. Ordinance 19 - ___

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve the introduction of Ordinance 19 - ___, amending various sections of Title 4, Chapter 4.4 Article 1 of the Clovis Municipal Code relating to adoption of the 2019 California Fire Code with local amendments and making related findings.

EXECUTIVE SUMMARY

Every three years, the California Fire Code is reviewed and modified where applicable and adopted by the California Building Standards Commission. The California State Fire Marshal's Office has adopted the 2019 California Fire Code. The Clovis Municipal Code §§ 4.4.101 and 4.4.102 contain these standards which are adopted or modified as necessary to ensure the safety of the community. Staff is introducing the attached ordinance to be considered for a second reading and adoption on November 18, 2019.

BACKGROUND

The 2019 California Building Standards Commission approves the 2019 California Building and Fire Codes, which incorporate by reference, with necessary California amendments the most current versions of the International Fire, Building, Electrical, Mechanical, Plumbing, and Residential Codes. The 2019 California Fire Code is also approved by the State Fire

Marshal. The 2019 codes become effective January 1, 2020, and are mandated by the California Building Standards Commission for statewide adoption and enforcement. The Building Official is bringing forth for adoption by separate action all of the Codes, except the Fire Code.

The City of Clovis has the authority to make necessary modifications to any of the codes, including the Fire Code. Modifications that are administrative in nature do not require express findings. However, non-administrative modifications must be based upon express findings of necessity relating to local climatic, geological, or topographical conditions. The following are the findings that make the local amendments to the California Fire Code reasonably necessary, including extreme temperatures, water supply, poor air quality, and population density facilitated by local topography.

Express Findings

Climatic Conditions (Extreme Temperatures) – As documented in the 2018 Local Hazard Mitigation Plan (LHMP), Clovis has an average annual temperature of 63.2°F and receives 10.2 inches of rain. While the average is relatively temperate, summer and winter months bring unique weather patterns to the region. During the winter, high temperatures hover around 55°F. Combined with the regional geography and precipitation during this time, Clovis experiences numerous days with dense fog, which has its greatest impact on transportation (i.e., accident rates jump 50 percent on foggy days).

During the summer months, the region has extended periods where temperatures exceed 100°F. While the average temperature is 90°F during the summer, these extended heat waves impact the medically fragile, elderly and animal populations. In addition to heat waves, the Fresno County Region continues to suffer regular drought conditions due to lower than normal snowpack in the Sierra Nevada which supplies water for agricultural use and replenishes the groundwater supply.

Due to the extreme heat Clovis experiences during the summer months, Clovis firefighters responding to fires and other incidents requiring evacuation of a building are regularly exposed to temperatures in excess of 105 degrees. This exposure can lead to heat exhaustion and possibly heat stroke due to prolonged or repeated exposure.

Geological Conditions (Limited Water Supply) – As documented in the 2018 Local Hazard Mitigation Plan (LHMP), historical drought data for the Fresno County planning area and the Central Valley region indicate there have been five significant droughts in the last 79 years. This equates to a drought every 15.8 years on average or a 6.3 percent chance of a drought in any given year. Based on this data, droughts will likely affect the planning area. Furthermore, climate change will likely adversely impact the ability of watersheds and ecosystems to deliver important ecosystem-related services. There is a broad range of climate change impacts that affect water resources in California. These changes may limit the natural capacity of healthy forests to capture water and regulate stream flows. Peterson et al., (2008) reports that Sierra Nevada mountain winters and springs are warming, and on average, precipitation as snowfall relative to rain, is decreasing. As such, the LHMP

recognizes a high degree of risk posed by drought will be exacerbated by greater climate variation in the future, which, in this case, means greater variation and uncertainty regarding the availability of water supplies which are already under tremendous stress.

Climatic/Topographical (Poor Air Quality) – As a result of the San Joaquin Valley’s climate and topography, the San Joaquin Valley Air Basin (SJVAB) is pre-disposed to poor air quality. High mountain ranges surrounding the Valley frequently create air layer inversions, which prevent mixing of air masses. The large number of sunny days per year and high temperatures in the summer favor the formation of ozone. The area is so sunny that the Fresno/Clovis area has a 79% annual average of possible sunshine for more than a 40-year period according to the National Climatic Data Center (NCDC). In the winter, this same inversion layer traps particulate matter which causes respiratory complications for sensitive groups according to the San Joaquin Valley Air Pollution Control District (SJVAPCD).

The Federal EPA and California Air Resources Board have classified the San Joaquin Valley Air Basin as severe non-attainment for ozone and serious non-attainment (federal) non-attainment (state) for PM10. Ozone is formed by a complex series of chemical reactions between reactive organic gases (ROG), oxides of nitrogen, and sunlight. PM10 is suspended particulate matter that is less than ten (10) microns in size. Given its small size, PM10 can remain airborne for long periods and can be inhaled, pass through the respiratory system, and lodge in the lungs. In general, non-attainment means the Federal standard has been exceeded more than twice per year. Smoke is composed primarily of carbon dioxide, water vapor, carbon monoxide, particulate matter, hydrocarbons, and other organic chemicals including nitrogen oxides, trace minerals, and several thousand other compounds. Particulate matter is the principal pollutant of concern based upon the relatively short-term exposures (hours to weeks) typically experienced by the public that can cause health issues. Particulate matter in wood smoke has a size range near the wavelength of visible light (.4-.7 micrometers). Because these particles can be inhaled into the deepest recesses of the lungs, they are thought to represent a greater health concern than larger particles. Another pollutant of concern during some events is carbon monoxide. The San Joaquin Valley Air Pollution Control District states: "Emissions from burning include fine particulate, hydrocarbons, oxides of nitrogen, oxides of sulfur, carbon monoxide, and toxic air contaminants that contribute to our air quality problems."

Topographical (Development Pattern) – Due to the relatively low density growth pattern in Clovis, five (5) fire stations are spaced approximately 3 – 4 miles apart resulting in an average of a two-mile running distance for the designated first-in company. This average two-mile distance increases the response time to fires, which results in an increase in the size and intensity of fires.

Summary of Local Amendments

Each of the amendments to the California Fire Code requiring express findings of necessity are reasonably necessary because of these local climatic, topographical, and geological conditions. The amendments may be generally characterized as relating to:

1. Access/Fire Lanes
2. Addressing Identification
3. Fire Sprinklers
4. Cost Recovery
5. Open Burning
6. Emergency Responder Radio Coverage in New Buildings

Access/Street Width – Access and fire lanes are essential to effectively respond to a medical or fire emergency. Without proper access due to congestion or blocked paths of travel, operations are hindered creating longer response times. Changes to higher density housing on the edge of City limits and within in-fill developments necessitate that minimum paths be established. By establishing a minimum path with parking on both sides and minimum width with “No Parking” marked on one or both sides, response time objectives are maintained regardless of density.

Addressing Identification – Visible addressing greatly assists response personnel in identifying and accessing buildings when individuals have an emergency need. In the evening and during periods of extended foggy weather, visible address markers consistently placed are essential for responding crews.

Fire Sprinkler Systems – Fire sprinkler systems have proven effective in suppressing fires long enough to allow for evacuation and reduction in property loss. Furthermore, because the fire sprinklers will limit the size and duration of fires, fewer fire personnel are required for the duration of the response. This reduces the number of fire personnel who would be exposed to the health risks associated with sustained exposure to high temperatures and also addresses extended run time due to the topography-related low density growth pattern in Clovis. The modifications proposed in this category maintain and expand existing amendments previously approved by Council.

Current Amendments

1. New commercial buildings 2,500 square feet or larger.
2. Existing commercial buildings with a change of occupancy to a more hazardous use as determined by the Building Official or Fire Official.

New Amendment

1. Defining the allowable square footage of an accessory dwelling unit to be 1200 square feet or less before it is required to install fire sprinklers; accessory dwelling units as defined in Government Code Section 65852.2 with a floor area of 1200 square feet or less. All enclosed floor areas shall be included in the square footage when determining the area. The floor area shall include, but not be limited to the following: living areas, attached garages, storage rooms, and shop areas. Accessory dwelling units are normally located farther to the rear of the property making it difficult for the Fire Department to reach with our standard hose configuration, harder for passersby to see a potential fire, and are closer to surrounding structures. These conditions require a limit in size to require fire sprinklers which have been proven to be very effective in saving lives and property within the City of Clovis.

Cost Recovery – Cost recovery is an essential element for deterring responses associated with illegal activity and to recoup costs where resources were allocated to an incident resulting from gross negligence or misconduct.

Open Burning – Open burning presents a hazard to the environment and residents, especially when immediately adjacent to a structure or unmonitored condition. Each of these conditions poses an immediate hazard to the primary occupants and potentially to the surrounding residents. As adopted, the opening burning amendment would not preclude regular uses such as barbecues used in accordance with manufacturer specifications and would only be enacted when the Fire Chief or his/her designee finds an immediate threat to life safety exists.

Emergency Responder Radio Coverage in New Buildings – Communication is essential for effective response and mitigation of hazardous conditions to protect residents and fire personnel. Based upon the topography of the Valley effectively being in a “bowl”, this amendment ensures that proper communication infrastructure will exist within buildings where height, type of construction, or proximity to radio towers is causing reduced communication abilities during emergency incidents. This could potentially require that during construction additional components are added within the building to maintain effective communication with all emergency response personnel during an emergency.

FISCAL IMPACT

None

REASON FOR RECOMMENDATION

Adoption of the 2019 California Fire Code with Local Amendments ensures compliance with existing standards adopted by the State. Local amendments are limited to those felt essential to effectively administer responsibilities in daily operations and to maintain previous amendments approved by Council relating to fire and life safety.

ACTIONS FOLLOWING APPROVAL

Staff will bring back the Ordinance for a second reading and adoption at the November 18, 2019 Council meeting.

Prepared by: Chad Fitzgerald, Life Safety Enforcement Manager

Reviewed by: Luke Serpa, City Manager *LS*

ORDINANCE 19-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS AMENDING SECTIONS 4.4.101 AND 4.4.102 OF THE CLOVIS MUNICIPAL CODE PERTAINING TO FIRE PREVENTION REGULATIONS BY: (1) ADOPTING THE 2019 CALIFORNIA FIRE CODE, WHICH INCORPORATE BY REFERENCE WITH CALIFORNIA AMENDMENTS THE 2018 INTERNATIONAL FIRE CODE; AND (2) ADOPTING LOCAL AMENDMENTS THERETO WITH REQUIRED FINDINGS

The City Council of the City of Clovis does ordain as follows:

Section 1 Section 4.4.101 of Chapter 4.4 of Title 4 of the Clovis Municipal Code is hereby *amended* to read as follows:

4.4.101 Adoption of California Fire Code.

For the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the 2019 California Fire Code (CFC), including Chapter 1, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2018 edition of the International Fire Code with California amendments, including Appendix Chapters E and F, is hereby adopted by reference thereto as is fully set forth in this Chapter, save and except such portions as are deleted, modified, or amended by the provisions of this Chapter. Copies of the 2019 California Fire Code are on file in the office of the City Clerk and Fire Code Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most restrictive code providing the highest level of safety as determined by the Fire Code Official shall prevail.

Section 2 Section 4.4.102 of Chapter 4.4 of Title 4 of the Clovis Municipal Code is hereby *amended* to read as follows:

4.4.102 Amendments to Fire Code.

(a) Add/Amend CFC Section 102.6, Historic Buildings.

Section 102.6, Historic Buildings. The provisions of this Code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures do not constitute a distinct hazard to life or property. Fire protection in designated historic buildings and structures shall be provided in accordance with Part 8 of Title 24, the 2019 California Historic Building Code.

(b) Add/Amend CFC Section 103.1, General.

Section 103.1 General. The department of fire prevention is established within the jurisdiction under the direction of the fire code official. The function of the department shall be the implementation, administration and enforcement of the provisions of this Code.

(c) Add/Amend CFC Section 105.6, Operational Permits.

Section 105.6, Operational Permits. The fire code official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.50. Permits required by these sections will be issued only for those operations that have an associated fee that has been adopted in the City of Clovis Master Fee Schedule.

Section 105.6.13 Exhibits, special events and trade shows. An operational permit is required to operate exhibits, special events, and trade shows.

Section 105.6.15 Fire hydrants and valves. An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes which are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public. Such permit shall be obtained from the Water Division of the Department of Public Utilities of the City of Clovis, or from a person responsible for the provision of water to such fire hydrants or water systems within a waterworks district.

Exception: A permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.

(d) Add/Amend CFC Section 105.7, Required Construction Permits.

Section 105.7, Required Construction Permits. The fire code official is authorized to issue construction permits for work as set forth in CFC Sections 105.7.1 through 105.7.25. Permits required by these sections will be issued only for those operations that have an associated fee that has been adopted in the City of Clovis Master Fee Schedule.

(e) Add/Amend CFC Section 109, Board of Appeals.

Section 109.1 Board of appeals established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The fire code official shall serve as clerk to the board.

Section 109.3 Membership and qualifications. The board of appeals shall consist of three members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems, and are not employees of the city.

Section 109.4 Procedures. The board of appeals shall follow the procedures for the conduct of appeals set forth in Chapter 5.28, Abatement, Appeals, and Administrative Hearings, of the Municipal Code.

(f) Add/Amend CFC Section 110.4, Violation Penalties.

Section 110.4, Violation Penalties. Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this Code, shall be guilty of a misdemeanor.

Each day that a violation continues shall be deemed a separate offense. The Fire Code Official or his/her designee may commence any or all of the following proceedings in accordance with the Clovis Municipal Code:

- (1) Issue an administrative citation in accordance with the provisions of Chapter 1.7 of Title 1 of the Clovis Municipal Code and related written policies.
- (2) Issue a court citation (Notice to Appear) in accordance with the provisions of Chapter 1.2 of Title 1, and Article 9 of Chapter 2.2 of Title 2, of the Clovis Municipal Code and related written policies.
- (3) Request the City Attorney to institute legal action.
- (g) Add/Amend CFC Section 110.5, Cost Recovery.

Section 110.5, Cost Recovery. The fire code official may seek cost recovery as outlined in this section for the cost of providing service from the Clovis Fire Department and any other public agencies deemed necessary to mitigate a hazard. The fire code official may seek cost recovery for hazardous materials response, fire suppression, and protection of the public from fire and life safety hazards.

The recovery of such cost is authorized in the following statutes:

Health and Safety Code Sections 13007-13009.1
Government Code Section 53150

1. Any person who causes or allows the existence of a hazard, as defined by this Code, shall be liable for all costs associated with mitigation as determined to have been caused by such hazard, or is a major contributor of said hazard, and such expense shall be a charge against the person. Cost Recovery shall be in accordance with the Clovis Municipal Code and City policy.
2. Any person who is under the influence of an alcoholic beverage or any drug, whose negligent actions caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident. Cost Recovery shall be in accordance with the Clovis Municipal Code and City policy.
3. Any person that is involved in an action that requires the police department to utilize the fire department in response to illegal activities is liable for the expense by the fire department response to the incident. Recovery shall be in accordance with the Clovis Municipal Code and City policy.
4. Utility company's equipment or distribution network which causes an emergency response from a public agency for an incident is liable for the expense of an emergency

response by a public agency to the incident. Cost Recovery shall be in accordance with the Clovis Municipal Code and City policy.

5. Any person who causes a fire, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him or her to escape onto any public or private property is liable for the expense of an emergency response by a public agency to the incident. Cost Recovery shall be in accordance with the Clovis Municipal Code and City policy.
6. Any person who releases a hazardous material, allows a hazardous material to be released, causes, or allows a hazardous material attended by him or her to escape onto any public or private property, is liable for the expense of an emergency response by a public agency to the incident. Cost Recovery shall be in accordance with the Clovis Municipal Code and City policy.
7. After responding to three (3) false alarms at the same facility in any consecutive twelve (12) month period, the Fire Code Official is authorized to charge the property owner for the cost of response. The cost of response will be billed at a minimum rate of one-half hour for all responding apparatus and personnel or actual time spent on the alarm event, whichever is greater.

(h) Add/Amend CFC Section 307.1.1. Prohibited Open Burning

CFC Section 307.1.1. Prohibited Open Burning Open burning shall be prohibited in any incinerator, can, barrel, pit, outdoor fireplace or similar container or enclosure. All other open burning shall be in compliance with Clovis Fire Department Standard 5.3. or a permit for agricultural burning shall be obtained from the San Joaquin Valley Air Pollution District.

(i) Add/Amend CFC Section 503.2.1 Section 503.2.1 Dimensions.

Fire apparatus access roads shall have an unobstructed width of 20 feet measured from the base of curb to base of curb and an unobstructed vertical clearance of not less than 14 feet. Access roads shall be installed and maintained per Clovis Fire Department Standard 1.1 Standard for Fire Apparatus Access.

(j) Add/Amend CFC Section 505.1, Address Notification.

Section 505.1, Address Notification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch for single family homes, a minimum of 5 inches high with a minimum stroke width of 0.5 inch for multi-family residential buildings, and a minimum of 12 inches high with a minimum stroke width of 1.5 inch for commercial buildings. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

(k) Add/Amend CFC Section 510.1 Emergency responder radio coverage in new buildings. New buildings shall have approved radio coverage for emergency responders within the building based on the existing coverage levels of the public safety communication systems utilized by the jurisdiction, measured at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.

Exceptions:

1. Where approved by the building official and the fire code official, a wired communication system in accordance with Section 907.2.12.2 shall be permitted to be installed or maintained instead of an approved radio coverage system,
2. Where approved by the building official and the fire code official, a wired communication system in accordance with Section 907.2.12.2 shall be permitted to be installed or maintained instead of an approved radio coverage system,
3. Where it is determined by the fire code official that the radio coverage system is not needed.
4. In facilities where emergency responder radio coverage is required and such systems, components or equipment required could have a negative impact on the normal operations of that facility, the fire code official shall have the authority to accept an automatically activated emergency responder radio coverage system.
5. One and two family dwelling units as defined in the California Residential Code.
6. Open parking garages with no parking below the lowest level of fire apparatus access.
7. Buildings of any construction type permitted by the California Building Code that are 50,000 square feet or less, and are less than 30' feet in height, with no storage or parking below the lowest level of fire apparatus access.
8. Buildings where a pre-construction emergency communications study, and a final field emergency communications study, both validate and provide confirmation that the required City of Clovis radio strengths are available. The pre-construction emergency communications study and the final field emergency communications study shall be provided where required by the fire code official.

(l) Add/Amend CFC Section 903.1, Automatic Sprinklers.

Section 903.1, Automatic Sprinklers. Automatic sprinkler systems shall comply with this section. Area separation walls, fire walls, fire barrier walls, occupancy separation walls or parapets shall not be used to create separate buildings on the same property to exclude required Automatic Sprinkler Systems when the square footage exceeds 2,500 square feet.

Exceptions: Fire walls without openings installed in accordance with the California Building Code, Section 706.

When such areas have any eaves or overhang exceeding a distance of four feet (4') from the wall or support, the gross roof area shall include, but not be limited to, covered walkways, patios, porches, or any architectural feature attached to the structure.

Section 903.1.2 Area increases in existing buildings. Existing buildings that are greater than 2,500 square feet in area where an automatic sprinkler system does not exist, and the floor area is increased by greater than 25% of the existing building and the total proposed building area exceeds 2,500 square feet an automatic sprinkler system shall be installed. The 25% threshold for the installation of fire sprinklers shall be cumulative over the life of the building.

Section 903.1.3 Changes in occupancy or use. When a change in the character or use of an occupancy is made as defined by the Building Code to a more hazardous use as determined by the Building Official or Fire Official in existing buildings that are greater than 2,500 square feet in area where an automatic sprinkler system does not exist, an automatic sprinkler system shall be installed in the following manner:

9. If the area in the building where the change of occupancy occurs is in less than 50% of the overall building, only the area of the change of occupancy shall be required to be equipped with fire sprinklers. The sprinkler system in this area shall be sized to accommodate expansion into the entire building.
10. If the area in the building where the change of occupancy occurs is greater than 50% of the overall building, the entire building shall be required to be equipped with fire sprinklers. If additional changes of occupancy to a more hazardous occupancy occur in the building and the total of the changes is greater than 50% of the building, the entire building shall be required to be equipped with fire sprinklers. The 50% threshold for the installation of fire sprinklers shall be cumulative over the life of the building.

Section 903.1.4 Fire Damage Repairs. An automatic fire sprinkler system shall be installed in an existing building after a fire has damaged the building and the building permit repair costs exceed 50% of the current building valuation. Building valuation costs shall be based on the ICC Building Valuation Tables in use by the Building Department at the time of the issuance of the fire damage repair permit.

(k) Add/Amend CFC Section 903.2, Where Required.

Section 903.2, Where Required. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.12.

Section 903.2.1 Group A. An automatic sprinkler system shall be provided throughout buildings and portions thereof used as Group A occupancies as provided in this section. For Group A-1, A-2, A-3 and A-4 occupancies, the automatic sprinkler system shall be provided throughout the story where the fire area containing the Group A-1, A-2, A-3 or A-4 occupancy is located, and throughout all stories from the Group A occupancy to, and including, the levels of exit discharge serving the Group A occupancy. For Group A-5 occupancies, the automatic sprinkler system shall be provided in the spaces indicated in Section 903.2.1.5.

Section 903.2.1.1 Group A-1. An automatic sprinkler system shall be provided for Group A-1 occupancies and intervening floors of the building where one of the following conditions exists:

1. The fire area exceeds 2,500 square feet (232 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.
4. The fire area contains a multi-theater complex.

Section 903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 occupancies and intervening floors of the building where one of the following conditions exists:

1. The fire area exceeds 2,500 square feet (232 m²).
2. The fire area has an occupant load of 100 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.
4. The structure exceeds 2,500 square feet (232 m²), contains more than one fire area containing a Group A-2 occupancy, and is separated into two or more buildings by fire walls of less than 4-hour fire-resistance rating without openings.

Section 903.2.1.3 Group A-3. An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 2,500 square feet (232 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.

Section 903.2.1.4 Group A-4. An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 2,500 square feet (232 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.

Section 903.2.2.1 Group B. An automatic sprinkler system shall be provided for Group B occupancies as follows:

1. Throughout all Group B fire areas greater than 2,500 square feet (232 m²).

Section 903.2.3 Group E. An automatic sprinkler system shall be provided for Group E occupancies where one of the following conditions exists:

1. Throughout all Group E fire areas greater than 2,500 square feet (232 m²).
2. Throughout every portion of educational buildings below the lowest level of exit discharge serving that portion of the building.
3. The fire area has an occupant load of 300 or more.
4. In rooms or areas with special hazards such as laboratories, vocational shops and other such areas where hazardous materials in quantities not exceeding the maximum allowable quantity are used or stored.
5. Throughout any Group E structure greater than 2,500 square feet (232 m²) in area, which contains more than one fire area, and which is separated into two or more buildings by fire walls of less than 4-hour fire-resistance rating without openings.
6. For public school state-funded construction projects see Section 903.2.19.

Section 903.2.4 Group F-I. An automatic sprinkler system shall be provided throughout all buildings containing a Group F-I occupancy where one of the following conditions exists:

1. A Group F-I fire area exceeds 2,500 square feet (232 m²).
2. A Group F-I fire area is located more than three stories above grade plane.
3. The combined area of all Group F-I fire areas on all floors, including any mezzanines, exceeds 2,500 square feet (232 m²).
4. A Group F-I occupancy used for the manufacture of upholstered furniture or mattresses exceeds 2,500 square feet (232 m²).

Section 903.2.4.1 Group F-2. An automatic sprinkler system shall be provided throughout all buildings containing a Group F-2 occupancy where the fire area exceeds 2,500 square feet (232 m²).

Section 903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. A Group M fire area exceeds 2,500 square feet (232 m2).
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 2,500 square feet (232 m2).
4. A Group M occupancy used for the display and sale of upholstered furniture or mattresses exceeds 2,500 square feet (232 m2).

Section 903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Existing Group R-3 occupancies converted to Group R-3.1 occupancies not housing bedridden clients, not housing non-ambulatory clients above the first floor, and not housing clients above the second floor.
2. Existing Group R-3 occupancies converted to Group R-3.1 occupancies housing only one bedridden client and complying with Section 435.8.3.3 of the California Building code.
3. Pursuant to Health and Safety Code, Section 13113, occupancies housing ambulatory children only, none of whom are mentally ill children or children with intellectual disabilities, and the buildings or portions thereof in which such children are housed are not more than two stories in height, and buildings or portions thereof housing such children have an automatic fire alarm system activated by approved smoke detectors.
4. Pursuant to Health and Safety Code, Section 13143.6, occupancies licensed for protective social care which house ambulatory clients only, none of whom is a child (under the age of 18 years), or who is elderly (65 years of age or over).

When not used in accordance with area or height increases for automatic fire sprinklers allowed in the California Building code, an automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be allowed in Group R-2.1 occupancies.

An automatic sprinkler system designed in accordance with Section 903.3.1.3 shall not be utilized in Group R-2.1 or R-4 occupancies.

5. Accessory dwelling units as defined in Government Code Section 65852.2 with a floor area of 1200 square feet or less. All enclosed floor areas shall be included in the square footage when determining the area. The floor area shall include,

but not be limited to the following: living areas, attached garages, storage rooms, and shop areas.

Section 903.2.9 Group S-1. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 2,500 square feet (232 m²).
2. A Group S-1 fire area is located more than three stories above grade plane.
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 2,500 square feet (232 m²).
4. A Group S-1 fire area used for the storage of commercial trucks or buses where the fire area exceeds 2,500 square feet (232 m²).
5. A Group S-1 occupancy used for the storage of upholstered furniture or mattresses exceeds 2,500 square feet (232 m²).

Section 903.2.10 Group S-2 enclosed parking garages. An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.6 of the California Building Code as follows:

1. Where the fire area exceeds 2,500 square feet (232 m²); or
2. Where the enclosed parking garage is located beneath other groups.

Local climatic conditions necessitating these amendments are described as:

(a) Precipitation. The City averages 12.41 inches of rainfall per year, most of that occurring between the months of December through March.

(b) Temperature. The average high temperature in the summer months exceeds 95 degrees, and it is not uncommon to exceed 100 degrees. A high of 113 degrees has been recorded.

(c) Humidity/Fog. The winter months are characterized by high humidity. This high humidity together with cool winter air masses often results in dense Tule fog.

(d) Winds. During the summer months, wind speed and direction change throughout the day. During the daylight hours, north-northwesterly winds prevail. In the late evening through early morning hours, wind flow is affected by cooler drainage winds from the surrounding mountains and reverses direction.

These local climatic conditions affect the magnitude, size, acceleration, intensity, and exposure of fires, as well as accessibility to fires by the City's Fire department. In times of little

or no rainfall, low humidity and high temperatures create extremely hazardous conditions, particularly as they relate to wood shake and shingle roof fires and conflagrations. The varying wind patterns can have a tremendous impact upon structural fires of buildings in close proximity to one another, commonly found in the City. During wood shake and shingle roof fires, or exposure fires, winds can carry sparks and burning brands to other structures, thus spreading the fire and causing conflagrations. During dense Tule fog, response times may double or triple. Sometimes, the fog is so thick that the City's roads are literally impassable.

Local Geological conditions are further described as:

(a) Limited water supply. The Clovis area receives 10 to 12 inches of rain per year primarily in the winter months. The area has historically relied on underwater aquifer for the primary municipal water supply. The aquifer continues to be drawn down each year and rainfall alone will not meet the City water needs.

(b) Water pressure. Due to the hot, dry summers in the Clovis area domestic water demand substantially reduces the public water system to meet the large fire flow demands in many areas of the city.

These local geological conditions affect the City's ability to provide adequate water to fire pumpers at sufficient pressure to suppress large fires in the city. Water conservation is a major concern to continue to provide adequate water for fire protection.

Local Climatic/Topographic conditions are further described as:

(a) Air Quality. As a result of the San Joaquin Valley climate and topography, the San Joaquin Air Basin (SJVAP) is predisposed to poor air quality. High mountain ranges surrounding the valley frequently create air layers inversions that prevent mixing of air masses. The large number of sunny days and high summer temperatures favor the formation of ozone. In the winter inversions form that often trap particulate matter.

(b) Smoke. Smoke is composed primarily of carbon dioxide, water vapor, carbon monoxide, particulate matter, hydrocarbon and other organic chemicals, nitrogen oxides, trace minerals and several thousand other compounds.

These local climatic/topographical conditions affect the air quality. Increased air pollution during poor air quality days contribute to unhealthy air in the valley. Smoke from fires also contributes to this problem increasing health risks for the persons living and working in the city.

Further explanation of the basis for the findings is set forth in the staff report accompanying the introduction of this Ordinance, which is incorporated herein by reference Section 7. Severability Clause: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Clovis hereby declares that it would have passed this Ordinance and

each section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, clauses or phrases be declared invalid.

Section 8 Notification to California Building Standards Commission of Local Amendments. The City Clerk is hereby directed to file a copy of this Ordinance with the California Building Standards Commission of the State of California.

Section 9 This Ordinance shall go into effect and be in full force from and after thirty (30) days after its final passage and adoption.

APPROVED: November 4, 2019 was introduced

| | |
|-------------------|-------------------|
| _____ | _____ |
| Mayor | City Clerk |
| * * * * * | * * * * * |

The foregoing Ordinance was introduced and read at a regular meeting of the City Council held on November 4, 2019, and was adopted at a regular meeting of said Council held on _____, by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

DATED:

City Clerk



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: November 4, 2019

SUBJECT: Consider Introduction – Ord. 19-___, an Ordinance of the City Council of the City of Clovis Amending Sections 8.1.02, 8.2.101, 8.5.101, 8.6.101, 8.15.101, 8.16.101, 8.17.101 of Title 8 of The Clovis Municipal Code Pertaining to Adoption of the 2019 California Building, Electrical, Mechanical, Plumbing, Residential, Energy, and Green Building Standards Codes

Staff: Doug Stawarski, Building Official
Recommendation: Approve

ATTACHMENTS: 1. Ordinance 19-___

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve introduction of Ordinance 19-___ adopting the 2019 California Building, Electrical, Mechanical, Plumbing, Residential, Energy, and Green Building Standards Codes with the existing local amendments.

EXECUTIVE SUMMARY

Every three years, the California Building Standards Commission (“Commission”) reviews and modifies the California Building Codes, which consist of the California Building, Electrical, Mechanical, Plumbing, Residential, Energy, and Green Building Standards Codes. The 2019 editions were published July 1, 2019 and local jurisdictions have 180 days in which to adopt the 2019 edition of the Codes. The City of Clovis Municipal Code, Chapters 8.1, 8.2,

8.5, 8.6, 8.15, 8.16 and 8.17 contain these Codes, which are adopted or modified as necessary to ensure the safety of the community.

The Building Department is proposing no new local amendments.

BACKGROUND

The 2019 California Building Standards Code adopts the 2019 Codes, which incorporate by reference with necessary California amendments the 2018 International Building Code, 2017 National Electrical Code, 2018 Uniform Mechanical Code, 2018 Uniform Plumbing Code, and 2018 International Residential Code. The 2019 California Building Standards Code becomes effective on January 1, 2020, and is mandated by the California Building Standards Commission for statewide adoption and enforcement. The City of Clovis has the authority to make necessary modifications to the Codes. Modifications that are administrative in nature do not require express findings. However, non-administrative modifications to the Codes must be based upon express findings of necessity relating to local climatic, geological, or topographical conditions. Findings supporting the basis for local amendments were set forth in 2014 when the City adopted the 2013 editions of the California Building Code. Since then no new local substantive amendments are being considered, no new findings are being made. The Findings from 2014 are incorporated herein, and briefly summarized below.

Findings Regarding Local Climatic, Geological and Topographical Conditions

Climatic Conditions (Extreme Temperatures)

Geological Conditions (Limited Water Supply)

Climatic/Topographical (Poor Air Quality)

Topographical (Development Pattern) (Low Density Growth Pattern)

FISCAL IMPACT

None

REASON FOR RECOMMENDATION

Adoption of the 2019 California Building Codes ensures compliance with existing standards adopted by the State. Local amendments are limited to those felt essential to effectively administer responsibilities in daily operations and to maintain previous amendments approved by Council.

ACTIONS FOLLOWING APPROVAL

The Ordinance will return for a second reading and adoption during the November 18, 2019 Council meeting. The City Clerk and Building Official will cause the local amendments and findings, if necessary, to be refiled with the California Building Standards Commission. Copies of the California Building Codes will be kept on file with the City Clerk and Building Official.

Prepared by: Doug Stawarski, Building Official

Reviewed by: City Manager *JH*

ORDINANCE 19-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS AMENDING SECTIONS 8.1.02, 8.2.101, 8.5.101, 8.6.101, 8.15.101, 8.16.101, 8.17.101 OF TITLE 8 OF THE CLOVIS MUNICIPAL CODE RELATING TO THE ADOPTION OF THE 2019 CALIFORNIA BUILDING, ELECTRICAL, MECHANICAL, PLUMBING, RESIDENTIAL, ENERGY AND GREEN BUILDING STANDARDS CODES

The City Council of the City of Clovis does ordain as follows:

Section 1. Amendment of California Building, Electrical, Mechanical, Plumbing, Residential, Energy and Green Building Standards Codes of Chapter 8 of Title 8 of the Clovis Municipal Code. Section 8.1.02 of Chapter 8.2, Section 8.2.101 of Chapter 8.2, Section 8.5.101 of Chapter 8.5, Section 8.6.101 of Chapter 8.6, Section 8.15.101 of Chapter 8.15, Section 8.16.101 of Chapter 8.16, and Section 8.17.101 of Chapter 8.17 of Title 8 of the Clovis Municipal Code are amended to read as follows:

8.1.02 Adoption of California Building Code

For the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings and structures in the City, the 2019 California Building Code (CBC), excluding Chapter 29 Plumbing systems, and including Appendices J Grading, as promulgated by the California Building Standards Commission which incorporates the 2018 edition of the International Building Code with California amendments, is hereby adopted by reference thereto as is fully set forth in this Chapter, save and except such portions as are deleted, modified, or amended by the provisions of this Chapter. Copies of the 2019 California Building Code are on file in the office of the City Clerk and Building Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most restrictive code providing the highest level of safety as determined by the Building Official shall prevail.

8.2.101 Adoption of California Electrical Code.

For the purposes of prescribing regulations governing electrical systems, the 2019 California Electrical Code (CEC) promulgated by the California Building Standards Commission, which incorporates the adoption of the 2017 edition of the National Electrical Code is hereby adopted by reference thereto as is fully set forth in this Chapter, save and except such portions as are deleted, modified, or amended by the provisions of this Chapter. Copies of the 2019 California Electrical Code are on file in the office of the City Clerk and Building Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most

restrictive code providing the highest level of safety as determined by the Building Official shall prevail.

8.5.101 Adoption of California Mechanical Code.

For the purposes of prescribing regulations governing mechanical systems, the 2019 California Mechanical Code (CMC) promulgated by the California Building Standards Commission, which incorporates the adoption of the 2018 edition of the Uniform Mechanical Code, excluding Table 104.5, is hereby adopted by reference thereto as is fully set forth in this Chapter, save and except for portions as are deleted, modified, or amended by the provisions of this Chapter. Copies of the 2019 California Mechanical Code are on file in the office of the City Clerk and Building Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most restrictive code providing the highest level of safety as determined by the Building Official shall prevail.

8.6.101 Adoption of the California Plumbing Code.

For the purposes of prescribing regulations governing plumbing systems, the 2019 California Plumbing Code (CPC) promulgated by the California Building Standards Commission, which incorporates the adoption of the 2018 edition of the Uniform Plumbing Code, excluding Table 104.5, is hereby adopted by reference thereto as is fully set forth in this Chapter, save and except for portions as are deleted, modified, or amended by the provisions of this Chapter. Copies of the 2019 California Plumbing Code are on file in the office of the City Clerk and Building Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most restrictive code providing the highest level of safety as determined by the Building Official shall prevail.

8.15.101 Adoption of the California Residential Code.

For the purposes of prescribing regulations governing one and two family dwellings, the 2019 California Residential Code (CRC) promulgated by the California Building Standards Commission, which incorporates the adoption of the 2018 edition of the International Residential Code, is hereby adopted by reference thereto as is fully set forth in this Chapter. Copies of the 2019 California Residential Code are on file in the office of the City Clerk and Building Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most restrictive code providing the highest level of safety as determined by the Building Official shall prevail.

8.16.101 Adoption of the California Energy Code.

For the purposes of prescribing regulations governing energy conservation standards for all residential and non-residential buildings, the 2019 California Energy Code promulgated by the California Building Standards Commission, is hereby adopted by reference thereto as is fully set forth in this Chapter. Copies of the 2019 California Energy Code are on file in the office of the City Clerk and Building Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most restrictive code providing the highest level of safety as determined by the Building Official shall prevail.

8.17.101 Adoption of the California Green Building Standards Code.

For the purposes of prescribing regulations governing residential and non-residential buildings, the 2019 California Green Building Standards Code (CALGreenCode) promulgated by the California Building Standards Commission, is hereby adopted by reference thereto as is fully set forth in this Chapter. Copies of the 2019 California Green Building Standards Code are on file in the office of the City Clerk and Building Official. Any changes made by the California Building Standards Commission applicable to the City, including new editions, shall be deemed incorporated herein. If any conflicts between this Code and any other City, State or Federal Code should arise, the most restrictive code providing the highest level of safety as determined by the Building Official shall prevail.

Section 2. Severability Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Clovis hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, clauses or phrases be declared invalid.

Section 3. Notification to California Building Standards Commission of Local Amendments

The City Clerk is hereby directed to file a copy of this Ordinance with the California Building Standards Commission of the State of California.

Section 4. Effective Date.

This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage and adoption. Within fifteen (15) days after its adoption, the

ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation.

APPROVED: November 4, 2019

Mayor

City Clerk

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Clovis held on the 4th day of November 2019 and passed and adopted at a regular meeting of the City Council held on the _____, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED:

City Clerk



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: November 4, 2019

SUBJECT: Consider – Options Regarding the Roll Out of Shared Mobility Devices in the City of Fresno and how the City of Clovis may be impacted.

Staff: John Holt, Assistant City Manager
Recommendation: Provide Policy Direction

- ATTACHMENTS:
1. October 10, 2019 City of Fresno Staff Report on a Six Month Trial Program for Lime Scooters to roll out Shared Mobility Devices (SMD's) in the City of Fresno.
 2. White Paper from the League of California Cities on Local Approaches to Regulating SMD's.
 3. DePaul University study showing promise when it comes to closing transit gaps and improving the lives of families without cars.

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to provide policy direction on options to consider regarding the roll out of shared mobility devices in the City of Fresno and how the City of Clovis may be impacted. More specifically, staff is recommending that Lime Scooters use technology referred to as geo-fencing the Clovis city limits during the initial six month trial period in the City of Fresno. This would effectively not allow the scooters to work in Clovis. The six month geo-fencing trial period would allow staff to evaluate Lime's performance in the City of Fresno, and develop policies to regulate.

EXECUTIVE SUMMARY

On October 10, 2019, the Fresno City Council approved a six month trial program in the City of Fresno to allow 500 Shared Mobility Devices (SMD's) with a sole franchise with Lime Scooters (Attachment 1 is the staff report for the item). The tentative roll out date is mid-November 2019. Staff reached out to Lime Scooters and spoke with their Communications and Government Relations person on October 22, 2019. According to the Lime representative, Lime has the sole franchise for a six month trial period, after which an additional six month period may be implemented depending on the results of the first six months. At the end of one year, the franchise could be opened up to other SMD operators. In the summer of 2018, the City of Clovis was impacted when Bird Scooters rolled out SMD's in both Fresno and Clovis unannounced. A few months later the City of Fresno issued a cease and desist order to Bird. The Lime Scooter representative indicated that Fresno State University has requested their campus to be geo-fenced to not allow their use on campus. This will lessen the impact on Shaw Avenue that was experienced in 2018 with Bird Scooters.

It is likely that the roll out of Lime Scooters in Fresno will have an impact on the City of Clovis. Staff is recommending that Lime Scooters use technology referred to as geo-fencing in the Clovis city limits during the initial six month trial period in the City of Fresno. Geo-fencing is a feature in a software program that uses the global positioning system (GPS) or radio frequency identification (RFID) to define geographical boundaries. The Scooters can travel up to 15 mph, but with geo-fencing they would slow down to 3 mph when they approached Clovis city limits. The rider would also be notified that Lime Scooters are not currently licensed and allowed in the City of Clovis.

The six month geo-fencing trial period would allow staff time to evaluate Lime's performance in the City of Fresno, and develop policies to regulate. It would also allow staff additional time to evaluate the regulations approved by the City of Fresno to determine if they are adequate and will suffice in the City of Clovis. As the two cities are contiguous in their borders, it would make sense to have similar if not identical regulations.



BACKGROUND

In late 2017, electric scooters appeared on the streets and sidewalks of the City of Santa Monica, and soon became everywhere throughout several Los Angeles neighborhoods and the Bay Area. The scooters (dockless), accessed via a smartphone app, able to reach speeds of 15 miles per hour, usually operated on the sidewalk by riders without helmets, and often haphazardly parked or tossed in the public right-of-way, are disliked by some and loved by others. Cities concerned that the scooters pose safety hazards to pedestrians, riders, and drivers, and frustrated by the unsightly scattering of vehicles not in use, have taken various approaches toward regulating these new SMD's. Attachment 2 explores several of those specific approaches and address the most significant challenges faced by cities in designing and implementing SMD regulation, namely, potential conflicts with the California Vehicle Code, enforcement capability, compliance with the California Environmental Quality Act ("CEQA"), liability for personal injuries, and compliance with the Americans with Disabilities Act ("ADA").

What all SMD companies have in common is the type of service they offer to the public: wheeled electric mobility devices that may be accessed via a smartphone app and a credit card, and picked up or dropped off anywhere—no "dock" or stationary storefront necessary. The dockless nature of SMDs is primarily what makes them more convenient and appealing than existing city bicycle programs or traditional rental businesses. SMDs are all powered by electric motors, but may be bicycles, sit-down scooters, or stand-up scooters. However, the particular kind of SMD that is most ubiquitous and vexing to cities is the stand-up, or "kick" scooter. According to the Lime representative, Lime only intends to roll out 500 scooters during the trial period.

Options for City Council to consider:

1. Take no action – Staff is not recommending this. The City of Clovis will be impacted and it would be to the benefit of the City to regulate Lime during the six month trial period in the City of Fresno.
2. Develop regulations similar to the City of Fresno and allow their roll out in Clovis as soon as staff can complete.
3. Require Lime Scooters to geo-fence the City of Clovis during the six month trial period while staff evaluates City of Fresno regulations and measures Lime's performance.

Staff is recommending option 3.

Scooters have been very successful in larger urban cities because they have become effective tools to reach what is termed the first and last mile of transportation from a location to other means of transportation. Attachment 3 is an article from Government Technology magazine on a DePaul University study, funded in part by Bird, showing promise when it comes to closing transit gaps and improving the lives of families without cars.

Another study conducted by DePaul University found that:

- On trips between 0.5 and 2 miles, e-scooters would be a particularly strong alternative to private automobiles. In parking-constrained environments, the introduction of e-scooters could increase the number of trips in which non-auto options are competitive with driving from 47% to 75%. The cost of using an e-scooter, inclusive of tax, would likely be around \$1.10 per trip plus \$1.33 per mile, making them cost-effective on short-distance trips. By filling a gap in mobility, e-scooters have the potential to increase the number of car-free households in Chicago.
- Due to their higher relative cost on trips over three miles, e-scooters would likely not result in significant diversion from public transit on longer-distance trips, particularly services operating to and from jobs in the transit-rich Loop business district. Often, the use of scooters on these longer journeys would likely be short connections to nearby transit stops.
- First/last mile mobility: A notable benefit of e-scooters is filling in the gaps in neighborhoods due to their differing juxtaposition to transit and bike share options. The potential time savings was found to vary significantly between places only a few blocks apart, largely based on proximity to transit stops and Divvy (bike) docks.

https://las.depaul.edu/centers-and-institutes/chaddick-institute-for-metropolitan-development/research-and-publications/Documents/E-ScooterScenariosMicroMobilityStudy_FINAL_20181212.pdf

FISCAL IMPACT

Based on what the City experienced in 2018 with the roll out of Bird Scooters, the Police Department was negatively impacted with having to clean up the scooters that were randomly “dumped” at various locations, primarily Shaw Avenue adjacent Fresno State University.

REASON FOR RECOMMENDATION

The six month geo-fencing would allow staff to evaluate Lime’s performance in the City of Fresno, and develop policies to regulate. It would also allow staff additional time to evaluate the regulations approved by the City of Fresno to determine if they are adequate and will suffice in the City of Clovis.

ACTIONS FOLLOWING APPROVAL

Staff will implement Council policy direction.

Prepared by: John Holt, Assistant City Manager

Reviewed by: City Manager *JH*



Legislation Details (With Text)

File #: ID19-11389 **Version:** 1 **Name:**

Type: Ordinance **Status:** Agenda Ready

File created: 9/27/2019 **In control:** City Council

On agenda: 10/10/2019 **Final action:** 10/10/2019

Title: Action pertaining to Shared Mobility Devices:
1. ***BILL NO. B-35 - (Intro. 9/26/2019) (For adoption) - Amending the Fresno Municipal Code Relating to Shared Mobility Devices (Subject to Mayor's veto)

Sponsors: City Manager's Office

Indexes:

Code sections:

Attachments: 1. Shared Mobility Devices - ORDINANCE 9.30.19.pdf, 2. Shared Mobility Devices - Franchise Agreement_CLEAN draft 9.19.19.pdf, 3. Shared Mobility Devices - INDEMNIFICATION LANGUAGE_CLEAN.pdf, 4. Shared Mobility Devices - INSURANCE LANGUAGE_CLEAN.pdf, 5. Shared Mobility Devices - PERMIT Sample.pdf, 6. Shared Mobility Devices - CITY OF FRESNO RELEASE USER.pdf

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 10/10/2019 | 1 | City Council | | |

REPORT TO THE CITY COUNCIL

October 10, 2019

FROM: Wilma Quan, City Manager
Office of the Mayor & City Manager

THROUGH: JIM SCHAAD, Assistant City Manager
Office of the Mayor & City Manager

BY: THOMAS W. GAFFERY IV, Parking Division Manager
Planning & Development Department

SUBJECT

Action pertaining to Shared Mobility Devices:
1. ***BILL NO. B-35 - (Intro. 9/26/2019) (For adoption) - Amending the Fresno Municipal Code Relating to Shared Mobility Devices (Subject to Mayor's veto)

RECOMMENDATION

Staff recommends City Council approve a resolution adding Article 34 to Chapter 9, amending Section 14-305, and adding Section 14-312 of the Fresno Municipal Code, authorize the City Manager or designee to sign a six-month pilot Franchise Agreement on behalf of the City of

Fresno

EXECUTIVE SUMMARY

This resolution will create the necessary laws to enforce shared mobility devices, and allow the City Manager to negotiate a six month pilot program franchise agreement.

BACKGROUND

There is a need for affordable, environmentally friendly forms of transportation in the City of Fresno and shared mobility devices have been successful in other cities. A six month pilot program franchise agreement will allow the City to determine if Fresno can also benefit from shared mobility devices.

The ordinance and sample franchise agreement address key concerns including shared mobility devices in the right-of-way, protecting ADA paths of travel, programs for low-income residents, ability to accept cash payments, removal of non-compliant shared mobility devices, and ensuring the City's costs to administer are appropriately recouped.

ENVIRONMENTAL FINDINGS

Staff determined this activity is not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(2), as it would not result in any direct or indirect physical change in the environment, and that nevertheless, is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and 15306 (Information Collection), and no exceptions to the exemptions as set forth in CEQA Guidelines Section 15300.2 apply to the activity.

LOCAL PREFERENCE

Local preference was not considered as staff concluded there were no local providers. The selected franchisee will hire local staff in support of their pilot program.

FISCAL IMPACT

The franchise fee and penalties proposed in the sample franchise agreement are designed to make this pilot program self-sustaining.

Attachment:

Ordinance
Sample Franchise Agreement
Sample Indemnification & Hold Harmless
Sample Insurance Requirements
Sample Permit
Sample User Release



Scooter Wars: Local Approaches to Regulating Shared Mobility Devices

Thursday, May 9, 2019 General Session; 1:30 – 3:15 p.m.

Zachary M. Heinselman, Attorney, Richards, Watson & Gershon

DISCLAIMER: *These materials are not offered as or intended to be legal advice. Readers should seek the advice of an attorney when confronted with legal issues. Attorneys should perform an independent evaluation of the issues raised in these materials.*

Copyright © 2019, League of California Cities®. All rights reserved.

This paper, or parts thereof, may not be reproduced in any form without express written permission from the League of California Cities®. For further information, contact the League of California Cities® at 1400 K Street, 4th Floor, Sacramento, CA 95814. Telephone: (916) 658-8200.



SCOOTER WARS: CHALLENGES AND OPPORTUNITIES IN LOCAL REGULATION OF SHARED MOBILITY DEVICES

Prepared by:
Zachary M. Heinselman
Emily B. Milder
Laurence S. Weiner

RICHARDS WATSON GERSHON

rwglaw.com
213.626.8484

TABLE OF CONTENTS

| | <u>Page</u> |
|---------------------------------------------------------------------------------|-------------|
| I. Introduction and Shared Mobility Device (“SMD”) Landscape Overview | 1 |
| II. Local Approaches | 2 |
| A. Santa Monica | 2 |
| B. Beverly Hills..... | 3 |
| C. Goleta..... | 4 |
| D. San Francisco..... | 4 |
| E. San Jose..... | 5 |
| F. Santa Cruz | 6 |
| G. San Diego | 6 |
| H. South Lake Tahoe..... | 7 |
| III. Issues in Designing and Implementing Local Regulation..... | 8 |
| A. Electric Scooters and the California Vehicle Code..... | 8 |
| 1. Preemption Concerns | 8 |
| 2. Impound Authority | 9 |
| B. Electric Scooters and the California Environmental Quality Act (“CEQA”)..... | 12 |
| 1. The Environmental Effect of the Regulation of SMDs | 13 |
| 2. CEQA Exemptions..... | 14 |
| 3. CEQA Summary | 18 |
| C. Electric Scooters and Injury Liability | 18 |
| 1. Liability Challenges..... | 18 |
| 2. Opportunities to Control Liability | 21 |
| D. Electric Scooters and ADA Compliance..... | 24 |
| IV. Conclusion..... | 25 |

SCOOTER WARS: CHALLENGES AND OPPORTUNITIES IN LOCAL REGULATION OF SHARED MOBILITY DEVICES

By Zachary M. Heinselman, Emily B. Milder and Laurence S. Wiener

Richards, Watson & Gershon

I. Introduction and Shared Mobility Device (“SMD”) Landscape Overview

In late 2017, seemingly overnight, electric scooters appeared on the streets and sidewalks of the City of Santa Monica, and soon became ubiquitous throughout several Los Angeles neighborhoods and the Bay Area. The scooters—dockless, accessed via a smartphone app, able to reach speeds of fifteen miles per hour, usually operated on the sidewalk by riders without helmets, and often haphazardly parked or tossed in the public right-of-way—are despised by some and loved by others. Cities, concerned that the scooters pose safety hazards to pedestrians, riders, and drivers, and frustrated by the unsightly scattering of vehicles not in use, have taken various approaches toward regulating these new “shared mobility devices.” This paper will explore several of those specific approaches and address the most significant challenges faced by cities in designing and implementing shared mobility device (“SMD”) regulation, namely, potential conflicts with the California Vehicle Code, enforcement capability, compliance with the California Environmental Quality Act (“CEQA”), liability for personal injuries, and compliance with the Americans with Disabilities Act (“ADA”).

Since the advent of SMDs in California about one and a half years ago, the landscape has evolved from being dominated by two companies (Bird, and, to a lesser extent, Lime) to being crowded with competitors. Some SMD companies are already big, well-funded players in the “disruptive” transportation technology scene, such as Uber, owner of Jump, and Lyft, which launched Lyft Scooters. Others are bankrolled by traditional behemoths; Spin, for example, is owned by Ford. Some companies, most notably Bird, are aggressive: known to place their devices on city streets without seeking permission, let alone offering a warning to the receiving jurisdiction, then apologize (and/or sue) later. In the wake of the disruption wrought by this approach, other companies have sought to distinguish themselves as conscientious citizens sensitive to cities’ needs and desires.

What all SMD companies have in common is the type of service they offer to the public: wheeled electric mobility devices that may be accessed via a smartphone app and a credit card, and picked up or dropped off anywhere—no “dock” or stationary storefront necessary. The dockless nature of SMDs is primarily what makes them more convenient and appealing than existing city bicycle programs or traditional rental businesses. SMDs are all powered by electric motors, but may be bicycles, sit-down scooters, or stand-up scooters. However, the particular kind of SMD that is most ubiquitous and vexing to cities is the stand-up, or “kick” scooter.

The level of angst caused by the arrival—and instant popularity—of SMDs is owing to two genuine, conflicting concerns. Most, if not all, California cities struggle to meet the mobility needs of residents, workers, and tourists, and SMDs provide a fun and convenient solution for some. On the other hand, SMDs pose real safety hazards to riders and pedestrians, especially—but not exclusively—to those who are not young or able-bodied. In addition to the legal complexities associated with regulating any new technology, cities will have to grapple with this fundamental tension as they develop SMD policies that best serve their communities.

II. Local Approaches

The section below provides a brief survey of how some cities have responded to the presence of SMDs in their jurisdictions. A number of cities have banned SMDs. Other cities have regulated SMDs with permit systems and by establishing pilot programs. Other cities have taken a more laissez-faire approach and have decided to not independently regulate SMDs, relying instead on state law to control SMDs in their jurisdictions.

A. Santa Monica

Santa Monica has been labelled “Scooter City,”¹ and can be considered ground zero for the interaction between local government regulation and SMD use and innovation. SMDs first appeared in Santa Monica in 2017. The relationship between scooter deployment and regulation started off rocky. In December 2018, the Santa Monica city attorney’s office filed a misdemeanor criminal complaint against Bird, alleging that: (1) Bird began operated devices in the city without approval, and that (2) Bird ignored citations asking the company to obtain proper licenses and remove the scooters from sidewalks.² Bird pleaded no contest and agreed to pay more than \$300,000 in fines and secure proper business licenses.³

Subsequently the Santa Monica City Council approved a 16-month pilot plan for SMDs. The pilot program began in September 2018 and runs through December 30, 2019. Companies were chosen for permits based on a selection process is process outlined in Santa Monica Municipal Code Chapter 3.21. These companies were evaluated according to objective criteria outlined in the Code, with review of the shared mobility service providers' experience, operations, ability to launch, education strategies, compliance record, financial viability and

¹ Patrick Sisson, *Scooter City: How Santa Monica, the birthplace of dockless electric scooters, is shaping the multibillion-dollar industry*, CURBED.COM (Dec. 7, 2018, 3:40 PM), <https://www.curbed.com/2018/12/7/18130247/santa-monica-uber-lyft-bird-lime-scooter-bike-app>. (last visited Mar. 27, 2019).

² Melissa Etehad, *Bird scooter firm settles legal fight with Santa Monica*, L.A. TIMES (Dec. 15, 2018, 6:55 PM), <https://www.latimes.com/local/lanow/la-me-ln-bird-scooters-20180215-story.html>. (last visited Mar. 27, 2019).

³ *Id.*

safety compliance. A selection committee recommended granting permits to Jump and Lyft.⁴ The Director of Planning and Community Development also selected Bird and Lime.⁵

Under the permit program, each provider was allowed to deploy 750 devices, though the number may increase. The SMD Companies paid \$20,000 for the right to operate, \$130 per device, and \$1 per device per day for the privilege of parking on the public sidewalk.⁶ With a permit, SMD companies may provide scooters in the City. But, certain areas of the city are subject to geo-speed reduction zones (device speeds are automatically slowed upon entering a designated area) and no ride or deployment zones, such as the Santa Monica Pier, Third Street Promenade, Ocean Front Walk or in municipal parks like Palisades Park.⁷

Device operators are required to secure and maintain insurance coverages, indemnify the city, meet device safety and technology requirements, meet certain maintenance and customer service standards, educate users about safety, share data with the city, and work cooperatively with existing transportation systems.⁸

B. Beverly Hills

By the summer of 2018, Santa Monica's scooter problems had metastasized into other parts of Los Angeles, including Beverly Hills. In response to residents' complaints and evidence that the scooters posed a public health hazard, in late July 2018 the city enacted an urgency ordinance that prohibited SMDs from being placed in, operated on, or offered for use in any of the city's public rights-of-way. The ordinance's definition of an SMD is broad enough to encompass both motorized scooters and bicycles.⁹ The ordinance contained a sunset clause providing that it would expire in six months unless the city council took action to renew it. In December 2018, a regular ordinance was enacted to extend the prohibition on SMDs for another year.

⁴ Laura Newberry, *Santa Monica selects Bird and Lime after all for its electric scooter pilot program*, L.A. TIMES (Aug. 30, 2018 7:15 PM), <https://www.latimes.com/local/lanow/la-me-ln-santa-monica-scooter-selection-20180830-story.html>. (last visited Mar. 27, 2019).

⁵ City of Santa Monica Final Administrative Decision, Shared Mobility Device Pilot Program Operator Selection and Device Allocation (Aug. 30, 2018), <https://www.smgov.net/uploadedFiles/Departments/PCD/Transportation/Shared%20Mobility%20Device%20Pilot%20Program.pdf>. (last visited Mar. 27, 2019).

⁶ City of Santa Monica Shared Mobility Device Pilot Program Administrative Regulations (March 5, 2019), https://www.smgov.net/uploadedFiles/Departments/PCD/Transportation/SM-AdminGuidelines_03-05-2019_Final.pdf [hereafter "Santa Monica Administrative Regulations"]. (last visited Mar. 27, 2019).

⁷ *Id.*

⁸ *Id.*

⁹ The ordinance's definition of an SMD includes "any wheeled device, other than an automobile or motorcycle, that is powered by a motor; is accessed via an on-demand portal, whether a smartphone application, membership card, or similar method; is operated by a private entity that owns, manages, and maintains devices for shared use by members of the public; and is available to members of the public in unstaffed, self-service locations, except for those locations which are designated by the City." BEVERLY HILLS MUNICIPAL CODE § 7-6-2.

Beverly Hills thus became the first city in the state to enact a comprehensive ban on SMDs.¹⁰ But the city invited SMD companies to propose a solution to its concerns. The response from SMD companies has varied. Bird objected to the validity of the ordinance on multiple grounds, and continues to challenge each and every scooter impound performed by the city. In the fall of 2018, Bird filed a lawsuit against the city alleging, among other things, that the ordinance is preempted by the Vehicle Code, the city failed to comply with CEQA, and the city's impounding practices are unconstitutional. Meanwhile, other SMD companies have sought to convince Beverly Hills to partner with them on a pilot project to bring regulated SMDs to the city. The lawsuit, as well as the discussions with SMD companies regarding a possible pilot project, are ongoing as of the time of this paper's writing.

C. Goleta

In addition to larger cities and tourist locations, SMDs have proliferated across areas surrounding colleges and universities. In 2018 SMDs from at least two SMD companies were deployed without permits in Goleta, neighboring the University of California, Santa Barbara. The Goleta City Council voted unanimously to pass an urgency ordinance to ban SMDs in Goleta on December 4, 2018.¹¹ Prior to the meeting, the city received more than 200 public comments on the item, the most ever received on a single topic.¹² Goleta's ban makes it unlawful to "provide, place, offer for use or operate a shared on-demand motorized scooter, or to operate as a shared on-demand motorized scooter operator in any street or public right-of-way, or other public place within the City in which the public has the right of travel."¹³ The ban also authorizes the impound of SMDs, with an impound fee set by resolution.

D. San Francisco

San Francisco, like Santa Monica, faced an early wave of SMD deployment. In March 2018, Bird, Lime and Spin unloaded hundreds of scooters across San Francisco. This sparked a wave of concerns, and between April 11 and May 23 the city received nearly 1,900 complaints and impounded more than 500 scooters. In response, the Board of Supervisors unanimously passed an ordinance on April 24, 2018, requiring that any company operating shared, powered scooters in San Francisco have a permit from the San Francisco Municipal Transportation

¹⁰ San Francisco prohibited the parking of shared scooters (not SMDs generally) without a permit from the city in late April 2018, and soon thereafter announced the intention to create a pilot program to permit approved scooter companies to operate in the city. See Ben Jose, *SFMTA Offers Two Permits for One-Year Powered Scooter Pilot*, SFMTA Blog (Aug. 30, 2018), <https://www.sfmta.com/blog/sfmta-offers-two-permits-one-year-powered-scooter-pilot>. (last visited Mar. 22, 2019).

¹¹ Joshua Molina, *Goleta City Council Votes Unanimously to Ban Motorized Scooters*, NOOZHAWK (Dec. 4, 2018, 11:40 PM), <http://www.goletamonarchpress.com/2018/12/motorized-scooters-banned-in-goleta/>. (last visited Mar. 27, 2019). The ordinance was codified as Chapter 10.05 of the Goleta Municipal Code.

¹² *Id.*

¹³ GOLETA MUNICIPAL CODE § 10.05.030 (2018).

Agency (“SFMTA”) to park their scooters on sidewalks or other public spaces. The law took effect on June 4, 2018 and Bird, Lime, and Spin removed their scooters from the city.¹⁴

The city thereafter established a permitting program and selected Scoot and Skip to participate in a one-year pilot program.¹⁵ Several SMD companies appealed this decision with the SFMTA, but no additional permits were granted for phase one of the program.¹⁶ Lime sought a temporary restraining order to block to program, but was denied.¹⁷

San Francisco’s permit program includes a \$25,000 annual permit fee and a \$10,000 endowment per permittee to cover city costs associated with property repair and maintenance. The SFMTA has also implemented an initial \$5,000 application fee.¹⁸ There is no per-device fee.

Device operators are required to secure and maintain insurance coverages, indemnify the city, meet device safety and technology requirements, meet certain maintenance and customer service standards, educate users about safety, share data with the city, and meet certain equitable service requirements.¹⁹

E. San Jose

The City of San Jose, months after scooters arrived, passed an ordinance regulating SMDs. To operate in the city, SMD companies must pay an annual permit application fee of \$2,500, a \$10,000 property repair and maintenance deposit, and \$124 per device each year.²⁰

The program places various limits and requirements on the devices and SMD companies. For example, downtown speeds are capped at twelve miles per hour.²¹ Also, by June 2019, all scooters permitted in the City must have technology that prevents the use the scooters on public sidewalks.²² There are also equity requirements: twenty percent of an operator’s

¹⁴ Jose, *supra* note 2.

¹⁵ Pilot Powered Scooter Share Permit Program (Aug. 28, 2018), https://www.sfmta.com/sites/default/files/reports-and-documents/2018/08/scooter_policy_directive_08.28.2018.pdf. (last visited Mar. 27, 2019).

¹⁶ Megan Rose Dickey, *Lime loses appeal to operate electric scooters in SF*, TECHCRUNCH (Feb. 13, 2009), <https://techcrunch.com/2019/02/13/lime-loses-appeal-to-operate-electric-scooters-in-sf/>. (last visited Mar. 27, 2019).

¹⁷ Carolyn Said, *Lime’s move to squeeze SF scooter rivals pulped by court*, S.F. CHRONICLE (Oct. 12, 2018, 5:55 PM), https://www.sfchronicle.com/business/article/Lime-s-move-to-squeeze-SF-scooter-rivals-pulped-13303689.php?utm_campaign=twitter-premium&utm_source=CMS%20Sharing%20Button&utm_medium=social. (last visited Mar. 27, 2019).

¹⁸ Jose, *supra* note 2.

¹⁹ *Id.*

²⁰ San Jose Municipal Code § 11.92.100(B); Emily Deruy, *San Jose imposes new scooter regulations*, MERCURY TIMES (Dec. 20, 2018 6:00 AM), <https://www.mercurynews.com/2018/12/19/san-jose-imposes-new-scooter-regulations/>. (last visited Mar. 27, 2019).

²¹ San Jose Shared Micro Mobility Permit Administrative Regulations, <http://www.sanjoseca.gov/DocumentCenter/View/82493>. (last visited Mar. 27, 2019).

²² *Id.*

operation must occur in a “Community of Concern” and operator must establish low-income discount programs for individuals at or below 200% of the federal poverty level.²³

Device operators are also required to secure and maintain insurance coverages, indemnify the city, meet device safety and technology requirements, meet certain maintenance and customer service standards, educate users about safety, and share data with the city.²⁴

F. Santa Cruz

In September 2018, Bird released scooters across Santa Cruz. Bird sent the City an e-mail the day of the drop, but had not previously contacted the city regarding the release of the devices.²⁵ The city issued a cease and desist order to Bird. City staff impounded about 175 devices, with impounding fees at \$181 per device, totaling \$32,000.²⁶

Santa Cruz imposed an immediate, temporary moratorium on SMD programs on September 25, 2018.²⁷ The moratorium will last “until the city issues new ordinances governing” SMDs. The moratorium expressly exempts Social Bicycles, a shared bike operator previously authorized by the city. During the moratorium, the city is authorized to remove and impound SMD devices found within the city. Thus far no regulations have been adopted.

G. San Diego

Unlike other city’s that rushed to approve regulations on SMDs, San Diego has not yet adopted specific regulations concerning shared mobility devices or established a pilot program for SMDs. The following companies are and have been operating motorized scooters and or e-bikes in San Diego: Lime, Bird, Razor, Wheels, Jump, and Lyft. In May 2018, the San Diego City Council rejected a proposed emergency ban that would have prohibited scooters from the city’s boardwalks.²⁸ Recently, however, the city has taken steps toward regulation. In October 2018, the Mayor proposed regulations, and on February 20, 2019 the City Council’s Active Transportation and Infrastructure Committee voted to send a set of regulations on dockless electric scooters and bicycles to the full council.²⁹ As of the writing of this paper, no regulations have been adopted or implemented.

²³ *Id.*

²⁴ *Id.*; SAN JOSE MUNICIPAL CODE CH. 11.92.

²⁵ SANTA CRUZ ORDINANCE No. 2018-12 (Sep. 25, 2018), <https://www.cityofsantacruz.com/home/showdocument?id=73313>. (last visited Mar. 27, 2019).

²⁶ Robyn Sidersky, *Cities to Bird: Pay Up if You Want Your Scooters Back*, VIRGINIAN-PILOT (Nov. 12, 2018), <https://www.govtech.com/fs/transportation/Cities-to-Bird-Pay-Up-if-You-Want-Your-Scooters-Back.html>. (last visited Mar. 27, 2019).

²⁷ SANTA CRUZ ORDINANCE No. 2018-12 (Sep. 25, 2018) (codified as Santa Cruz Municipal Code, Chapter 10.70).

²⁸ *San Diego City Council rejects boardwalk scooter ban*, CWSAN DIEGO.COM (May 22, 2018 5:31 PM), <http://www.thecwsandiego.com/story/38252157/san-diego-city-council-weighing-options-on-motorized-scooters-on-boardwalks?removecgbypass&clienttype=smartdevice>. (last visited Mar. 27, 2019).

²⁹ *Id.*

The city's proposed regulations are similar to those in other cities, but do contain some unique conditions.³⁰ The proposed regulations would implement different speed requirements, based on geofencing³¹ requirements. The current speed of SMDs is fifteen miles per hour, but some zones would have reduced speed limits of eight miles per hour, and some zones would feature a further restricted speed limit of two miles per hour.³² The City also plans to impose certain no park zones. The proposed regulations would establish a six month permit with fees to be established by the city council. The mayor has proposed \$253 a permit and up to \$150 per device annually.³³ The proposed regulations would also require operators to indemnify the city from liability claims and carry insurance policies, like other cities that have established pilot programs.

Absent local regulations, San Diego police have relied on Vehicle Code provisions to regulate scooter use.³⁴ The City has been sued by individuals injured by SMDs. The allegations against the City fault the City in part for a failure to adopt regulations, resulting in injuries and ADA violations.³⁵ Recently San Diego experienced its first fatality resulting from a scooter crash.³⁶

H. South Lake Tahoe

In the summer of 2018, Lime introduced scooters to South Lake Tahoe. The devices followed Lime's bikes that were deployed as a part of a pilot program in the city the previous summer. South Lake Tahoe is a much smaller city than most cities where SMDs have been deployed. Additionally, SMDs are only deployed in the city during the summer tourist season, unlike most other cities where devices are available year-round. In April 2019 the City entered into a license agreement with Lime to operate scooters, but not bikes, in the city for one year. The agreement provides for a cap on the scooter fleet at 550 devices and establishes a 5 cent

³⁰ City of San Diego Staff Report, Regulation of Shared Dockless Mobility Devices (Feb. 2, 2019), [https://onbase.sandiego.gov/OnBaseAgendaOnline/Documents/ViewDocument/Staff%20Report%20for%20for%20%20%20\(\).pdf?meetingId=1488&documentType=Agenda&itemId=33275&publishId=152805&isSection=false](https://onbase.sandiego.gov/OnBaseAgendaOnline/Documents/ViewDocument/Staff%20Report%20for%20for%20%20%20().pdf?meetingId=1488&documentType=Agenda&itemId=33275&publishId=152805&isSection=false). (last visited Mar. 27, 2019).

³¹ Geofencing is the practice of using global positioning (GPS) or radio frequency identification (RFID) to define a geographic boundary to create a "virtual barrier."

³² Joshua Emerson Smith, *San Diego Releases Draft Bike, Scooter Regulations*, SAN DIEGO UNION-TRIBUNE (Feb. 15, 2019), <http://www.govtech.com/fs/transportation/San-Diego-Releases-Draft-Bike-Scooter-Regulations.html>. (last visited Mar. 27, 2019).

³³ *Id.*

³⁴ For example, 551 citations issued to people for riding a scooter on the sidewalk in 2018. The city has posted a list of Rules and Regulations on its internet website: <https://www.sandiego.gov/bicycling/bicycle-and-scooter-sharing/rules>. (last visited Mar. 27, 2019).

³⁵ Greg Moran, *Disabled man sues scooter maker and San Diego over injuries from boardwalk crash*, SAN DIEGO UNION-TRIBUNE (Mar. 5, 2019 11:40 AM), <https://www.latimes.com/local/lanow/la-me-ln-scooter-lawsuit-san-diego-20190305-story.html>. (last visited Mar. 27, 2019).

³⁶ Karen Kucher, *Man dies 2 days after crashing scooter into tree in San Diego's first such fatality*, L.A. TIMES (Mar. 18, 2019 4:45 PM), <https://www.latimes.com/local/lanow/la-me-ln-san-diego-scooter-death-20190318-story.html>. (last visited Mar. 27, 2019).

per trip fee that will be remitted to the City for enforcement efforts.³⁷ The agreement also requires a driver’s license to unlock the scooters in order to discourage use by individuals under the age of 18, and limits the maximum speed to 15 mph. Further, the agreement promotes the use of geo-fencing in high pedestrian use areas, promotes responsible parking of scooters, requires Lime to remove improperly parked scooters within four hours, and enables the City to remove scooters parked in unsafe locations and recover City costs.

III. Issues in Designing and Implementing Local Regulation

A. Electric Scooters and the California Vehicle Code

1. Preemption Concerns

Section 21 of the California Vehicle Code expressly preempts local regulation in the field of motor vehicle traffic: “[L]ocal authority shall not enact or enforce any ordinance or resolution on the matters covered by this code [...] unless expressly authorized by this code.” The Vehicle Code regulates motorized scooters³⁸, therefore cities may not regulate motorized scooters unless a provision of the Vehicle Code expressly grants them the authority to do so. The Vehicle Code does in fact authorize some local regulation of scooters: Section 21230 allows local governments to “prohibit” the operation of scooters on bicycle paths, trails, and bikeways, while Section 21225 allows cities to “regulat[e] the registration of motorized scooters and the parking and operation of motorized scooters on pedestrian or bicycle facilities and local streets and highways, if that regulation is not in conflict with this code.”

Because the Vehicle Code uses the term “regulate” rather than “prohibit” in Section 21225, there is an argument that it does not allow cities to entirely prohibit the parking and operation of electric scooters in local streets and highways. Courts have repeatedly held that “the delegation to local authorities of power to make vehicular traffic rules and regulations will be strictly construed—such authority must be expressly (not impliedly) declared by the Legislature.”³⁹ In *Barajas v. City of Anaheim*, 15 Cal. App. 4th 1808, 1815 (1993), the court applied this principle to hold that a local ordinance banning vending from a parked vehicle was preempted by the Vehicle Code, which merely granted local authorities the power to “regulate” vending from parked vehicles: “The Vehicle Code is replete with instances in which the Legislature has given local authorities the power to ‘prohibit’[,] ‘prohibit or restrict’[,] ‘regulat[e] or prohibit’[,] ‘license and regulate’[,] or simply ‘regulate’[.] Thus, we assume the Legislature knows whatever words it employs to delegate power to local authorities in the

³⁷ Ryan Hoffman, *City Council approves agreement to allow Lime scooters in South Lake Tahoe*, TAHOE DAILY TRIBUNE (Apr. 17, 2019), <https://www.tahodailytribune.com/news/local/city-council-approves-agreement-to-allow-lime-scooters-in-south-lake-tahoe/>. (last visited Apr. 17, 2019); City of South Lake Tahoe Report to the City Council, Lime Scooter License Agreement (Apr. 16, 2019).

³⁸ See Veh. Code §§ 21220 - 21235.

³⁹ *Barajas v. City of Anaheim*, 15 Cal. App. 4th 1808, 1815 (1993).

Vehicle Code will be accorded their plain meaning and the courts will not imply a broader grant of authority than that expressly given.”⁴⁰

However, the Vehicle Code does not include a definition of an SMD (or a category of vehicles readily identified as such), let alone regulate such a category as a whole. A city could therefore persuasively argue that a comprehensive ban on SMDs—which would encompass not just scooters but also bicycles, and only those that are involved in a particular kind of business—constitutes a permissible regulation of scooters, rather than a prohibition. Indeed, a prohibition on SMDs would not include privately owned or leased scooters, or scooters rented as a traditional rental vehicle.

Moreover, the Vehicle Code expressly allows cities to restrict or prohibit “electrically motorized boards” from operating on local streets and sidewalks.⁴¹ An electrically motorized board is defined as “any wheeled device that has a floorboard designed to be stood upon when riding that is not greater than 60 inches deep and 18 inches wide, is designed to transport only one person, and has an electric propulsion system averaging less than 1,000 watts, the maximum speed of which, when powered solely by a propulsion system on a paved level surface, is no more than 20 miles per hour.”⁴² This definition applies to the scooters currently offered by Bird and other SMD companies. However, confusingly, this definition overlaps with that of a “motorized scooter,” defined as “any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is powered by an electric motor. This device may also have a driver seat that does not interfere with the ability of the rider to stand and ride and may also be designed to be powered by human propulsion.”⁴³ The area of overlap between these two definitions encompasses exactly the type of SMD that is currently causing challenges for California cities. At this time there is no case law to help clarify the situation.

The Vehicle Code as currently written clearly does not contemplate SMDs, leaving cities to reconcile and apply statutes in a new context as best they can. However, the combined authority to regulate motorized scooters and prohibit electrically motorized boards likely gives cities the power to prohibit SMDs on local streets and sidewalks, or institute a permitting scheme that limits which SMD companies are allowed to operate.

2. Impound Authority

Designing valid local regulation is merely the initial challenge faced by a city looking to tackle a current or looming SMD problem; a policy is of little use or effect unless it can be enforced. Cities’ clearly have the authority to cite SMD riders for violating the Vehicle Code (for, say, riding a motorized scooter on a sidewalk as prohibited by Section 21235(g)) or for violating a valid local ordinance that prohibits the parking or operation of SMDs on city streets. However,

⁴⁰ *Id.* at 1817.

⁴¹ Veh. Code § 21967.

⁴² Veh. Code § 313.5.

⁴³ Veh. Code § 407.5.

writing tickets to individual riders is time consuming and does nothing to incentivize SMD companies to either comply with local law or encourage riders to do so. Moreover, an SMD company can strategically place its devices just outside of a city's legal borders every morning and be in full technical compliance with that city's prohibition of SMDs. As a result, cities may turn to impounding as a useful tool for encouraging SMD companies to respect the spirit as well as the letter of local regulation.

Vehicles may only be impounded pursuant to the Vehicle Code.⁴⁴ This point bears emphasizing—a city may not impound an SMD or any other vehicle solely pursuant to a local ordinance, it must rely on specific authorization in the Vehicle Code. The Vehicle Code authorizes “peace officers” as well as any “regularly employed and salaried employee [...] engaged in directing traffic or enforcing parking laws and regulations” for a city to impound vehicles located in that city.⁴⁵ A police officer or traffic control officer may impound a vehicle in the following situations:

- i. When an SMD is placed on a street or sidewalk⁴⁶ in a manner that creates a hazard to or obstructs the normal movement of vehicle or pedestrian traffic. (Vehicle Code § 22651(b)).

Depending on the width and condition of the sidewalk, even an SMD that is neatly placed near the side of the sidewalk could potentially be impounded under this provision, if there is not adequate room for a stroller or a wheelchair to maneuver past (see Part D below for a detailed discussion of compliance with disability laws).

- ii. When an SMD is illegally parked and there are no license plates or other evidence of registration displayed. (Vehicle Code § 22651(j)).

Note that motorized scooters are exempt from registration and license plate requirements pursuant to Section 21224. In its lawsuit against Beverly Hills, Bird asserts that this provision is therefore inapplicable to its scooters. However, the Vehicle Code section 22651(j) does not distinguish between vehicles that unlawfully fail to display evidence of registration and those that do so lawfully. So, there is an argument that it does indeed apply to scooters. A court has yet to endorse either interpretation.

Additionally, this provision seems to apply whether the SMD is illegally parked according to the Vehicle Code or a local ordinance. Vehicle Code Section 22500 prohibits vehicles from parking

⁴⁴ Veh. Code § 22651.

⁴⁵ *Id.*

⁴⁶ The statute uses the word “highway” rather than “sidewalk,” but the Vehicle Code states that a sidewalk is encompassed within the term “highway”: “[A] ‘Sidewalk’ is that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.” Veh. Code § 555. See also *In re Devon C.* (2000) 79 Cal. App. 4th 929, in which the court held that, for purposes of the Vehicle Code, a boy riding his bicycle in the sidewalk was riding in the highway.

on a sidewalk. This is convenient for those cities that have banned SMDs and wish to impound as many found within their jurisdiction as possible, and awkward for those that have instituted franchise systems that allow certain SMDs and prohibit others.

- iii. When a police officer has reason to believe that the SMD has been abandoned. (Vehicle Code § 22669).

Unfortunately, there is no definition provided in the Vehicle Code for the term “abandoned,” leaving both sides with arguments to support their positions on whether or not this provision would apply to SMDs. Further discouraging a city’s use of this provision is the fact that if a traffic control officer—as opposed to a police officer—impounds pursuant to this authority, he or she must first mail or personally deliver a written report to the nearest California Highway Patrol office.⁴⁷ This is impractical, as abandoned SMDs are typically picked up to be recharged every evening by individuals hired by SMD companies.

This is not an exhaustive list of all scenarios in which vehicles, including shared mobility devices, may be impounded. These are, however, the main grounds that common sense suggests will apply to shared mobility devices the vast majority of the time. For the full list of circumstances under which vehicles may be impounded see Vehicle Code § 22651.

Finally, cities should be aware that there are constitutional as well as statutory limits to their impounding authority. The impoundment of a vehicle is a seizure under the Fourth Amendment and must therefore meet the constitutional standard of “reasonable.”⁴⁸ A seizure conducted without a warrant is per se unreasonable, so a warrantless impound must fall under the “community caretaking” exception established by the U.S. Supreme Court.⁴⁹ A warrantless impound undertaken solely pursuant to the Vehicle Code that does not also serve a community caretaking function is therefore an unreasonable seizure in violation of the Fourth Amendment.⁵⁰ The U.S. Supreme Court has determined that impounding vehicles that violate parking ordinances, impede traffic, or threaten public safety and convenience all serve “community caretaking functions” and are thus reasonable seizures.⁵¹ Courts have additionally held that impounding a vehicle that is at risk of being vandalized or stolen also falls under the community caretaking exception. For example in *People v. Shafrir*, 183 Cal. App. 4th 1238, 1241 (2010), the court held that the impoundment of a legally parked car whose driver had been arrested served a community caretaking function because the car was a “new Mercedes” parked in a “high crime area.”

On the other hand, *People v. Williams*, 145 Cal. App. 4th 756 (2006) provides an example of an impound that did not meet the community caretaking standard and was thus held to be

⁴⁷ Veh. Code § 22669(c).
⁴⁸ *Miranda v. City of Cornelius*, 429 F.3d 858, 862 (9th Cir. 2005).
⁴⁹ *Id.*
⁵⁰ *Id.* at 864
⁵¹ *S. Dakota v. Opperman*, 428 U.S. 364, 369 (1976).



unreasonable seizure in violation of the Fourth Amendment. In *Williams*, a police officer stopped a driver for not wearing his seatbelt, and arrested him on an outstanding warrant.⁵² The officer impounded the driver’s vehicle pursuant to Vehicle Code Section 22651(h), which authorizes an officer to impound a vehicle when he or she arrests and takes into custody the driver in control of the vehicle.⁵³ However, the court found that the impound failed to serve a community caretaking function because the vehicle was parked legally in front of the driver’s home and posed no hazard to traffic.⁵⁴

The three statutory justifications for impounding SMDs cited above would thus satisfy the community caretaking standard.

B. Electric Scooters and the California Environmental Quality Act (“CEQA”)

Regulations of SMDs must comply with the California Environmental Quality Act (“CEQA”). CEQA is intended to inform governmental decision makers and the public about potentially significant environmental effects before a project is carried out. Because SMDs have been framed as “green” transportation options, regulation of SMDs can lead to arguments regarding the environmental impact of such actions. Thus, cities should carefully consider any environmental consequences of their regulations of SMDs, and whether such regulation may qualify for an exemption from CEQA. Key questions are what environmental impact occur as result of a proposed regulation on SMDs, whether it can be determined if such effects are significant, and what is the appropriate baseline condition.

During preliminary review, a city must determine whether an activity is a “project” under CEQA. There is an argument that regulating SMDs falls outside the definition of “project.” CEQA Guidelines Section 15378 (b) provides examples of actions that are not projects. For example, actions “[c]ontinuing administrative and maintenance activities, such as ... general policy and procedure making...”⁵⁵ or “[o]rganizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment”⁵⁶ are not projects. Thus, if a SMD regulations is construed as meeting these definitions, the regulation may not be a “project,” and it would not be subject to CEQA. If, however, it is construed as a “project” other exemptions may apply.

While a case can be made that SMD regulations are not projects, it may be a wise to also treat regulations of SMDs as a potential project and consider exemptions. Cities that have approved ordinances regulating SMDs have cited various exemptions to CEQA to avoid undertaking an initial study and potentially further environmental review. Issues regarding some of these exemptions are discussed below. If no exemptions apply, a city will need to determine if it can

⁵² *Williams, supra*, at 759.
⁵³ *Id.*
⁵⁴ *Id.* at 760.
⁵⁵ CEQA Guidelines Section 15378 (b)(2).
⁵⁶ CEQA Guidelines Section 15378(b)(5).



be “fairly argued” based on “substantial evidence” that the SMD regulations may have a significant environmental effect. If there is a fair argument that the regulations may have significant impact, an EIR will need to be prepared.

1. The Environmental Effect of the Regulation of SMDs

Environmental impact determinations are particularly important in the face of regulating SMDs, which have been branded—without much evidence in support of that characterization—as environmentally-friendly mobility options. SMD Companies have positioned their devices as first mile/last mile transportation options which make transportation journeys possible without requiring the use of an automobile. These electric, battery-powered scooters create zero emissions. Advocates for their use cite the potential of SMDs to reduce traffic congestion and greenhouse gas emissions by providing alternatives to automobile transportation. Further, the Legislature has found that motorized scooters that produce no emissions do not contribute to air pollution or traffic congestion, two problems that the state finds it is of “paramount importance” to address.⁵⁷

The relationships between SMD environmental benefits and regulation, however, is unclear. Banning SMDs may not create a physical change in the environment, especially in instances where the baseline conditions are those with few or no SMDs. Permitting SMDs could have a physical impact on the environment due to pedestrian conflicts and abandoned scooters. In the former cases, alleged environmental impacts are based on an argument that allowing SMD operation will offset automobile use and resulting impacts from congestion or emissions, and that restricting SMDs will lead to an increase in automobile use, resulting in increased congestion and emissions. Depending on the circumstances, there could be legitimate arguments that the regulation of SMDs could have a significant environmental impact. The Portland, Oregon Bureau of Transportation conducted a survey and found that SMDs replaced some personal driving or ride-hailing trips.⁵⁸ But the study also concluded that they replaced walking and biking trips.⁵⁹ Thus, there is not a clear causal relationship between limiting or taking SMDs off the road and increases in automobile traffic in all scenarios, and arguments that restricting SMDs will cause negative environmental impacts may be speculative unless

⁵⁷ Veh. Code §21220. “(a) The Legislature finds and declares both of the following: (1) This state has severe traffic congestion and air pollution problems, particularly in its cities, and finding ways to reduce these problems is of paramount importance. (2) Motorized scooters that meet the definition of Section 407.5 produce no emissions and, therefore, do not contribute to increased air pollution or increase traffic congestion.

(b) It is the intent of the Legislature in adding this article to promote the use of alternative low-emission or no-emission transportation.”

⁵⁸ Portland, Or. Bureau of Transportation, 2018 E-Scooter Findings Report, 6, 20, <https://www.portlandoregon.gov/transportation/article/709719>. (last visited Mar. 27, 2019). 34 percent of Portland riders and 48 percent of visitors surveyed used an e-scooter instead of driving or using a rideshare service.

⁵⁹ 37 percent of Portlanders would have walked and 5 percent would have ridden a personal bicycle instead of using an e-scooter.

supported by data. Any relationship between the regulation and the environmental impact may be dependent upon the unique facts of the jurisdiction.

Cities should be prepared to evaluate the impact of regulating SMDs and should consider how the impacts of the regulations stack up against the relevant environmental standards for determining the impact significance threshold. Cities should consider framing their regulations to fit within a CEQA exemption, such as those discussed below.

2. CEQA Exemptions

Cities that have acted to regulate scooters have cited several exemptions from CEQA. Below, four particular exemptions are discussed. But, some cities have also relied on other exemptions.

i. Common Sense Exemption

CEQA does not apply to projects when the lead agency determines "with certainty that there is no possibility that the activity in question may have a significant effect on the environment."⁶⁰ A lead agency's determination that the common sense exemption applies must be supported with factual evidence "demonstrating that the agency considered possible environmental impacts in reaching its decision."⁶¹ This is especially true where opponents of the project have raised arguments regarding possible significant environmental impacts.⁶² But, "[d]etermining whether a project qualifies for the common sense exemption need not necessarily be preceded by detailed or extensive factfinding. Evidence appropriate to the CEQA stage in issue is all that is required."⁶³

a. Prohibitions on SMDs

It is possible that the argument relating to the existence of environmental impact depends on the level of inundation of SMDs in a city, making the determination of the baseline conditions a potentially important inquiry. For example, in a city where scooters have not yet arrived, the banning of scooters would not change the environmental conditions that existed prior to the regulations. In a city that has been saturated with scooters, however, there is a stronger argument that regulations that take scooters off the road could have an environmental impact by reducing zero-emission transportation options without replacing them, causing travelers to revert back to either walking, biking or making automobile trips to fill the gap. But, it is unclear

⁶⁰ 14 Cal. Code Regs §15061(b)(3); See *Muzzy Ranch Co. v. Solano Cty. Airport Land Use Com.*, 41 Cal. 4th 372, 386 (2007), as modified (Sept. 12, 2007) (explaining application of exemption).

⁶¹ *Davidon Homes v. City of San Jose*, 54 Cal. App. 4th 106, 117 (1997), as modified on denial of reh'g (Apr. 29, 1997); *California Farm Bureau Fed'n v. California Wildlife Conservation Bd.*, 143 Cal. App. 4th 173, 195 (2006) (stating that a party challenging what is essentially a claim of the common sense exemption under Guidelines section 15061, subdivision (b)(3), unlike a party asserting an exception to a categorical exemption, need only make a "slight" showing of a reasonable possibility of a significant environmental impact).

⁶² *Davidon Homes*, 54 Cal. App. 4th at 117.

⁶³ *Muzzy Ranch Co.*, 41 Cal. 4th at 388.



whether such substitution would cause an increase in automobile use, and the answer likely depends on the circumstances unique to the area. While it is possible that some SMD users would replace their journey by relying on cars, it is also possible that those users would walk or bike. When determining the baseline, however, the current use of SMDs in the city, regardless of whether their operation has been legal, will likely factor into the existing conditions.⁶⁴

Thus, to justify a ban as fitting within this exemption, cities should have some evidence to support that no significant environmental effect will result from prohibiting SMDs on the public right-of-way. Cities seeking to rely on this exemption should build an administrative record showing they considered the potential environmental impacts and demonstrating that there is no possibility of a significant environmental impact. To do so, cities may consider including a discussion of the impact on automobile traffic associated with regulating the use of SMDs. If a city is acting to take scooters off the road/sidewalk, it may consider whether a prospective increase in automobile traffic would surpass the threshold of significance and relevant environmental standards. This may present an intersection with the new CEQA Guidelines section 15064.3. This section establishes vehicle miles traveled (“VMT”)⁶⁵ as the appropriate measure of transportation impacts, shifting away from the level of service (“LOS”) analysis. Under a ban, it would be difficult to quantify alleged traffic shifts to show an impact to the LOS. Additionally, while a permitting system could be argued to slightly improve VMT, a ban would likely not substantially increase VMT, regardless of the level of SMD inundation in the jurisdiction, because of the short nature of SMD trips and the likelihood that some replacement trips would be walking or bicycle trips, not vehicle trips. Overall, cities should also be prepared to address challenges from SMD companies, which will likely incorporate data intended to show that SMDs reduce congestion and emissions by replacing automobile trips.

⁶⁴ California courts have required that baselines be defined as the existing conditions, even where illegal activity has altered the baseline, making illegal conditions, such as the operation of SMDs on sidewalks or operation of SMDs while banned, part of the baseline. See, e.g., *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428, 1452–1453, (1999) (baseline for a proposed quarry development was the actual condition of the land, even though some existing environmental degradation had resulted from prior illegal mining and clearing activities); *Fat v. County of Sacramento*, 97 Cal.App.4th 1270, 1278–1280 (2002) (baseline for airport expansion was existing airport operations, even though the airport had been operating and had expanded without a required permit for several years); *Eureka Citizens for Responsible Government v. City of Eureka*, 147 Cal.App.4th 357, 370–371 (2007) (baseline for proposed school playground use was the existing playground facility, even though prior construction of the facility may have violated the city's code).

Riverwatch v. County of San Diego, 76 Cal. App. 4th 1428 (1999) (holding that trial court abused its discretion by requiring an EIR account for prior illegal activity by using an early baseline from which impacts could be measured.

⁶⁵ “Vehicle miles traveled” refers to the amount and distance of automobile travel attributable to a project. CEQA Guidelines Section 15064.3(a).

b. SMD Permitting Schemes

SMD regulatory permit schemes have also relied on this exemption.⁶⁶ Establishing a permit process for SMDs can ensure the companies' operations do not impede the use or safety of streets and sidewalks, but also shows that a city is exploring mobility options that do not rely on cars. SMD companies may be less willing to challenge exemptions from CEQA used in ordinances approving permit programs in which they will participate. Yet, there could be an argument that any cap on SMD use would cause a detrimental environmental effect if it increases car use enough to trigger a significant effect on the environment, again involving a determination of the relevant baseline. However, as noted above, without evidence these claims run the risk of being speculative.

Overall, in assessing whether there is no possibility of an environmental impact from regulating scooters, cities should be prepared to address the impact of the regulation on the number of SMDs, and the resulting transportation impacts. If the city can show that it can be seen with certainty that there is no possibility that the action may have a significant impact, this exemption may be appropriately applied to exempt the regulation from CEQA.

ii. No Expansion of Facilities

The Class 1 categorical exemption from CEQA applies to existing facilities, and includes projects that consist of negligible or no expansion of the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures [or] facilities,"⁶⁷ including streets, sidewalks, bicycle and pedestrian trails, and similar facilities.⁶⁸

The regulation of SMDs in cities' public-rights-of way appears to fit within this exemption because it consists of alternate operation (and perhaps permitting) of public streets, sidewalks, and similar facilities, that (arguably) result in a negligible expansion of use akin to adding bicycle facilities, and similar alterations that do not create additional automobile lanes.

a. Prohibitions on SMDs

Banning SMDs does not create an increase or expansion in SMD use of existing facilities, and can be construed as consisting of the operation of existing public facilities such as streets, sidewalks, and bike lanes. But, depending on the baseline condition, there could be an argument that the effect of completely banning SMDs would be to increase road use by automobiles. Negligible expansions of facilities are appropriate, but not those that create

⁶⁶ See, e.g., OAKLAND Ordinance No. 13502, § 3, (Sep. 17, 2018).

⁶⁷ CEQA Guidelines § 15301.

⁶⁸ *Id.* at § 15301(c). Amended in the new CEQA Guidelines to incorporate the emphasized text: "Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes)."

additional automobile lanes. Banning scooters would not add automobile lanes, but it could foreseeably lead to an increase in automobile traffic under the theory that SMDs replace a degree of automobile traffic. However, this concern is likely more appropriately raised to challenge a determination of a finding of no significant environmental impact rather than an existing facilities exemption. Further, absent evidence establishing this connection, this argument could be fatally speculative.

b. SMD Permitting Schemes

Regulating SMDs through a permit system also falls within this exemption. The exemption specifically applies to the “permitting” of facilities that include streets, sidewalks, bike lanes, and bicycle share facilities. Again, the baseline use of the facilities may depend on the level of SMD inundation in a city. But, the cap on permits likely keeps any expansion in the use of facilities within the negligible expansion territory.

Thus, if a city can build a record to show that that its SMD regulations consist of alternate operation of public streets, sidewalks, and similar facilities, that will result in a negligible expansion of use akin to adding bicycle facilities, and similar alterations that do not create additional automobile lanes, this exemption will likely be available.⁶⁹

Lead agencies are not required to prepare studies to support determinations that the categorical exemption applies,⁷⁰ but the determination should be supported by evidence. Of course, cities must also be conscious of the exceptions to categorical exemptions, including activities where a reasonable probability exists that there will be a significant environmental effect due to unusual circumstances, or where the impact of successive activities of the same type in the same place are significant.⁷¹

iii. Action Taken to Prevent or Mitigate an Emergency

If an action is “necessary to prevent or mitigate an emergency” it may also be exempt from CEQA.⁷² This may fit nicely with findings for urgency ordinances. The applicability of this provision to a ban on SMDs, however, is likely to be heavily fact dependent. “Emergency” is defined as “a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate a loss of, or damage to, life, health, property, or essential public services.”⁷³ Cities initially faced with an inundation of SMDs could make a claim that bans on SMDs are necessary to prevent the loss of life or damage to health or

⁶⁹ Cities should also ensure that exceptions to the categorical exemptions do not apply.
⁷⁰ *Apartment Ass'n of Greater Los Angeles v. City of Los Angeles*, 90 Cal. App. 4th 1162, 1172 (2001), *as modified* (Aug. 8, 2001).
⁷¹ CEQA Guidelines § 15300.2(b)&(c).
⁷² Cal. Pub. Res. Code § 21080(2).
⁷³ *Id.* at 21060.3.



property. As discussed below in part III.C.i, the use of SMDs has resulted in fatalities, and their operation has resulted in injuries to individuals and property in jurisdictions across the country where they have been deployed. The wave of injuries has become so prevalent that some public officials have the SMD-related injury trend a “public health disaster in the making.”⁷⁴ Given this context, it is possible that a jurisdiction could support a finding of an emergency to justify a ban on SMDs.

But, an argument that a city is facing an emergency a substantial time period after SMDs arrive could be strained, unless the city is able to show that the time period was necessary to understand the nature of the emergency.

iv. Project Disapproval

If a project is disapproved or rejected, it is not subject to CEQA.⁷⁵ This option could be available to a city if the city is considering a regulatory program, but instead opts not to adopt the program and bans SMDs.

3. CEQA Summary

Overall, the decisions to either ban or permit SMDs could trigger CEQA issues, given arguments regarding the environmental impacts of allowing or banning SMDs. Cities should consider how to frame the activity as a non-project, or to fit into an exemption. In conducting this analysis, the determination of the baseline will be particularly important. Overall, cities should build records to support their determinations.

C. Electric Scooters and Injury Liability

1. Liability Challenges

In addition to the legal risk cities face from SMD Companies challenging their regulation of SMDs, cities may also face legal risk arising from the operation of SMDs in their jurisdiction, including liability arising from injuries caused by dangerous conditions of the public right-of-ways.

The spread of SMDs has resulted in an increase in injuries. Though comprehensive data does not appear to exist at this time, it is clear that the proliferation of SMDs has caused an increase in injuries in cities across the country where SMDs have been released. SMD-related accidents

⁷⁴ Joshua Emerson Smith, *San Diego Mayor Floats New Rules for Dockless Scooters*, SAN DIEGO UNION-TRIBUNE (Oct. 19, 2018), <http://www.govtech.com/fs/San-Diego-Mayor-Floats-New-Rules-for-Dockless-Scooters.html> (referring to a September 2018 statement by public health officials at Scripps Mercy Hospital in San Diego). (last visited Mar. 27, 2019).

⁷⁵ Cal. Pub. Res. Code § 21080(3).

have caused several fatalities.⁷⁶ The most recent SMD-related fatality occurred in San Diego in March, when a man crashed a SMD he was operating into a tree.⁷⁷ Comparing the rise in scooter-related injuries to a diseases outbreak, the Centers for Disease Control, in collaboration with the City of Austin, Texas, has conducted an epidemiological study with the goal of developing and evaluating methods to find and count the number of injuries caused by SMDs.⁷⁸

A prospective SMD accident could result in liability for multiple parties. For example, depending on the circumstances, liability could be attributed to a SMD operator riding without due care, to a negligent third-party such as a driver crashing into a SMD operator, to the SMD company for not complying with safety laws or for providing defective scooters, and potentially to the local government for injuries caused by dangerous conditions of the public property where the SMD was being operated. With so many potentially liable parties, plaintiffs and plaintiffs' attorneys will likely seek to include as many prospective defendants as possible. And, as is often the case, plaintiffs are likely to include defendants viewed as having deeper pockets, like the SMD companies⁷⁹ and cities.

Liability for cities could arise under a theory of dangerous conditions on public property. Government Code Section 830 defines "dangerous condition" as "a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used." Pursuant to Government Code Section 835, a city may be liable for injury caused by a dangerous condition of its property if the plaintiff establishes: (1) that the property was in a dangerous condition at the time of the injury, (2) that the injury was proximately caused by the dangerous condition, and (3) that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred. A plaintiff must also establish either: (4) that a city employee negligently or wrongfully created the dangerous condition; or (5) that the city had actual or constructive notice of the dangerous condition before the incident.

⁷⁶ Ryan Felton, *E-Scooter Ride-Share Industry Leaves Injuries and Angered Cities in its Path*, CONSUMER REPORTS (Feb. 5, 2019), <https://www.consumerreports.org/product-safety/e-scooter-ride-share-industry-leaves-injuries-and-angered-cities-in-its-path/>. (last visited Mar. 27, 2019).

⁷⁷ Kucher, *supra* note 36.

⁷⁸ Luz Lazo, *The CDC is studying e-scooter injuries*, WASH. POST (Mar. 19, 2019), https://www.washingtonpost.com/transportation/2019/03/15/cdc-is-studying-e-scooter-injuries/?utm_term=.a4659e99260d. (last visited Mar. 27, 2019).

⁷⁹ For example, on October 19, 2018 plaintiffs filed a class action lawsuit against Bird and Lime, as well as the manufacturers of their devices, in Los Angeles Superior Court. See *Danielle Borgia, et al. v. Bird Rides, Inc., et al.*, No. 18STCV01416. (L.A. Cty. Super. Ct. filed Oct. 10, 2018), available at <http://src.bna.com/CFM>. (last visited Mar. 27, 2019). The plaintiffs assert claims for strict products liability, negligence, negligence per se, gross negligence, breach of implied warranties of fitness for a particular purpose and merchantability, public nuisance, declaratory and injunctive relief, and aiding and abetting assault. These claims arise from injuries plaintiffs suffered from tripping on scooters left in sidewalks, being crashed into by scooter riders, having a car crashed into by a scooter, being blocked from a parking space, and being thrown off a scooter when the device's accelerator malfunctioned.

Under this standard, if all the elements are met a city could be liable for injuries resulting from a SMD accident caused by dangerous physical conditions of a public right-of-way. It is unclear if SMD riders are more susceptible to certain dangers from public property than pedestrians or bicycle, which already use such public facilities. But, the prevalence of SMD traffic may increase exposure for contact with property which could be argued to be dangerous.⁸⁰

Further, it is not only structural defects that can create a dangerous condition. Plaintiffs may also seek to hold cities liable for the conditions of sidewalks because of the city's failure to maintain them in a safe condition in the context of the sidewalks being overrun with SMDs, where it is reasonably foreseeable that this condition would create the risk of injury. For example, San Diego was sued in March by a plaintiff, injured when teenagers on an electric scooter lost control and caused a bicyclist to crash into his wheelchair, alleging that the city is liable for creating a dangerous condition on public property because it does not have regulations in place that would require geofencing, speedometers and signs warning pedestrians that the boardwalk was also used by scooters, whose speed could not be monitored.⁸¹

The decision of whether to or not to regulate scooters itself should not impose liability on a city. Pursuant to Government Code Section 818.2, "[a] public entity is not liable for an injury caused by adopting or failing to adopt an enactment or by failing to enforce any law."⁸² California courts have generally recognized that even where cities may reasonably foresee that some motorists and pedestrians will use public-right-of-ways in a negligent manner to the injury of others it does not make them joint tortfeasors with every motorist or pedestrian who uses the right-of-way to injure another.⁸³

⁸⁰ There may also be an argument that design immunity pursuant to Government Code Section 830.6 is available if a city can trace back approval to the improvements at issue and support the reasonableness for the design.

⁸¹ Moran, *supra* note 35.

⁸² "This immunity is necessary to protect the essential governmental function of making laws, so that the judiciary does not question the wisdom of every legislative decision through tort litigation." *Wood v. Cty. of San Joaquin*, 111 Cal. App. 4th 960, 972 (2003), *as modified* (Sept. 5, 2003).

⁸³ In *Campbell v. City of Santa Monica*, 51 Cal. App. 2d 626 (1942), the court held that the city was not liable for injuries sustained by plaintiff, as a result of being struck by a privately owned automobile driven by a member of the public along a pedestrian walkway known as the "Promenade," where the city granted permits that allowed certain motor vehicles to use a pedestrian walkway, which had no barriers to protect pedestrians from the motor vehicles on the walkway. The court stated that a "city is liable only for its own shortcomings. Where a city provides streets or sidewalks, or both, it does so with the expectation that motorists and pedestrians will make a lawful and not an unlawful use of them. The fact that the city may reasonably foresee that some motorists and pedestrians will use them in a negligent manner to the injury of others does not make it a joint tort-feasor with every motorist or pedestrian who uses them to the injury of another. While a city may by ordinance prohibit a misuse or negligent use of its streets and sidewalks, its failure to enforce such an ordinance imposes no liability upon it, in the absence of statute."



But, this “does not excuse the City for violating its duty, to avoid the creation of conditions that are dangerous to its citizens or the public generally.”⁸⁴ Thus, while a city may not be liable for failing to enact an ordinance regulating scooters, a city may face liability if it appears to affirmatively encourage the use of scooters in public right-of-ways in a dangerous manner⁸⁵ or fails to act knowing the use of devices in the public right-of-ways causes dangerous conditions of public property. These are the conditions that plaintiffs will likely allege, regardless of how SMDs are or are not regulated in a city. To reduce liability exposure cities should enforce state laws to keep SMDs off of sidewalks and, as discussed below, out of ADA access areas. Further, the City should consider crafting regulations to restrict the use of SMDs in areas where SMD operation has a history of causing injuries or otherwise protect pedestrians from potentially dangerous conditions.

2. Opportunities to Control Liability

The extent of exposure of a city’s liability for injuries caused in part by SMD operation in the city is very fact-specific. However, despite these challenges, banning or regulating SMDs through permit systems provides some opportunities to help cities deal with the SMD problems facing their community. If relying on a ban of SMDs, cities can reduce exposure through minimizing potential incidences of scooter accidents in the jurisdiction. As a result of a ban, there will be less, if not any, SMDs operated in the city, and therefore less potential for SMD accidents.

Regulating through a permit system provides a vehicle, to incorporate protections for a city. First, permit programs may create a source of funding for the City to undertake public improvements to reduce risks associated with flawed conditions of public property. Bird had planned to give cities one dollar per scooter per day to buildout bike lane infrastructure so that SMDs could operate outside sidewalks. However, Bird has since abandoned this plan. But, some cities negotiated this type of fee into their permit agreements with Bird.⁸⁶ Additionally, permit requirements can secure funding so that property conditions damaged by the use of SMDs are repaired and potentially dangerous conditions are not created. In San Francisco, for example, SMD permittees are required to provide an endowment specifically dedicated to

⁸⁴ *Quelvog v. City of Long Beach*, 6 Cal. App. 3d 584, 591 (Ct. App. 1970) (holding that complaint alleging that city not only failed to enforce state law prohibiting operation of motor vehicles upon public sidewalks, but affirmatively encouraged such operation of motor vehicles by creating and maintaining easy means of access to sidewalks, and by informing operators of ‘autoettes’ and similar motorized vehicles that they could use sidewalks without interference by police sufficiently alleged cause of action against city on theory of creating and maintaining dangerous condition).

⁸⁵ *See id.*

⁸⁶ Angie Schmitt, *Bird Quietly Ends a Much-Hyped Bike Lane Subsidy*, STREETS BLOG USA (Jan 10, 2019), <https://usa.streetsblog.org/2019/01/10/bird-quietly-ends-a-much-hyped-bike-lane-subsidy/>. (last visited Mar. 27, 2019).

repair and maintenance and are required to reimburse costs associated with repair and maintenance of public property.⁸⁷

Second, through regulation, cities can control some degree of liability by requiring that SMD companies assent to indemnification agreements. Such agreements can be crafted to address the city's liability concerns. For example, Santa Monica has a codified limitation on municipal liability.⁸⁸ In the indemnification agreement required of operators, operators must agree to indemnify, defend, and hold harmless the city for claims arising from the city's permitting process and from injuries connected with any "use, misuse, placement or mis-placement of any of the Operator's device or equipment by any person, except ...[that injury] caused by the sole willful misconduct of the City."⁸⁹ The San Francisco's permit program also requires permittees to indemnify the city releasing the city from liability for injuries other than those caused by "gross negligence or willful misconduct of the city."⁹⁰ In the Los Angeles pilot program, the indemnification clause also specifically required indemnification for alleged violations of the ADA.⁹¹

Scooter companies, however, have pushed back on what they see as expansive indemnity language. For example, in Oakland, the draft indemnification provision included in the terms and conditions to operate SMDs in the city contained a provision that released the city "from liability for injuries 'arising out of, or relating to the design, construction, maintenance, repair, replacement, oversight, management, or supervision of any physical, environmental, or dangerous conditions' of public streets."⁹² Representatives of scooter companies sent a letter to the city attorney, and other officials challenging the language, noting that "[m]any cities have adopted reasonable indemnification provisions which do not seek to include the city's own negligence and does not explicitly carve out the city's responsibility to riders to maintain the city's right of way and infrastructure."⁹³

⁸⁷ SFMTA Powered Scooter Share Permit Terms and Conditions (Oct. 12, 2018), https://www.sfmta.com/sites/default/files/reports-and-documents/2018/10/scooter_program_terms_conditions_and_guidline_10.12.18_0.pdf [hereinafter "SFMTA Powered Scooter Share Permit Terms and Conditions"]. (last visited Mar. 27, 2019).

⁸⁸ SANTA MONICA MUNICIPAL CODE § 3.21.070 ("Limitations on City liability").

⁸⁹ Santa Monica Administrative Regulations (Exhibit B "Indemnification and Insurance Agreement").

⁹⁰ SFMTA Powered Scooter Share Permit Terms and Conditions.

⁹¹ City of Los Angeles Department of Transportation Dockless On-Demand Personal Mobility Conditional Use Permit Rules and Guidelines (Oct. 1, 2018), <https://ladot.lacity.org/sites/g/files/wph266/f/LADOTDocklessCP.pdf>. (last visited Mar. 27, 2019).

⁹² Rachel Swan, *Scooter companies tussling with Oakland over who pays for injuries*, S.F. CHRONICAL (Feb. 20, 2019) (9:04 pm), <https://www.sfchronicle.com/bayarea/article/Scooter-companies-tussling-with-Oakland-over-who-13632424.php>. (last visited Mar. 27, 2019); City of Oakland Dockless Scooter Share Program: Terms and Conditions and Permit Application (Draft 3.0 December 11, 2018), <https://www.oaklandca.gov/documents/oak-dot-scooter-sharing-terms-and-conditions-december-2018>. (last visited Mar. 27, 2019).

⁹³ *Id.*

Third, regulations may also require the companies to maintain insurance policies. Santa Monica's code requires that permittees maintain insurance as determined necessary by the Risk Manager, naming the City as an additional insured.⁹⁴ The administrative regulations set the minimum requirements and require each operator to procure and maintain commercial general liability insurance with limits of no less than \$5 million per occurrence and no aggregate annual limit, as well as Workers' Compensation insurance as with Statutory Limits and Employers' Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease. San Francisco also imposes insurance requirements on scooter permittees which include that companies maintain the following insurance coverages: Workers' Compensation, Commercial General Liability, Commercial Automobile Liability, Professional Liability, and Cyber and Privacy insurance.⁹⁵ San Diego's proposed regulations would require each operator to procure and maintain commercial general liability insurance with limits of \$2 million per occurrence and a \$4 million aggregate, as well as a \$4 million umbrella policy.⁹⁶

Fourth, through regulation cities can require other safety requirements of SMD operators as a condition of their operation in the city. This could include public education programs regarding safe riding and applicable laws ranging from where SMDs can be operated to how they should not be left in ADA access areas. Santa Monica, for example, requires certain maintenance obligations of SMD companies. But, Bird has been sued, by a former mechanic for Bird, for allegedly violating the safety requirements of their operation agreement with the City of Santa Monica.⁹⁷

Overall, the operation of SMDs within a jurisdiction exposes that jurisdiction liability based on a number of different theories. Thus, cities should consider their own circumstances and assess their potential liability when considering how to address SMDs. If the goal is to reduce the prevalence of SMDs and limit liability in the jurisdiction, a ban may be the best route. However, liability can also be addressed through a regulatory permit scheme and imposition of requirements on SMD companies so that they shoulder the risks associated with or caused by their use of public rights-of-way. Finally, jurisdictions that do not regulate may still be subject to liability with less opportunity mitigate liability risks and shift the liabilities to the SMD companies where they arguably belong.

⁹⁴ SANTA MONICA MUNICIPAL CODE § 3.21.070(b).

⁹⁵ SFMTA Powered Scooter Share Program Permit Application (May 23, 2018), https://www.sfmta.com/sites/default/files/reports-and-documents/2018/05/powered_scooter_share_program_permit_application.pdf. (last visited Mar. 27, 2019).

⁹⁶ City of San Diego Staff Report, Regulation of Shared Dockless Mobility Devices (Feb. 2, 2019), [https://onbase.sandiego.gov/OnBaseAgendaOnline/Documents/ViewDocument/Staff%20Report%20for%20-%20%20\(\).pdf?meetingId=1488&documentType=Agenda&itemId=33275&publishId=152805&isSection=false](https://onbase.sandiego.gov/OnBaseAgendaOnline/Documents/ViewDocument/Staff%20Report%20for%20-%20%20().pdf?meetingId=1488&documentType=Agenda&itemId=33275&publishId=152805&isSection=false). (last visited Mar. 27, 2019).

⁹⁷ Madeleine Pauker, *New lawsuit claims deficiencies in scooter safety*, SANTA MONICA DAILY PRESS (Feb. 07, 2019 5:03 PM), <https://www.smdp.com/new-lawsuit-claims-deficiencies-in-scooter-safety/172675>. (last visited Mar. 27, 2019).

D. Electric Scooters and ADA Compliance

The proliferation of scooters on public-right-of-ways also has the potential to conflict with a city's obligations under the Americans with Disabilities Act (ADA) and other laws which prohibit discrimination against disabled persons.⁹⁸ The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities.⁹⁹ Under the ADA, disabled persons may not be "excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity."¹⁰⁰ A city must ensure that its services, programs, or activities, when viewed in their entirety, are readily accessible to and useable by individuals with disabilities.¹⁰¹ A city must take affirmative steps to make reasonable modifications to their policies, practices or procedures when necessary to avoid discrimination on the basis of disability.¹⁰² The Ninth Circuit has held that facilities within the public right of way, such as public sidewalks, are a service, program, or activity of the city within the meaning of Title II of the ADA.¹⁰³ Thus, cities must ensure that their public right-of-ways, when viewed in their entirety, are readily accessible to and useable by individuals with disabilities and must take affirmative steps to avoid discrimination on the basis of disability as it relates to accessible right-of-ways. Compliance with these requirements requires addressing the waves of SMDs, whether whizzing down sidewalks or left unattended in sidewalks and obstructing ADA-required access.

Allegations of ADA violations have been leveled against some cities that ban SMD operation as well as some that do not regulate SMDs. For example, in January 2019, San Diego was sued for alleged violations of Title II of the ADA as well as other laws requiring open access of the sidewalks and prohibiting discrimination against the disabled.¹⁰⁴ The suit alleges "[t]he City of San Diego has failed to adequately maintain the system of sidewalks, crosswalks, curb ramps, transit stops, pedestrian crossings and other walkways, by allowing dockless scooters used primarily for recreational purposes to proliferate unchecked throughout San Diego and to block safe and equal access for people with disabilities who live in or visit the City. Defendant City of San Diego has thereby denied Plaintiffs the benefits of the City's services, programs, and activities based on their disabilities."¹⁰⁵ The plaintiff's further assert that the city has "intentionally or recklessly overlooked the egregious actions of the Scooter defendants and their severe negative impact on disability access" through their dockless business model by

⁹⁸ 42 USC §12131 *et seq.* See also The Rehabilitation Act (29 U.S.C. §794, *et seq.*), and California Government Code sections 4450, 11135, 54 *et seq.*, 51 *et seq.* (Unruh Civil Rights Act).

⁹⁹ 42 U.S.C. §§ 12101 *et seq.*

¹⁰⁰ 42 U.S.C. § 12132; 28 C.F.R. § 35.149.

¹⁰¹ 28 C.F.R. § 35.150(a).

¹⁰² 28 C.F.R. § 35.130(b)(7).

¹⁰³ *Barden v City of Sacramento*, 292 F3d 1073, 1076 (9th Cir 2002).

¹⁰⁴ *Montoya et al v. Bird Rides Inc. et al.*, No. 3:19-cv-00054-JM-BGS (S.D. Cal. filed Jan. 9, 2019), <https://www.classaction.org/media/montoya-et-al-v-city-of-san-diego-et-al.pdf>. (last visited Mar. 27, 2019). The plaintiffs allege that the city violated Title II of the Americans With Disabilities Act, The Rehabilitation Act, and California Government Code sections 4450, 11135, 54 *et seq.*, 51 *et seq.*

¹⁰⁵ *Id.* at 9.

failing to enforce San Diego Municipal Code provisions which prohibit objects to be placed in the public right of way.¹⁰⁶ As noted above, San Diego does not have specific SMD regulations at this time. The complaint specifically references this in the ADA cause of action, alleging that the city “failed and continues to fail to adopt, implement, or enforce ordinance or other regulations necessary to ensure that the system of sidewalks, crosswalks, transit stops, curb ramps, pedestrian crossings and other walkways are kept free of the Scooter obstructions.”¹⁰⁷

However, even cities that do regulate or ban SMDs may face plaintiffs asserting ADA violations. For example, in October 2018 an individual plaintiff filed a class action suit against Bird as well as the cities of Beverly Hills (which has banned SMDs), Santa Monica (which has regulated SMDs through a permitting system), and Los Angeles (which has regulated SMDs through conditional use permits and a pilot permitting system), asserting ADA violations in relation to denial of access to the sidewalk.¹⁰⁸

It is unclear how these ADA cases will be resolved, but cities should be mindful of their ADA obligations when deciding how to regulate scooters in their jurisdictions. In particular, cities should act to keep scooters off of sidewalks and should keep scooters from being parked or abandoned in the ADA access portions of the public right-of-way. In the end, however, whether a city is able to maintain accessible sidewalk systems as required by the ADA comes down to how the devices are actually used and the city’s efforts in enforcing regulations that keep the sidewalks clear of obstruction, which is yet another example of the way in which these operations impose costs on cities to mitigate liability risks that arguably should be factored into the SMD companies’ costs of doing business.

IV. Conclusion

SMDs offer innovative mobility options that may serve an important role in the transportation planning of both individuals and cities. Despite these benefits, SMDs have their critics and present cities with legitimate concerns for the safety and welfare of their residents and visitors. As such, cities are placed in a precarious position of deciding whether and how to regulate SMDs in their jurisdictions. As addressed above, cities must be mindful when making these decisions of exposure to liability either both from regulating, or from failing to regulate SMDs enough (or at all). On one hand, efforts to regulate may be challenged by SMD companies who likely will argue that the ability of local jurisdictions to regulate is limited by the Vehicle Code or on other grounds. Yet, there may be authority for cities to prohibit SMDs on local streets and sidewalks, or to institute a permitting scheme that limits which SMD companies are allowed to operate, and regulates the manner and conditions of any such operations. On the other hand, individuals may challenge what they see as insufficient regulation where the operation of SMDs cause dangerous conditions, restrict access to the city’s public right-of-ways, or (allegedly)

¹⁰⁶ *Id.* at 10.

¹⁰⁷ *Id.* at 19.

¹⁰⁸ *Labowitz v. Bird et al*, No. 2:18-cv-09329 (C.D. Cal. filed Oct. 31, 2018), available at <https://www.courthousenews.com/wp-content/uploads/2018/11/Scooters.pdf>. (last visited Mar. 27, 2019).

caused individual injury or harm. In these instances, cities should consider craft their regulations to insulate the city from liability associated with the dangers of SMD operation, and shift the risk to the SMD companies where it arguably should reside.

In addition to the issues addressed in this paper, the regulation of SMDs also presents several other interesting issues and opportunities that cities should consider, such as those relating to the data captured and shared in connection with the operation of SMDs and to issues of equity in access.

It remains to be seen whether the courts or the Legislature will clarify the role of local governments in regulating SMDs. In the meantime, as with other shared economy and disruptive businesses like short term rentals (Airbnb, VRBO, etc.) and parking squatters “selling” public parking (Monkey Parking,¹⁰⁹ etc.), local governments will continue to find themselves on the forefront in dealing with these issues arising from SMDs and balancing the provision of mobility opportunities and the safety of their residents and visitors.

¹⁰⁹ See Marcus Wohlsen, *App That Lets Users Sell Public Parking Spots is Told to Shut Down*, WIRED (June 23, 2014 3:37 PM), <https://www.wired.com/2014/06/app-that-lets-users-sell-public-parking-spots-is-ordered-to-shut-down/>. (last visited Mar. 27, 2019).

Study: Scooters Close First-, Last-Mile Gaps

A DePaul University study, funded in part by Bird, showed promise when it comes to closing transit gaps and improving the lives of families without cars.

BY MARY WISNIEWSKI, CHICAGO TRIBUNE / DECEMBER 14, 2018

(TNS) — A new DePaul University study finds that electric scooters could be useful for trips to and from transit, and could help more Chicago households to do without a car.

The study was conducted by DePaul's Chaddick Institute for Metropolitan Development. It received some funding from Bird, a Santa Monica-based scooter company, though the study's authors said this did not influence results.

Chicago has not yet permitted scooter companies to start ride-sharing services, which have been controversial in other cities. The city is gathering data about scooters before giving any company permission to set up shop. A new city task force is also looking at scooters, along with other transportation technology issues.

Joseph Schwieterman, one of the study's authors, said scooters could be handy when a trip is a little too far for a comfortable walk, but a walk to a Divvy station would be cumbersome and hiring a ride-share service like Uber or Lyft would be too expensive.

"There's a real gap in options for short-hop trips," said Schwieterman, who is on the city's transportation task force.

Schwieterman said the mobility benefits from scooters are "pretty compelling," though the city would have to figure out how to keep them from cluttering sidewalks, or getting tossed in bodies of water, as has happened in other cities. One advantage of scooters is that they are small and would be easier to park than dockless bikes, he said.

Because there is no scooter-sharing service available, the study had to speculate, using a computer travel model, on how scooters might operate. It tested different models with different numbers of scooters — in one scenario, for example, it imagined 1,000 scooters scattered through an area on the West Side.

The study found that travelers making trips between a half mile and two miles would get the most benefit from e-scooters, since the trips would be generally faster than those on Divvy bike-share over this distance, due to the time required to walk to and from bike share stations. The cost of using an e-scooter, without tax, would be around \$1.10 per trip plus \$1.33 per mile, making them cost-effective on short trips, the study said.

The study saw scooters as less feasible for longer trips, since the amount of time saved would be insufficient to justify the additional cost compared to Divvy and transit. The study also found that scooters would not pose much threat to public transit on longer trips, but would fill a void caused by limited transit coverage for trips between neighborhoods.

“Our hope is that scooters would be part of this changing ecosystem of transportation options that allow people to go without a car,” said Ron Burke, executive director of the Active Transportation Alliance, an advocacy group for bikes, pedestrians and transit. He said he also sees the potential of more citizens becoming advocates for bike lanes, since scooters should not be ridden on sidewalks.

But Burke said there are still concerns about scooters being left on the sidewalk, scooters being ridden on the sidewalk and threatening pedestrians, injuries from riding on scooters and scooters crowding bike lanes.

©2018 the Chicago Tribune. Distributed by Tribune Content Agency, LLC.



CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: November 4, 2019

SUBJECT: Consider Approval – Change of Council Meeting Schedule.

Staff: Luke Serpa, City Manager
Recommendation: Approve

ATTACHMENTS: None

CONFLICT OF INTEREST

None.

RECOMMENDATION

For the City Council to approve the cancellation of the regular Council meeting scheduled for Tuesday, November 12, 2019.

EXECUTIVE SUMMARY

There is a need to change the schedule of meetings for the City Council in November. Staff is recommending that City Council cancel the meeting of November 12, 2019.

BACKGROUND

Staff is able to consolidate the agenda items to the first and third meetings in November 2019. Staff is recommending that City Council consider canceling the meeting of November 12, 2019. Given adequate notice, staff will be able to amend the timing of actions coming forward so that operations will not be affected by the cancellation.

FISCAL IMPACT

None.

REASON FOR RECOMMENDATION

Pursuant to the Clovis Municipal Code, the City Council meets in regular session on the first, second, and third Monday of each month, except when those Mondays occur on a recognized City holiday. The City Council needs to confirm any change to the schedule of meetings in order to properly notice the public of the City Council's schedule of meetings.

ACTIONS FOLLOWING APPROVAL

A revised schedule of meetings will be published in conformance with law.

Prepared by: Jacquie Pronovost, Exec. Asst.

Reviewed by: City Manager LS