



Agenda Item: \_\_\_\_\_

Meeting Date: \_\_\_\_\_

## **ADMINISTRATIVE REPORT**

**TO:** John M. Bramble, City Manager

**FROM:** Kim Espinosa, Planning Manager

**DATE:** October 26, 2011

**SUBJECT:** Adoption of the *Merced Vision 2030 General Plan* and Certification of the General Plan Final Environmental Impact Report (EIR)

### **REPORT IN BRIEF**

After the continued public hearing, the City Council will consider adoption of one of three options for the *Merced Vision 2030 General Plan* and its associated Environmental Impact Report (EIR).

### **RECOMMENDATION:**

*City Council:* Adopt a motion:

#### **Option 2—EIR Alternative #2 (Removing Castle Farms & Mission Lakes)**

- A. *Action Already Completed:* Approving Resolution #2011-63--A Resolution of the City Council of the City of Merced, California, Approving and Certifying a Final Environmental Impact Report for the *Merced Vision 2030 General Plan*, Making Findings and Determinations, Adopting a Statement of Facts and Overriding Considerations, and Adopting a Mitigation Monitoring Program (Attachment 11); and,
- B. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Adopting the *Merced Vision 2030 General Plan* (Attachment 12); (Please note that 7 separate votes will need to be taken on the Land Use Diagram per the Sectors on Attachment 1B plus 1 vote overall):
1. Sector I (Already completed by a 4-2-1 vote on October 17, 2011); and,
  2. Sector II; and,
  3. Sector III; and,
  4. Sector IV; and,
  5. Sector V; and,
  6. Sector VI; and,
  7. Sector VII; and,
  8. General Plan Resolution (above); and,

- C. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Making Application to the Local Agency Formation Commission for Expansion of the City's Sphere of Influence (SOI) (Attachment 13).

[NOTE: All Attachment numbers refer to the October 17, 2011, administrative report, attached to this report.]

**OR**

Option 1—Draft General Plan (Planning Commission Recommendation)

- D. Rescinding Resolution #2011-63—A Resolution of the City Council of the City of Merced, California, Approving and Certifying a Final Environmental Impact Report for the *Merced Vision 2030 General Plan*, Making Findings and Determinations, Adopting a Statement of Facts and Overriding Considerations, and Adopting a Mitigation Monitoring Program (Attachment 11) (Previously Adopted by the City Council on October 17, 2011, for Option 2); and,
- E. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Approving and Certifying a Final Environmental Impact Report for the *Merced Vision 2030 General Plan*, Making Findings and Determinations, Adopting a Statement of Facts and Overriding Considerations, and Adopting a Mitigation Monitoring Program (Attachment 8); and,
- F. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Adopting the *Merced Vision 2030 General Plan* (Attachment 9); (Please note that 9 separate votes will need to be taken on the Land Use Diagram per the Sectors on Attachment 1A plus 1 vote overall):
1. Sector I; and,
  2. Sector II; and,
  3. Sector III; and,
  4. Sector IV; and,
  5. Sector V; and,
  6. Sector VI; and,
  7. Sector VII; and,
  8. Sector VIII; and,
  9. Sector IX; and,
  10. General Plan Resolution (above); and,
- G. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Making Application to the Local Agency Formation Commission for Expansion of the City's Sphere of Influence (SOI) (Attachment 10).

**OR**

Option 3—Modified EIR Alternative #2 (Removing Mission Lakes Only)

- H. Rescinding Resolution #2011-63—A Resolution of the City Council of the City of Merced, California, Approving and Certifying a Final Environmental Impact Report for the *Merced Vision 2030 General Plan*, Making Findings and Determinations, Adopting a Statement of Facts and Overriding Considerations, and Adopting a Mitigation Monitoring Program (Attachment 11) (Previously Adopted by the City Council on October 17, 2011, for Option 2); and,
- I. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Approving and Certifying a Final Environmental Impact Report for the *Merced Vision 2030 General Plan*, Making Findings and Determinations, Adopting a Statement of Facts and Overriding Considerations, and Adopting a Mitigation Monitoring Program (Attachment 14); and,
- J. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Adopting the *Merced Vision 2030 General Plan* (Attachment 15); (Please note that 8 separate votes will need to be taken on the Land Use Diagram per the Sectors on Attachment 1C plus 1 vote overall):
  - 1. Sector I; and,
  - 2. Sector II; and,
  - 3. Sector III; and,
  - 4. Sector IV; and,
  - 5. Sector V; and,
  - 6. Sector VI; and,
  - 7. Sector VII; and,
  - 8. Sector VIII; and,
  - 9. General Plan Resolution (above); and,
- K. Approving Resolution #2011-\_\_--A Resolution of the City Council of the City of Merced, California, Making Application to the Local Agency Formation Commission for Expansion of the City's Sphere of Influence (SOI) (Attachment 16).

[NOTE: All Attachment numbers refer to the October 17, 2011, administrative report, attached to this report.]

**POSSIBLE CITY COUNCIL ACTIONS**

- 1. Approve Option 2 (EIR Alternative #2), including Resolutions at Attachments 11 (already completed), 12, and 13 of the October 17, 2011, administrative report; or,
- 2. After rescinding previously adopted Resolution #2011-63 for the EIR for Option 2, Approve Option 1 (Original Draft General Plan), as recommended

- by the Planning Commission, including Resolutions at Attachments 8, 9, and 10 of the October 17, 2011, administrative report; or,
3. After rescinding previously adopted Resolution #2011-63 for the EIR for Option 2, Approve Option 3 (Modified EIR Alternative #2A), including Resolutions at Attachments 14, 15, and 16 of the October 17, 2011, administrative report; or,
  4. Refer back to staff with specific boundaries that are proposed for the General Plan so a determination can be made if additional environmental review is necessary; or,
  5. Continue item to another future Council meeting with direction for an alternative approval process (date and time to be specified in City Council motion).

### **AUTHORITY/CODE SECTIONS**

Under California Government Code Section 65358(a), a legislative body may amend, after a public hearing, all or part of an adopted General Plan if the body deems the amendment to be in the public's interest. Title 19 of the Merced Municipal Code outlines environmental review procedures.

### **DISCUSSION:**

#### **Previous City Council Actions**

##### **September 19, 2011, City Council Meeting**

On September 19, 2011, the City Council held a public hearing on the proposed *Merced Vision 2030 General Plan* and Final Environmental Impact Report (EIR). Seven (7) individuals testified with several supporting adoption of the General Plan as proposed and several asking that the proposed growth boundary (Specific Urban Development Plan/Sphere of Influence or SUDP/SOI) be reduced in size.

During the subsequent City Council discussion, Council Members expressed a desire to reduce the proposed growth boundary in size by taking out both Castle Farms and Mission Lakes (proposed Community Plan areas in northwest and southwest Merced respectively), taking out just Mission Lakes, or taking out additional undefined areas. Support was expressed for leaving any areas taken out of the proposed growth boundary in the Area of Interest and for leaving the UC Merced and University Community areas in the growth boundary.

At the end of the City Council discussion, staff clarified that the City Council wished to look at 3 possible options for adopting the General Plan and Final EIR—the current proposal, another proposal based on EIR Alternative #2 (removing both Castle Farms and Mission Lakes), and another modified Alternative #2 (removing only Mission Lakes). The City Council subsequently adopted a motion to continue

the public hearing to October 17, 2011, to consider these options for adoption of the General Plan and EIR.

#### October 17, 2011, City Council Meeting

The City Council held a continued public hearing on the General Plan on October 17, 2011, with 7 individuals testifying. After the public hearing, the City Council adopted Resolution #2011-63 (Attachment 11 of Attachment 1), which approved and certified the Final Environmental Impact Report for the *Merced Vision 2030 General Plan*, made findings and determinations, adopted a Statement of Overriding Considerations tailored specifically for Option 2 (deletion of Mission Lakes and Castle Farms Community Plans from the General Plan), and adopted a Mitigation Monitoring Program. Because there were not four affirmative votes to approve Section II of the Land Use Diagram, the City Council did not vote on whether to adopt a resolution that approved Option 2 as the *Merced Vision 2030 General Plan*.

The final action of the City Council on October 17, 2011, relating to the General Plan was to continue the matter to the November 7, 2011, City Council meeting. Because there was not City Council direction for staff to prepare a modified plan (which would have required 4 affirmative votes), this report for the November 7 meeting includes the same three options that were on the agenda for October 17.

#### Possible Actions for Tonight's Meeting (November 7, 2011)

- A) If the City Council wishes to approve Option 2 (deletion of Mission Lakes and Castle Farms Community Plans from the General Plan), this will require that a majority of the Members of the City Council approve the remaining six sectors of the Land Use Diagram and the resolution approving the General Plan (Attachment 12 of the October 17 administrative report) along with the resolution making application to LAFCO for a modified Sphere of Influence (Attachment 13 of the October 17 administrative report).
- B) If City Council wishes to approve Option 1 (the plan recommended by the Planning Commission) or Option 3 (deletion of Mission Lakes Community Plan), then a majority of the City Council would first be required to repeal Resolution #2011-63, adopt a new resolution relating to the environmental approvals for that option, approve the sectors for the Land Use Diagram for the selected option, and adopt the resolution approving the General Plan and a separate resolution approving an application to LAFCO for a modified Sphere of Influence. (For Option 1, Attachments 8, 9, and 10 of the October 17 administrative report respectively; or for Option 3, Attachments 14, 15, and 16.)

- C) If the City Council wishes to approve a new option with a footprint that is smaller than Option 2, but at least as large as the boundaries of the existing *Merced Vision 2015 General Plan* (adopted in 1997), then the City Council will need to make a motion providing specific direction to staff regarding the proposed new boundaries, including any properties that Council would like to see removed from the proposed boundaries. Staff would bring back the modified option at a subsequent City Council meeting.
- D) If, however, the City Council wishes to modify the footprint of the new General Plan so that at least some portion of it is smaller than the existing boundaries under the *Merced Vision 2015 General Plan* (adopted in 1997), then the following steps need to occur:
- 1) The City Council will need to adopt a motion that specifies the new boundaries that are proposed for the General Plan, including any specific properties that the Council wishes to see deleted from the adopted 1997 boundary.
  - 2) Based upon the proposed modified boundaries, a determination will need to be made if the proposed new boundaries trigger any environmental issues that will require further environmental analysis, further studies and/or possible recirculation of the EIR. (Staff has been advised that this is likely to be required, and then a source of funding to complete such an analysis would also need to be identified.)
  - 3) At such time that any necessary environmental analysis (if any) has been completed, due process requires that the property owners that would be removed from the adopted 1997 growth boundary receive notice of the Planning Commission and City Council meetings at which the proposed boundaries will be considered as part of the adoption of the *Merced Vision 2030 General Plan*.

Previous Administrative Reports (September 19, 2011 & October 17, 2011)

Please refer to the previous administrative reports prepared for this item for the September 19 and October 17 City Council meetings at Attachment 1 for detailed information regarding the project background, the three options presented to the City Council on October 17, the Planning Commission recommendation, etc. Please note that Attachment 11 (the EIR Resolution for Option 2) has been updated to show adopted Resolution #2011-63 and the other Resolutions (Attachments 8 through 16, except Attachment 11) have all been updated to add tonight's meeting date and to correct one misspelling on three of them.

### Adopting the Land Use Diagram and Avoiding Conflicts of Interest

In order to avoid potential or perceived conflicts of interest regarding properties owned by the Planning Commissioners and City Council members, the City Attorney has advised that the General Plan Land Use Diagram should be adopted in segments. Although no changes in land use designation are proposed within the current City limits where these properties are located, this approach reflects an abundance of caution to avoid even perceived conflicts of interest.

For the City Council, staff divided the Land Use Diagram into nine (9) sectors as shown in Attachment 1A of the October 17 administrative report for Option 1. For Option 2, there are only 7 sectors (with Castle Farms and Mission Lakes removed); and for Option 3, there are only 8 sectors with Mission Lakes removed (see Attachments 1B and 1C of the October 17 administrative report). These sectors have been drawn so that no more than one member should have to declare a potential conflict for any one sector. In the case of Sectors VIII and IX, Castle Farms and Mission Lakes respectively, no Council Members have property interests in those areas.

The nine sectors are described as follows and the Council Member with property interests in that area is also noted:

- 1) Sector I – South of Highway 99 and Highway 140, East of R Street (south of Childs Ave) and Q Street (north of Childs Ave) [*Council Member Rawling*]
- 2) Sector II – North of Highway 99 and Highway 140, East of Q Street, and South of North Bear Creek Drive from Q Street to Oleander Drive, South of Alexander Avenue from Oleander to McKee Road, and South of East Olive Avenue, East of McKee [*Mayor Spriggs*]
- 3) Sector III – East of G Street and North of North Bear Creek Drive from G Street to Oleander Drive, North of Alexander Avenue from Oleander to McKee, and North of East Olive Avenue, East of McKee [*Council Member Carlisle*]
- 4) Sector IV – North of Highway 99 between T Street and Q Street, North of North Bear Creek Drive from R Street to G Street, and North of Loughborough Drive from M Street to G Street [*Council Member Gabriault-Acosta*]
- 5) Sector V – South of Santa Fe Road/West Olive Avenue and West of R Street from Olive to North Bear Creek Drive, West of T Street from North Bear Creek Drive to Highway 99, and South of Highway 99, West of Q Street (from Highway 99 to Childs) and West of South Highway 59, South of Childs [*Mayor Pro Tempore Blake*]
- 6) Sector VI – North of Santa Fe Road/West Olive Avenue from North Highway 59 to R Street, East of North Highway 59 from Olive to Buena Vista Drive, East of Sarasota Avenue from Buena Vista to El Redondo Drive, and East of San Augustine Ave, North of El Redondo [*Council Member Lor*]

- 7) Sector VII – North of Santa Fe Road/West Olive Avenue, West of North Highway 59 from Olive to Buena Vista Drive, West of Sarasota Avenue from Buena Vista to El Redondo Drive, and West of San Augustine Ave, North of El Redondo [*Council Member Pedrozo*]
- 8) Sector VIII — Castle Farms [*No conflicts*] [Options 1 & 3 only]
- 9) Sector IX — Mission Lakes [*No conflicts*] [Option 1 only]

Respectfully Submitted,

Reviewed and Approved,

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Kim Espinosa,  
Planning Manager

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David B. Gonzalves, Director of  
Development Services

Approved By,

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John M. Bramble,  
City Manager

[KE: 2011/General Plan Update/Public Hearings/04-CC Adoption/Gen Plan Adoption AR-CC Hrg3-Nov7-11.docx]

**PLEASE BRING YOUR COPY OF THE DRAFT *MERCED VISION 2030 GENERAL PLAN* AND DRAFT AND FINAL EIR's TO THE MEETING.**

Attachment:

- 1) Administrative Report for October 17, 2011 City Council Meeting (with all attachments, including the Administrative Report for September 19, 2011 at Attachment 2)