

City of Merced Commercial Cannabis Business Application Package - Retail Sales

Your initial application packet must include five (5) hardcopies of everything required below plus any attachments required. You must also have all documents in PDF format on a CD or DVD.



Section 1

- Phase 1 Application Fee Per City Resolution #2017-67. (Phase 2 Fee to be collected if pass Phase 1.)
- A signed copy of the Merit Based Selection Criteria form along with supporting documentation.
- Selection of Cannabis License Type Requested (only one type per application).

Section 2

- Site Plan/Floor Plan, including all requested attachments
- Zoning Verification Form (to be filled out by applicants; City staff will confirm information during Phase 1).

Section 3

- Business Operations and Security Plan, including all requested attachments.

Section 4

- The name of the applicant. If the applicant is an individual, both first and last name of the individual. For applicants that are business entities, the legal business name of the applicant.
- A copy of all documents filed with the California Secretary of State including but not limited to: business formation documents. If applicant is a foreign corporation, a certificate of qualification issued by the California Secretary of State pursuant to Section 2105 of the Corporations Code.
- The mailing address of the applicant.
- The physical address of the premises.
- The phone number of the premises (if available).
- The contact information for the designated primary contact person including the name, title, address, phone number and e-mail address of this individual.
- A list of types and numbers of licenses already received (or applied for) by the applicant from the California Bureau of Cannabis Regulation including the date the license was obtained and the licensing authority that issues the license.

Section 5

- Evidence of Legal Right to Occupy.

Section 6

- Signed Indemnification Agreements for all "owners" as defined by the City's Ordinance.
- Signed Affidavit(s)
- A complete list of every person with over 5% interest in the proposed business including the full name, title within the entity, birthdate and place of birth, social security or tax identification number, phone number, e-mail, the date owner acquired interest in entity, the percentage of ownership interest, and if applicable the number of shares owned, any financial interest in any other cannabis business licensed by the State of CA.
- For each owner a completed Live Scan check (within last 14 days) or receipt from Live Scan check.

Section 7

- Applicant Certification saying all information contained on all application documents is true and accurate and agreeing to participate in paying a pro-rata share of the cost for a ballot measure to create a specific tax for commercial cannabis businesses.
- Environmental Review Checklist (with separate application fee of \$123 for a Categorical Exemption in 2018 if located within an existing building; or check with Planning staff if new construction is involved)

Please attach additional pages as needed to provide the information requested.

All applications must be submitted in person.

NOTE:

INCOMPLETE OR INCORRECT APPLICATIONS WILL BE REJECTED AND REQUIRE RESUBMITTING
It is the responsibility of the applicant to ensure that all pages are included in the application package and that the application is complete when returned to the City of Merced Development Services Department.

	Cannabis Business Application	RECEIPT NO:	DATE:	APP. NO:
		CITY OF MERCED PLANNING & PERMITTING 678 West 18th Street Merced, CA 95340 Phone: (209) 385-6858		TOTAL FEE:

This form is a part of the application to request authorization of a facility as described in the City of Merced Commercial Cannabis Activity Ordinance No. 2480. The facilities in this questionnaire are for cannabis related facilities only. All requested items and authorizations listed on this form must be completed and submitted or the application will be rejected.

An application is restricted to one facility in one location. The applicant must meet any additional standard criteria and fulfill any additional standard requirements typically associated with obtaining a Permit in the City. Requirements shall conform to the State licensing requirements as set forth by the California Business and Professions Code, Division 8, Chapter 3.5. Permit fees include a non-refundable application fee and an annual regulatory fee per Resolution No. 2017-67, as updated annually.

Section 1- Specific Activity Requested

The facility must be proposed in an allowable zone in order for the application to be filed. It is the applicant's responsibility to confirm that the location selected is in the correct zone. For applicants seeking licensure, please select from the choices below:

- Commercial Retail Medical Cannabis Sales with Delivery
- Commercial Retail Medical Cannabis Sales without Delivery
- Commercial Retail Adult Use Cannabis Sales with Delivery
- Commercial Retail Adult Use Cannabis Sales without Delivery
- Commercial Retail Combined Medical/Adult Use Cannabis Sales with Delivery
- Commercial Retail Combined Medical/Adult Use Cannabis Sales without Delivery

Section 2 - Site Plan/Floor Plan

- 1) Using a separate sheet of 18" X 24" plain white paper submit a scaled premises diagram showing the boundaries of the property and proposed premises with all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows and common or shared entryways. If the proposed premises consists of only a portion of the property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for. Include a floor plan as well.
- 2) The plan shall include the assessor's parcel number and shall be to scale and include all the following:
 - Designated holding area for cannabis designated for destruction
 - Designated processing area(s) if licensee will process on site
 - Designated packaging area(s) if licensee will package on site
 - Designated composting area if licensee will compost plant waste on site
 - Designated refuse areas
 - Designated area(s) for harvested cannabis storage
 - Designated parking spaces, including disabled parking
 - Location/Distance from public transportation stops or facilities
 - Scaled Elevations or Photographs of the exterior of the building including the entrance(s), exit(s), street frontage(s), signage, and parking area.
 - Map showing property is compliant with sensitive uses distance requirements per MMC 20.44.170(E)(3)(f). A tool for this purpose is available at <http://bit.ly/CityofmercedCannabisOrdinance>

Records and Inventory (Cont.)

- H) A description of applicant's practices for ensuring all cannabis goods are properly packaged and labeled prior to retail sale.
 - Check if additional documentation is attached

- I) A description of applicant's practices for ensuring all cannabis products are tested by a licensed testing facility prior to retail sales.
 - Check if additional documentation is attached

- J) A description of applicant's practices for preventing deterioration of any cannabis goods held by applicant, including any practices for responding to product recalls.
 - Check if additional documentation is attached

- K) A description of applicant's practices for transfer/transport of cannabis products to and from premises.
 - Check if additional documentation is attached

- L) A description of method(s) that will be used to dispose of unused cannabis.
 - Check if additional documentation is attached

M) A description of any environmentally friendly (“green”) business practices relating to energy and climate, water conservation, and materials/waste storage.

Check if additional documentation is attached

N) A description of applicant’s air treatment system.

Check if additional documentation is attached

O) A description of how applicant will maintain the premises and ensure that it remains free from trash and graffiti.

Check if additional documentation is attached

Security

- P) A description of all security practices including but not limited to any panic buttons, dyes, bulletproof windows, or other.
 Check if additional documentation is attached
- Q) A description of applicant's video surveillance system including camera placement and practices for maintenance of video surveillance equipment.
 Check if additional documentation is attached
- R) A description of how applicant will ensure that all access points to the premises will be secured including the use of security personnel if applicable.
 Check if additional documentation is attached
- S) A description of applicant's security alarm system.
 Check if additional documentation is attached
- T) A description of applicant's practices for allowing individuals access to the licensed premises.
 Check if additional documentation is attached

Neighborhood/Community/Employee Relations

- U) A description of all employee training programs, including safety programs.
 Check if additional documentation is attached
- V) A description of all public relations and neighborhood outreach/feedback programs.
 Check if additional documentation is attached
- W) Will an employee be designated as a neighborhood liaison for the business?
If so, will that liaison be a resident of the City of Merced?
 Check if additional documentation is attached
- X) A description of any community benefits, such as defined contributions or donating time to community organizations.
 Check if additional documentation is attached
- Y) Does the business propose to provide health benefits to all employees or is there a timetable for providing them in the future? If so, provide details. Also include a description of hourly wages or salaries, if available.
 Check if additional documentation is attached
- Z) A description of hiring practices, including incentives/preferences for City/County of Merced residents to be employed by the business.
 Check if additional documentation is attached

Business Plan/Qualifications of Principals

- AA) A description of the Business Plan, including an operating budget (including startup costs, labor, utility, equipment, construction, operating costs, etc.), documented sources of capital, and a pro forma.
 - Check if additional documentation is attached

- BB) A description of any documented agreements with distributors to supply cannabis products to the business
 - Check if additional documentation is attached

- CC) A description of the prior experience (including number of years) that the business owners have in operating a verified Mutual Benefit Non-Profit Corporation for cannabis in compliance with California law and with proof of payment of taxes. Please note if this experience was within the City of Merced, the County of Merced, or within 100 miles of the City of Merced.
 - Check if additional documentation is attached

- DD) A description of the prior experience that the business owners have in operating any legal retail facility (non-cannabis related) and/or any formal association between this business and a non-retail cannabis business in the City of Merced or a non-cannabis-related business in the City of Merced.
 - Check if additional documentation is attached

Business Plan/Qualifications of Principals (Cont.)

- EE) Are any of the owners...(check if yes):
 - 1) A military veteran with an honorable discharge? If so, what branch and how many years?

 - 2) A full-time resident of the City of Merced? If so, give most current address and for how many years

 - 3) A full-time resident of the County of Merced? If so, give most current address and for how many years

 - 4) Qualified as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation?
 - Check if additional documentation is attached

Additional Information

- FF) Any additional information about the proposed cannabis business that was not covered in any of the other questions.
 - Check if additional documentation is attached

Section 4 – Owner and Contact Information

Proposed Name of Business: _____

1. Applicant Entity Structure: (**attach proof of status** such as articles of incorporation, by-laws, partnership agreements, and other documentation that supports status and designates who is authorized to sign on behalf of the entity).

Corporation

Unincorporated Association (i.e. LLC, LP, etc.)

Other (describe): _____

Proposed Cannabis Facility Address: _____

Assessor's Parcel Number: _____

Business Applicant (Print Name): _____

Business Applicant Address: _____

Telephone: _____

*Email: _____

*Mobile: _____

Business Applicant: _____
Name (Please Print)

Title: _____

Signature: _____

Date: _____

Primary Contact (Print Name): _____

Primary Contact Address: _____

Telephone: _____

*Email: _____

*Mobile: _____

Attach photocopy of:

- Copy of Seller's Permit issued by appropriate State of California Agency (if available).
- Proof of address (DMV –issued ID/driver's license, and/or recent utility bill under Primary's name).
- Proof of Bond (\$5,000) for destruction of product (if available, will be required prior to permit issuance).
- Proof of General Liability Policy (if available, will be required prior to permit issuance).
- A list of types and numbers of licenses already received (or applied for) by the applicant from the California Bureau of Cannabis Regulation including the date the license was obtained and the licensing authority that issues the license.
- A copy of all documents filed with the California Secretary of State including but not limited to business formation documents. If applicant is a foreign corporation, a certificate of qualification issued by the California Secretary of State pursuant to Section 2105 of the Corporations Code.

Please attach additional sheets if necessary to list all owners and applicants.

Section 5 – Property Owner Affidavit

Signed Indemnification Agreement (attach as separate document)

I, _____, authorize the Commercial Cannabis activity entitled _____, to use this property at the following address: _____ as a Commercial Cannabis facility, as those terms are defined in the City of Merced Municipal Code, should this facility obtain the appropriate Permit. I further understand that I am responsible for, and subject to, enforcement actions regarding any violations and/or nuisance activity that may occur at this property.

Legal Property Owner: _____

Date: _____

Name (Please print)

Title:

Signature: _____

Legal Owner: _____

Date: _____

Name (Please print)

Title:

Signature: _____

Attach:

- Proof of possession of the premises and approval of use (deed, lease, lease assignment)
- If the property is owned by an entity, please attach documentation that shows that the person signing on behalf of the entity above is authorized to sign on its behalf.

Please attach additional sheets if necessary to list all owners and applicants.

Section 6 – Building Owner Affidavit

Signed Indemnification Agreement (attach as separate document)

Building Owner Affidavit

I, _____, authorize the Commercial Cannabis Facility entitled _____, to use this property at the following address: _____ as a Commercial Cannabis facility, as those terms are defined in the City of Merced Municipal Code, should this facility obtain a Permit. I further understand that I am responsible for, and subject to, enforcement actions regarding any violations and/or nuisance activity that may occur at this property.

Property Manager Affidavit (if applicable)

I, _____, authorize the Commercial Cannabis Facility entitled _____, to use this property at the following address: _____ as a Commercial Cannabis facility, as those terms are defined in the City of Merced Municipal Code, should this facility obtain a Permit. I further understand that I am responsible for, and subject to, enforcement actions regarding any violations and/or nuisance activity that may occur at this property.

Please complete the following information:

- A complete list of every person with over 5% interest in the proposed business including the full name, title within the entity, birthdate and place of birth, social security or tax identification number, phone number, e-mail, the date owner acquired interest in entity, the percentage of ownership interest, and if applicable the number of shares owned, and any financial interest in any other cannabis business licensed by the State of California. For each owner a completed Live Scan check (from within the last 14 days) or receipt from Live Scan check must be provided.

Name	Title	DOB*	SS#/Tax ID#*	Contact Phone Number	Date of acquired interest	Percent of ownership	Live Scan Check

If the property is owned by an entity, please attach documentation that shows that the person signing on behalf of the entity above is authorized to sign on its behalf. **Please attach additional sheets if necessary.**

Section 7 - Applicant Certification

NOTE: Your application is public record and information regarding your application is available at the Development Services Department at the Merced Civic Center. All references to names, addresses, telephone numbers, email addresses and project information are part of this public record, and subject to disclosure pursuant to the Public Records Act. However, home addresses, home telephone numbers, cell phone numbers, and tax ID information will be redacted (such items are noted with an “*”). All applications must be filed under the property owner's name and address of the property that is the subject of the application; however, you may use an alternate contact address and telephone number.

The Federal Controlled Substances Act (codified as 21 U.S.C. sections 801 et seq.) is a regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. The Act lists marijuana as a controlled substance, classifying it as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. By signing below, applicant acknowledges the foregoing and participates in cannabis related activities pursuant to state and local law at its own risk.

Under penalty of perjury, I hereby declare that the information contained within and attached to this application is complete true, and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license or revocation of a license issued. By submitting this application, I certify that I have read and understand the requirements of the application process and that I may be disqualified for failure to meet the requirements of state law or City ordinance, or for incomplete, late or inaccurate applications/attachments, and that all fees paid in connection with this application are non-refundable.

By signing and submitting this application, the Applicant agrees to participate in paying a pro-rata share of the cost for a ballot measure to create a specific tax for commercial cannabis businesses. Please check this box to acknowledge that the Applicant had read and understood these provisions.

I, _____, acknowledge that I have read and understood the above paragraphs.

Signature of Applicant: _____

Date: _____

Determination by City Staff Member (Name, Date, & Initials) _____

Staff Use Only: Application Complete

Staff Use Only: Application Incomplete



**Merit Based Selection Criteria for Commercial Cannabis Business Permits
(Limited Number of Permits Available)**

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 1: Prioritize Medicinal Cannabis Access		
a) Proposal for combined medicinal/adult use dispensary		4
b) Proposal for medicinal only dispensary		3
c) Proposal for non-medicinal/adult use dispensary only		0
d) Proposal includes Delivery Services		2
Section 1: Sub-Total of Points Possible		6
Section 2: Geographical Preference/Neighborhood Relations		
a) Proposed locations is within 1,200 feet of local public transportation		1
b) Proposal includes a process and schedule for at least two public outreach meetings per year that meet City approval		2
c) Business plan includes a schedule for communication and receiving feedback from all entities within 300 feet of the business at least two times a year		2
d) Proposal includes the appointment of an employee as a designated liaison with the neighborhood		1
e) Designated liaison employee is a City resident		1
Section 2: Sub-Total of Points Possible		7
Section 3: Facility Plan		
a) Business is formally associated with a non-retail cannabis or non-cannabis-related business in the City of Merced		2
b) Proposal includes daily inspection to ensure maintenance of the interior and exterior of the facility (i.e. free of trash, graffiti, etc.)		2
c) Location exceeds City parking requirements by 10% or more		1
d) Business is open more than five days a week at least 6 hours per day		1
e) Location exceeds minimum disabled parking requirements by 100% or more		1
f) Location is within an existing building or facility with an ability to be open for business within 6 months of approval of the CCBP by the City		1
Section 3: Sub-Total of Points Possible		8



**Merit Based Selection Criteria for Commercial Cannabis Business Permits
(Limited Number of Permits Available)**

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 4: Standards and Procedures for the Safe Operation of Facilities:		
a) Proposal includes documented employee safety training program		1
b) Proposal includes documented employee cannabis educational training program		1
c) Business Plan includes enhanced security measures, including at least three of the following: panic buttons, dye packets, bulletproof window film (with break strength of 400 lbs. per inch or better), a UL-approved safe with a fire rating that is 2-hour 1700 degrees F or better with a complex locking device; motion sensing lighting; or other enhanced security measures acceptable to the City. (0 to 4 points to be awarded at the discretion of the City Selection Committee.)		0 to 4
d) Proposal includes climate controlled environment		1
e) Proposal includes plan for disposal of all solid waste based on best practices of the State		1
f) Proposal includes a comprehensive documented process for 24-hour minimum response time to cannabis product recall notifications		2
g) Proposal includes more than one on-site security guard during business hours		2
h) Proposal includes plans and procedures for how all cannabis products on the premises or held by the applicant have met the testing requirements as defined by the State		1
i) Proposal includes a separate lobby area where identification is checked to ensure that only qualified individuals gain access to separate, locked areas where cannabis products are displayed		2
j) Proposal includes electronic storage of required records of sales, delivery manifests, patient information (if medicinal and required by State), inventory, etc., which can be provided to City personnel upon request		2
k) Proposal includes participation in web-based public safety application or equivalent that provides law enforcement with confirmation of local and state licenses		1
l) Proposal includes any proposed "green" business practices relating to energy and climate, water conservation, and materials/waste storage		1
m) Proposal includes secured loading/unloading area for deliveries		1
Section 4: Sub-Total of Points Possible		20



**Merit Based Selection Criteria for Commercial Cannabis Business Permits
(Limited Number of Permits Available)**

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 5: Prior Experience in Business Ownership and Management		
a) Combined prior experience of proposed owners is more than 3 years of verified successful management of any non-cannabis legal retail facility		2
b) Combined prior experience of proposed owners is more than 1 year and up to 3 years with a verified Mutual Benefit Non-Profit Corporation for cannabis in compliance with California law and with proof of payment of taxes		2
c) Combined prior experience of proposed owners is more than 3 years and up with a verified Mutual Benefit Non-Profit Corporation for cannabis in compliance with California law and with proof of payment of taxes		3
d) Above prior experience was obtained within the City or County of Merced		3
e) Above prior experience was obtained within 100 miles of the City of Merced		1
Section 5: Sub-Total of Points Possible		11
Section 6: Qualifications of Principals/Business Plan		
a) At least one owner is a military veteran with an honorable discharge		1
b) At least one owner is a full-time resident of the County of Merced		1
c) At least one owner is a full-time resident of the City of Merced		2
d) Does the business qualify as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation?		1
e) Does the business have documented proof of access to at least \$150,000 in capital (or enough capital to pay all startup costs plus at least 3 months of operating costs)?		3
f) Does the business have documented proof of access to at least \$300,000 in capital (or enough capital to pay all startup costs plus at least 6 months of operating costs)?		3
g) Business Plan contain a valid pro forma for at least 3 years of operation		2
h) Business has documented agreements with cannabis distributors to supply products to their business		2
Section 6: Sub-Total of Points Possible		15



**Merit Based Selection Criteria for Commercial Cannabis Business Permits
(Limited Number of Permits Available)**

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 7: Employee & Public Relations		
a) The business promotes local hiring or provides incentives for City/County of Merced residents to work with the business		2
b) The business provides employee health benefits for all employees		2
c) The business employs more than 5 people full-time, not counting the owners or security personnel		2
d) Proposal includes an ongoing public information program to inform City residents of cannabis issues and proper/safe/legal use of cannabis products		2
Section 7: Sub-Total of Points Possible		8
Section 8: Community Benefits		
a) Proposal includes benefits to the community, such as defined monetary contributions to local community organizations, or donating time to local community organizations, or any other proposed community benefit acceptable to the City. (0 to 5 points to be awarded at the discretion of the City Selection Committee.)		0 to 5
Section 8: Sub-Total of Points Possible		5
Section 9: Discretion of the City Selection Committee		
a) 0 to 20 additional points may be awarded to a proposal for outstanding features, measures, or programs (above and beyond the minimum requirements) proposed in the Commercial Cannabis Business Permit Application at the discretion of the City Selection Committee.		0 to 20
Section 9: Sub-Total of Points Possible		20
TOTAL POINTS POSSIBLE		100



Merit Based Selection Criteria for Commercial Cannabis Business Permits (Limited Number of Permits Available)

DISCLAIMER:

Although the City welcomes the applicant to suggest how many points they believe should be awarded in the "Points Awarded" column above, please note that the FINAL determination of how many points are awarded is at the sole discretion of the City's Selection Committee, made up of the City Manager, Police Chief, and the Director of Development Services or their designees. Final scores of the Committee members will be combined and divided by three for an average score. In the event of any tied scores, a random drawing will be used to break the tie.

PLEASE NOTE THAT FAILURE OF THE PROPOSED OWNERS (ANYONE WITH OWNERSHIP INTEREST) TO SUCCESSFULLY PASS THE DETAILED PHASE 2 BACKGROUND CHECK TO THE SATISFACTION OF THE POLICE CHIEF WILL RESULT IN AUTOMATIC DISQUALIFICATION OF THE APPLICATION FROM FURTHER CONSIDERATION.

APPLICANT CERTIFICATION (REQUIRED)

Under penalty of perjury, I hereby declare that I have read and understood the criteria above and I have provided information relative to how my cannabis business addresses that criteria in the application or attached to this document. I declare that this information is completely true and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license, or revocation of a license issued.

Signed _____ Date _____

**COMMERCIAL CANNABIS BUSINESS PERMIT
INDEMNIFICATION AGREEMENT**

THIS COMMERCIAL CANNABIS BUSINESS PERMIT INDEMNIFICATION AGREEMENT (“Agreement”) is entered into this ___ day of _____, 20___, by and between the City of Merced (“City”) and _____ (“Applicant”).

RECITALS

WHEREAS, the Applicant has a legal and/or equitable interest in the certain real property located commonly known as _____, within the City of Merced, State of California, APN _____ (the “Property”);

WHEREAS, the Applicant has submitted an application to the City for a Commercial Cannabis Business Permit “CCBP” for the commercial dispensing, cultivation, distribution, testing, and/or manufacturing of medical marijuana at the Property (the “Project”);

WHEREAS, Merced Municipal Code 20.44.170, requires applicants to execute and deliver an Indemnification Agreement to the City as part of the application package for any CCBP, prior to the issuance of a CCBP.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Nothing in this Agreement shall be construed to limit, direct, impede or influence the City’s review and consideration of Applicant’s application to the City for the Project.

2. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative

body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

With respect to the City's review and/or approval of the Project, this obligation shall also extend to any effort to attack, set aside, void, or annul the approval of the Project, including any contention the Project or its approval is defective because a City ordinance, resolution, policy, standard or plan is not in compliance with local, State or Federal law. With respect to acts or omissions of the Applicant, its agents, employees or contractors, its obligation, hereunder shall apply regardless of whether the City prepared, supplied and/or approved plans and/or specifications.

3. The obligations of the Applicant under this Agreement shall apply regardless of whether a permit is actually issued.

4. The City will promptly notify Applicant of any such claim, action, or proceeding that is or may be subject to this Agreement and will cooperate fully in the defense. The City may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding if the City defends the claim, action, or proceeding in good faith.

5. The City Council shall have the absolute right to approve any and all counsel employed to defend the City. To the extent the City uses any of its resources to respond to such claim, action or proceeding, or to assist the defense, the Applicant will reimburse the City upon demand. Such resources include, but are not limited to, staff time, court costs, City Council's time at its regular rate for non-City agencies, or any other direct or indirect cost associated with responding to, or assisting in defense of, the claim, action or proceedings.

6. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved in writing by the Applicant, which approval shall not be unreasonably withheld. The City must approve any settlement affecting the

rights and obligations of the City in writing.

7. The defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including appeals of any lower court judgments rendered in the proceeding.

8. For any breach of this Agreement the City may rescind its approval of the Project and/or any CCBP previously issued.

9. The parties agree that this Agreement shall constitute a separate agreement from any Project approval, and/or CCBP and that if the Project, in part or in whole, is invalidated, rendered null or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Agreement, which shall survive such invalidation, nullification or setting aside.

10. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

11. In any legal action or other proceeding brought by either party to enforce or interpret this Agreement, the appropriate venue is the Merced County Superior Court.

12. If any action, proceeding, or arbitration arising out of or relating to this Agreement is commenced by either party, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action, proceeding, or arbitration by the prevailing party.

13. This Agreement shall be binding on and inure to the benefit of the parties and their legal representative, successors, heirs and assigns.

14. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement

After review and consideration of all of the foregoing terms and conditions, Applicant, but its signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

Dated:

Applicant(s):

Printed Name/Title

Signature

Printed Name/Title

Signature

Printed Name/Title

Signature

Printed Name/Title

Signature

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEPHANIE DIETZ, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: _____
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer



CITY OF MERCED

Environmental Review Checklist Application

APPLICANT'S NAME: _____

APPLICANT'S ADDRESS: _____

PROJECT LOCATION: _____

ASSESSORS'S PARCEL NUMBER: _____

TYPE OF PROJECT: _____

CONTACT PERSON: _____

TELEPHONE NO.: _____

FOR USE BY PLANNING DIVISION

Fee Collected at Submittal: _____

Fee Type:

- ____ Categorical Exemption
- ____ Negative Declaration
- ____ Mitigated Negative Declaration
- ____ Expanded Initial Study

Additional fees may be required if it is determined that more extensive environmental review is required for this proposal.

(Refer to current Fee Schedule)

By _____ Date: _____

Application No: _____

In order to determine what effect your project will have on the environment, the following Environmental Review Checklist must be filled out and returned to the Merced City Planning Division. We understand that the form is lengthy and not every question will apply to every project, so feel free to simply note "Not applicable" or "N/A" for those questions and move on. If you have questions about filling out the form and/or need assistance, please feel free to contact the Planning Division at (209) 385-6858 and we will be happy to assist you.

As soon as possible, the City's Responsible Official (Director of Development Services) will determine whether or not the project will affect the environment and whether additional environmental review is needed.

Applicant, please complete each of the following:

1. Describe the proposed project and include a clear site plan with your submittal (if residential, please provide projected range of sales prices and/or rents) :

*****PLEASE NOTE** : If additional environmental review is required for this proposal, there may be additional fees sufficient to cover the costs of this review.

2. Size of parcel (square feet or acres): _____
3. Square feet of building area: _____ Number of floors: _____
4. General existing use of the site: _____

5. Describe in general the existing uses to the:
- North: _____
- South: _____
- East: _____
- West: _____
6. Are there any natural or man-made channels through or adjacent to the site : _____
If so, where? _____
7. Grading – Amount of dirt/fill material being moved (check one) :
- 0-500 cubic yards _____ 5, 000-20,000 cubic yards _____
- 500-5,000 cubic yards _____ over 20, 000 (indicate amount) _____
8. Number of existing trees on the site: _____
9. Number, size, and type of trees being moved: _____

10. Describe other vegetation: _____

11. Describe noise sources generated by your project during construction: _____

After construction: _____

12. Projected vehicle trips per day (use factors below): _____

LAND USE	WEEKEND TRIP END GENERATION RATES ASSUMING 100% OCCUPANCY
Single-Family	11.1 trips/dwelling unit
Patio Homes/Duplexes	9.5 trips/dwelling unit
Townhouses	7.5 trips/dwelling unit
Condominiums	7.5 trips/dwelling unit
Apartments	6.0 trips/dwelling unit
Mobile Homes	6.8 trips/dwelling unit
Retirement Communities	3.3 trips/dwelling unit
Motel	11 trips/room
Fast-Food Restaurant	553.0 trips/1,000 square feet building area
Retail Commercial	46.6 trips/1,000 square feet building area
Sit-Down Restaurant	45.0 trips/1,000 square feet building area
Office Retail	38.2 trips/1,000 square feet building area
Institutions (Schools, Churches)	18.4 trips/1,000 square feet building area
Industrial Plant (under 500,000 square feet)	4.7 trips/1,000 square feet building area
Industrial Warehouse	4.7 trips/1,000 square feet building area
Other	Estimate Amount

13. What is (are) the nearest major street(s) and distance(s) from project: _____

14. Amount of off-street parking provided: _____

15. If more than 5,000 square feet of paving is proposed, give amount and describe methods of storm water disposal and heat build-up mitigation: _____

16 a. Source of water: _____

b. Estimated gallons per day (use factors below): _____

LAND USE	ESTIMATED WATER CONSUMPTION RATES (gallons per day)
Single-Family Residential	606/DU or 190/resident
Multi-Family Residential	240 D/U or 125/resident
Office	120 gallons/day/ 1,000 square feet floor area
Retail Commercial	120 gallons/day/ 1,000 square feet floor area
Other Land Use	Estimate amount
Industrial	Variable- Please describe the water requirements for any industrial uses in your project (General Projection= 3,000 gallons/day/acre): _____ _____ _____ _____

c. Will non-domestic wastewater or process solutions be discharged into the sewer? YES ___ NO ___

If yes, a Wastewater Discharge Permit Application questionnaire must be submitted to the City's Industrial Waste Inspector (available from the City Planning Division).

17. a Will sewage treatment facilities be utilized? _____

b. Describe the type of sewage to be generated: _____

c. Estimate the amount (gallons/day) of sewage to be generated (use factors below): _____

LAND USE	ESTIMATED SEWAGE GENERATION RATES (gallons per day)
Single-Family Residential	354 gallons/DU or 111 gallons/day/resident
Multi-Family Residential	213 gallons/DU or 111 gallons/day/resident
Office	108 gallons//day/ 1,000 square feet floor area
Commercial	108 gallons//day/ 1,000 square feet floor area
Industrial	Variable- Please describe the water requirements for any industrial uses in your project (General Projection= 3,000 gallons/day/acre): _____ _____ _____ _____

d. Will the facility utilize floor drains for wash-down or other purposes? _____

If yes, a Wastewater Discharge Permit Application questionnaire must be submitted to the City's Industrial Waste Inspector (available from the City Planning Division).

18. Height of the tallest structure involved in the project: _____

19. Are architectural or landscaping features involved that would help mitigate possible environmental concerns (e.g., noise, glare, traffic) ? YES _____ NO _____

If yes, briefly describe: _____

20. Describe the type and amount of outdoor lighting involved: _____

21. Could any kind of wildlife, such as birds, rodents or predators, inhabit or use the project site? _____

If yes, briefly describe: _____

22. Proposed construction phasing: _____

23. **Residential**

a. Number of dwelling units: _____

b. Unit size(s): _____

c. Household size (number of people) expected: _____

24. **Industrial**

a. Type: _____

b. Estimated employment per shift: _____

c. Will project involve the use or disposal of potentially hazardous materials (including petroleum products) ?
Yes _____ No _____

If yes, a Wastewater Discharge Permit Application questionnaire must be submitted to the City's Industrial Waste Inspector (available from the City Planning Division).

25. **Institutional (e.g. public facilities, hospitals, schools)**

a. Major function: _____

b. _____

c. Estimated employment per shift: _____

d. Estimated occupancy: _____

26. Why do you feel your project is justified now and in this location? _____

27. Are there any feasible and less environmentally alternatives to your project?_____

Explain:_____

28. What additional special feature in your project plan will help reduce noise pollution, water consumption and pollution, solid waste, fossil fuel consumption, and energy use ?

29. Do you believe an Environmental Impact report is needed for you project? Why? _____

****PLEASE READ AND SIGN**

I certify that the above answers are true and correct to the best of my knowledge and belief, and I understand that subsequent action to rescind any permit based upon this questionnaire may be possible if evidence in uncovered to the contrary.

Signed:_____ Date:_____

Name (print):_____ Title:_____

Firm/Company:_____

Phone:_____ Fax:_____

FOR STAFF USE ONLY

1. SOILS: P_S_U_L_G_D_X_

2. FLOOD HAZARD AREA: Merced City Flood Plain Map, 100-year Flood Area, Yes_____ No_____
Zone_____

3. DAY-NIGHT AVERAGE SOUND LEVEL(LdN) CONTOUR: _____
Clearly unacceptable:_____ Normally unacceptable:_____ Normally acceptable:_____ Acceptable:_____

ENVIRONMENTAL REVIEW PROCESS

