



CITY OF RIVERBANK
**REGULAR CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY MEETING**
(The City Council also serves as the LRA Board)
City Hall North Council Chambers
6707 Third Street, Suite B • Riverbank • CA 95367

REVISED AGENDA

TUESDAY, OCTOBER 28, 2014 – 6:00 P.M.

(THE AGENDA PACKET IS POSTED AT THE CITY CLERK'S OFFICE AND AT WWW.RIVERBANK.ORG)

- CALL TO ORDER:** Mayor/Chair Richard D. O'Brien
- FLAG SALUTE:** Mayor/Chair Richard D. O'Brien
- INVOCATION:** Riverbank Ministerial Association
- ROLL CALL:** Mayor/Chair Richard D. O'Brien
Vice Mayor/Chair Cal Campbell
Council/Authority Member Darlene Barber-Martinez
Council/Authority Member Leanne Jones Cruz
Council/Authority Member Jeanine Tucker

CONFLICT OF INTEREST

Any Council/Authority Member or Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered is to declare their conflict at this time.

1. PRESENTATIONS

- Item 1.1:** ~~Presentation to Lana Clayton of Farmers Insurance.~~ **REMOVED**
- Item 1.2:** ~~Presentation to Vena Pearson-Hudgins of Vena's Secrets.~~ **REMOVED**

2. PUBLIC COMMENTS (No Action Can Be Taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the City Council/LRA Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the City Council/LRA Board.

Any documents that are not privileged or part of a Closed Session provided to a majority of the City Council/LRA Board after distribution of the agenda packet, regarding any item on this agenda, will be made available for public inspection at North City Hall, 6707 Third Street, Riverbank, CA, during normal business hours.

3. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council/LRA Board unless otherwise requested by an individual Council/Authority Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 3.A: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 3.B: Approval of the September 23, 2014, City Council and Local Redevelopment Authority Minutes.

Item 3.B-1: Approval of the September 25, 2014, Special City Council Minutes.

Item 3.B-2: Approval of the September 30, 2014, Special City Council Minutes.

Recommendation: It is recommended that City Council/LRA Board approve the Consent Calendar items by roll call vote.

4. UNFINISHED BUSINESS There are no items to consider.

5. PUBLIC HEARINGS

Item 5.1: **Proposition 218 to Increase Garbage Rates** – It is Recommended to:

- (1) Open the Proposition 218 Public Hearing and Receive Written Protests to the Proposed Rate Increase for Solid Waste Disposal Services, and
- (2) Adopt a Resolution Accepting and Closing the Proposition 218 Public Notification and Protest Process as it Relates to the Proposed Rate Increase for Solid Waste Disposal Services, and
- (3) Consider Adopting a Resolution which adopts the Revised Rates for Solid Waste Disposal Services and Authorizing the City Manager to Execute the Franchise Agreement with Gilton Solid Waste Management, Inc. (this item is contingent upon the Results of the Protest Process), and
- (4) Authorize the City Manager to Execute a Franchise Agreement with Gilton Solid Waste for Solid Waste Disposal Services.

Item 5.2: **Introduction and adoption of Urgency Ordinance No. 2014-009 of the City Council of the City of Riverbank, California, to Extend a Temporary Moratorium on the Issuance of Permits for Licenses for the Establishment and Operation of New Tattoo Establishments within the Boundaries of the City** – It is recommended that the City Council introduce and adopt Urgency Ordinance No. 2014-009 of the City Council of the City of Riverbank, California, to Extend a Temporary Moratorium on the Issuance of Permits for Licenses for the Establishment and Operation of New Tattoo Establishments within the Boundaries of the City.

Item 5.3: **Introduction and adoption of an urgency interim ordinance creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers** – It is recommend that Council introduce and adopt an urgency interim Ordinance No. 2014-011, creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers, as originally drafted (Attachment 1) or as modified by Planning Commission action (Attachment 2) to exclude language related to e-cigarette retailers.

Item 5.4: **Introduction and adoption of an urgency interim ordinance creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices** – It is recommended that Council introduce and adopt an urgency interim ordinance No. 2014-012 creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices.

Item 5.5: **Expenditure of Supplemental Law Enforcement Services Fund** – It is recommended that the City Council approve the expenditure of the fiscal year 2014-2015 Supplemental Law Enforcement Services Fund (SLESF) to off-set the cost of a sworn Deputy Sheriff position as described in this agenda item.

6. NEW BUSINESS:

Item 6.1: **Consider Petition from Silgan Containers Manufacturing to Waive Water, Wastewater, and Storm Drain System Development Fees** – It is recommended that the City Council consider the petition from Silgan Containers Manufacturing to waive the Water, Wastewater, and Storm Drain System Development Fees assessed on the construction of a 19,800 sq. ft. detached metal warehouse building which includes a fire sprinkler system, and consider approval of a waiver of the fees related to Wastewater and the Storm Drain System.

7. COMMENTS (Information only – No action)

Item 7.1: Staff Comments

Item 7.2: Council/Authority Member Comments

Item 7.3: Mayor/Chair Comments

8. CLOSED SESSION**Item 8.1: CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code § 54957.6

Agency representative: Jill Anderson, City Manager

Employee organizations: Riverbank Miscellaneous Employees
Riverbank Mid-Management Bargaining Unit
Riverbank Executive Management

9. REPORT FROM CLOSED SESSION**Item 9.1: Report from Closed Session on Item 8.1: CONFERENCE WITH LABOR NEGOTIATORS****10. INFORMATIONAL ITEMS** (Information Only – No Action)**Item 10.1: Warrant Registers** – It is recommended that the City Council review as an informational item the warrant registers for 10/09/2014 and 10/16/2014.**ADJOURNMENT**

The next regular City Council meeting –**Tuesday, November 11, 2014, has been cancelled** due to City Offices being closed in honor of Veterans Day.

A Special City Council meeting is scheduled for November 10, 2014 at 5:30 p.m.

The next regular City Council meeting is on **Tuesday, November 25, 2014, at 6:00 p.m.**

UPCOMING EVENTS:

November 4	▪ <u>ELECTION DAY</u> – Registered voters of the City of Riverbank may vote to fill two (2) Councilmember seats. Visit the City's Election page at www.riverbank.org for more information.
November 6	▪ <u>ADA Workshop</u>: 3:30-pm, Open to the Public, Small & Large Businesses Welcome! Riverbank Community Center, 3600 Santa Fe Street.
November 10	▪ <u>Special City Council and Local Redevelopment Authority Meeting</u> – 5:30 p.m. Riverbank Council Chambers, to discuss the Riverbank Industrial Park Conveyance.
November 11	▪ The regular City Council Meeting is cancelled due to Veterans Day Holiday.
November 18	▪ <u>Planning Commission Meeting: 6:00 pm Riverbank Council Chambers</u>
November 29	▪ <u>Christmas Festival</u>: 12-noon to 8:00-pm Christmas Craft Faire, 5:30-pm Nighttime Light Parade, Tree Lighting to follow. Applications available online at www.riverbank.org
Open Until Filled	▪ <u>Budget Advisory Committee</u>: Applications are currently being accepted. Visit www.riverbank.org or Contact Marisela Garcia at 863-7110.
Open Until Filled	▪ <u>Housing Authority Commission</u>: Applications are currently being accepted for two openings. Visit www.riverbank.org or Contact the City Clerk's office at 863-7198.
Ongoing	▪ <u>City Hall Office Hours</u>: Mondays – Thursdays; 7:30 am to 5:30 pm Alternating Fridays 8:00 am – 5:00 pm; Closed <u>Friday, Oct. 24 & Nov. 7</u> For a calendar and time schedule visit www.riverbank.org
Ongoing	▪ <u>Regular City Council Meetings</u>: 2nd and 4th Tuesday of each month at 6:00 pm

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on the exterior City Hall bulletin board, next to the City Council Chamber entrance, 72 hours prior to the meeting pursuant to the Brown Act.

*Posted this 24th day of October, 2014
/s/ Luanne Bain, Administrative Assistant*

Notice Regarding Americans with Disabilities Act: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (209) 863-7122. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

Notice Regarding Non-English Speakers: Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank City Council/LRA Board shall be in English and anyone wishing to address the Council is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

GENERAL INFORMATION

Meeting Schedule	The City Council Members also serve as the LRA Board Members. The Riverbank City Council/LRA Board meets in the City Hall North Council Chambers. Regular City Council meetings are held on the 2nd and 4th Tuesdays of each month at 6:00 p.m. The Local Redevelopment Authority Board meets on an "as needed" basis. Meetings are held as indicated, unless otherwise noticed.
City Council / LRA Agenda & Reports	The City Council/LRA Board agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted near the entrance of the location where the meeting is to be held and, if available, on the City's website. Additional documents may be provided by the City in its efforts of transparency to keep the public well informed. The agenda packet (agenda plus supporting documents) are posted for public review at the City Clerk's Office, 6707 Third Street, Riverbank, CA and at www.riverbank.org upon distribution to a majority of the City Council/LRA Board. A subscription to receive the agenda can be purchased for a nominal fee through the City Clerk's Office.
Public Hearings	In general, a public hearing is an open consideration within a regular meeting of the City Council or a meeting of the LRA, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.
Televised / Video of Meetings	City Council/LRA meetings are televised on Charter Channel 2 and AT&T Uverse Channel 99. Video of the meeting and the schedule of replays may be seen on the City's website, under the "Action 2" Icon. (Note: Technical difficulty occurs on occasion preventing the televising or recording of the meeting.)
Questions	Contact the City Clerk at (209) 863-7122 or aaguilar@riverbank.org

Any documents that are not privileged or part of a Closed Session provided to a majority of the City Council/LRA Board after distribution of the agenda packet, regarding any item on this agenda, will be made available for public inspection at North City Hall, 6707 Third Street, Riverbank, CA, during normal business hours.

RIVERBANK CITY COUNCIL / LRA AGENDA ITEM NO. 3.A

SECTION 3: CONSENT CALENDAR

Meeting Date:	October 28, 2014
Subject:	Waiver of Readings
From:	Jill Anderson, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

It is recommended that the City Council/LRA Board approve the waiver of readings of Ordinances and Resolutions, except by title.

SUMMARY

The approval of the waiver of readings will allow Ordinances and Resolutions to be introduced by title only and acted upon without the need to read the entire text of the item into the public record. The documents related to proposed Ordinances and Resolutions are available for review by the public on the City's website and in the City Clerk's office at City Hall North.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENTS

There are no attachments to this report.

**RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY
AGENDA ITEM NO. 3.B**

SECTION 3: CONSENT CALENDAR

Meeting Date:	October 28, 2014
Subject:	Approval of the September 23, 2014, City Council / Local Redevelopment Authority Minutes
From:	Jill Anderson, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

It is recommended that the City Council / Local Redevelopment Authority Board approve the City Council / LRA Meeting Minutes as presented.

SUMMARY

The Draft Minutes of the September 23, 2014, regular City Council / Local Redevelopment Authority Board meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT:

1. September 23, 2014, City Council / LRA Minutes



CITY OF RIVERBANK
REGULAR CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY MEETING
(The City Council also serves as the LRA Board)

MINUTES
TUESDAY, SEPTEMBER 23, 2014

The following minutes reflect action minutes, which may contain added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Administration Department at (209) 863-7122.

CALL TO ORDER:

The City Council / Local Redevelopment Authority Board of the City of Riverbank met at 6:00 p.m., on this date, at the Riverbank City Council Chambers, 6707 Third Street, Riverbank, California, with Mayor/Chair Richard D. O'Brien presiding.

FLAG SALUTE: Mayor/Chair Richard D. O'Brien

INVOCATION: Pastor Chris Martin

ROLL CALL:

Present Mayor/Chair Richard D. O'Brien; Vice Mayor/Chair Cal Campbell
Council/Authority Members: Darlene Barber-Martinez, Leanne Jones Cruz, and Jeanine Tucker

CONFLICT OF INTEREST

Any Council/Authority Member and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

Councilmember Jones Cruz declared a conflict with Item 3.E. due to residing in the area of the project.

1. PRESENTATIONS

Item 1.1: Update on the Stanislaus Consolidated Fire Protection District Board of Director's Activities by Riverbank's Board Representative.

Ms. Michelle Guzman, Riverbank Board Representative, and Fire Chief Randall Bradley provided an update.

Item 1.2: Update on the Riverbank Cheese & Wine Exposition.

Chris Ricci of Chris Ricci Presents provided an update.

Item 1.3: Proclamation – Walk to School Day – October 8, 2014

Mayor O'Brien presented the proclamation to Lydia Jimenez, Community Support Specialist, of the Riverbank Unified School District.

2. PUBLIC COMMENTS (No Action Can Be Taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the City Council/LRA Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please address the entire City Council/LRA Board.

Ramon Bermudez, Riverbank, spoke in regards to an article on legislation of the older Americas Act.

Daryl Daniels, Riverbank Business Owner, spoke in regards to improving the appearance of the corner buildings at the entrance of HWY 108 and Third Street.

Dennis Zinner, spoke in regards to the City's message parlor policy and the result of driving message businesses out of Riverbank.

John Foley, Riverbank, spoke in regards to his water utility payment issue.

Angie Timpone, Riverbank, spoke in regards to agendizing the River Cove neighborhood problems with public access to the river.

City Manager, Jill Anderson, briefly commented in response to their comments.

3. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council/LRA Board unless otherwise requested by an individual Council/Authority Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 3.A: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 3.B: Approval of the August 26, 2014, City Council and Local Redevelopment Authority Minutes.

Item 3.B-1: Approval of the September 9, 2014, City Council Minutes.

Item 3.C: A **Resolution No. 2014-075** of the City Council of the City of Riverbank, California, Authorizing the Destruction of Certain Records Retained by the Office of the City Clerk/Elections Official.

Item 3.D A **Resolution No. 2014-076** of the City Council of the City of Riverbank, California, Supporting the Redesignation of the Stanislaus County Recycling Market Development Zone.

Item 3.E Acceptance of the Oakdale and Morrill Traffic Signal Project and Authorization to File a Notice of Completion.

Recommendation: It is recommended that City Council/LRA Board approve the Consent Calendar items by roll call vote.

ACTION: *By motion moved/seconded (Barber-Martinez / Tucker / passed 5-0) to approve Consent Calendar Items 3.A through 3.D as presented; motion carried by unanimous City Council and LRA Board roll call vote.*

AYES: *Barber-Martinez, Jones Cruz, Tucker, Campbell, and Mayor/Chair O'Brien*

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

Mr. Ramon Bermudez, requested to pull Item 3.E for discussion, and spoke in regards to the Southwest corner of the project not being completed. Kathleen Cleek, Development Services Administration Manager, explained the request for acceptance of the project.

ACTION: *By motion moved/seconded (Tucker / Campbell / *passed 4-0) to approve Consent Calendar Items 3.E as presented; motion carried by unanimous City Council roll call vote.*

AYES: *Barber-Martinez, Tucker, Campbell, and Mayor O'Brien*

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

**Councilmember Jones Cruz recused herself from this item due to a conflict of residing within the area of the project.*

MAYOR O'BRIEN CONTINUED WITH ITEM 5.3.; NO ONE OBJECTED.

4. UNFINISHED BUSINESS

Item 4.1: **Second Reading by Title Only and Adoption of Ordinance No. 2014-007 of the City Council of the City of Riverbank, California, Amending Title V: Public Works, Chapter 50: Garbage; Section 50.10: Rates To Be Charged, of the City of Riverbank Code of Ordinances** – It is recommended that the City Council conduct the second reading by title only of Ordinance No. 2014-007 and approve its adoption.

City Manager Jill Anderson presented the staff report.

Public Comment:

- *Mr. Daryl Daniels, Mr. Edward Jones, Mr. Ramon Bermudez, and Mr. John Foley commented.*

ACTION: *By motion moved/seconded (Jones Cruz/ Campbell / passed 5-0) to adopt Ordinance No. 2014-007 as presented; motion carried by unanimous City Council roll call vote.*

AYES: *Barber-Martinez, Jones Cruz, Tucker, Campbell, and Mayor O'Brien*

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

CITY COUNCIL PROCEEDED TO SECTION 6, NEW BUSINESS.

5. PUBLIC HEARINGS

The Public Hearing Notice for the following public hearing Item 5.1 was published in the local newspaper of general circulation on August 20, 2014. Said Item 5.1 was continued by the City Council during consideration at the regular meeting of September 9, 2014. A Notice of Continuance was posted within 24-hours on the exterior bulletin board near the entrance of the Council Chambers on September 10, 2014. The Public Hearing Notice for Item 5.2 was published in the local newspaper of general Circulation on September 10, 2014. Pursuant to California Government Code, Item 5.3 is presented under the provisions of an Urgency Ordinance.

Item 5.1: **A Resolution No. 2014-077 of the City Council of the City of Riverbank, California, Approving the Amended First Time Homebuyers Program Guidelines, and the Housing Rehabilitation Program Guidelines Including the Single Family Temporary Relocation Program** – It is recommended that the City Council hold the Public Hearing and adopt a Resolution approving the amendments to the First Time Homebuyer Program and Housing Rehabilitation Program Guidelines. (The Public Notice was published in the local newspaper on August 20, 2014; the Public Hearing was held on September 9, 2014, and continued by the City Council to the September 23, 2014 regular meeting.)

Rosa Casas, Economic, and Housing Specialist, presented the staff report.

Councilmember Barber-Martinez inquired about program outreach.

Mayor O'Brien opened the Public Hearing at 7:51 p.m.

- *Mr. John Foley, Real Estate Agent, commented.*

Mayor O'Brien closed the Public Hearing at 7:52 p.m.

ACTION: *By motion moved/seconded (Jones Cruz / Campbell / passed 5-0) to approve Resolution No. 2014-077 Approving the Amended First Time Homebuyers Program Guidelines, and the Housing Rehabilitation Program Guidelines Including the Single Family Temporary Relocation Program as presented; motion carried by unanimous City Council roll call vote.*

AYES: Barber-Martinez, Jones Cruz, Tucker, Campbell, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAINED: None

Item 5.2: **First Reading and Introduction by Title Only of an Ordinance of the City Council of the City of Riverbank, California, Amending Title III: Administration; Chapter 32: Commissions and Authorities; By Repealing Environmental Review Committee (ERC), Sections 32.70 Through 32.83, and Adding ERC Sections 32.70 Through 32.81, of the City of Riverbank Code of Ordinances** – It is recommended that the City Council conduct the first reading and introduction by title only of the ordinance presented and consider its approval by roll call vote. Said approval will be to conduct a second reading by title only and consider its adoption at the October 14, 2014, regular City Council meeting. (The Public hearing notice was published on September 10, 2014, in the local newspaper.)

John Anderson, Community Development Services Consultant, presented the staff report.

Mayor O'Brien opened the Public Hearing at 7:57 p.m.

- *No one spoke.*

Mayor O'Brien closed the Public Hearing at 7:58 p.m.

ACTION: *By motion moved/seconded (Barber-Martinez / Tucker / passed 5-0) to approve the second reading and consideration to adopt the ordinance at the October 14, 2014, regular City Council meeting as presented; motion carried by unanimous City Council roll call vote.*

AYES: Barber-Martinez, Jones Cruz, Tucker, Campbell, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAINED: None

CITY COUNCIL PROCEEDED TO ITEM 4.1

Item 5.3: **Introduction and adoption of an Urgency Ordinance No. 2014-008 of the City Council of the City of Riverbank, California, for a Temporary Moratorium on the Establishment and Operation of New Tattoo Establishments for a Period of Forty-Five (45) Days Pending Study of Zoning Regulations that are Needed to Alleviate a Current and Actual Threat to the Public Health, Safety, and Welfare** – It is recommended that the City Council introduce and adopt an interim urgency ordinance creating a forty-five (45) day moratorium on the establishment and operation of new tattoo establishments.

(This item was considered after the Consent Calendar items.)

City Manager Jill Anderson introduced the item, and John Anderson, Community Development Services Consultant, presented the staff report.

Mayor O'Brien opened the Public Hearing at 6:57 p.m.

- *Mr. Jeremy Fennel, Mr. Daniel Freedman, Dr. Zinner, Ms. Suzanne, Mr. Ramon Bermudez, Ms. Dawn Deana, Mr. Anthony Fennel, Mr. Daryl Daniel, Ms. Tami, Pastor Chris Martin, Mr. Larry King, Mr. Anthony Salpino, and Ms. Allison commented.*
- *During the comments, City Attorney Tom Hallinan clarified that the City was not seeking a ban on Tatto Businesses.*

Mayor O'Brien closed the public hearing at 7:18 p.m.

City Council and staff discussed the item.

ACTION: *By motion moved/seconded (Tucker / Barber-Martinez / passed 5-0) to approve Urgency Ordinance No. 2014-008 with the modification of adding the language of a Section 5. Exceptions. Exceptions at the discretion of the City, the City may approve tattoo establishments while this moratorium is in place if:*

- 1. The business license application was first submitted to the City prior to September 23 of 2014; and*
- 2. The City grants staff review approval by the Community Development Director, or the City Manager, or their designee of the use.*

Motion carried by unanimous City Council roll call vote.

AYES: Barber-Martinez, Jones Cruz, Tucker, Campbell, and Mayor O'Brien

NAYS: None

ABSENT: None

ABSTAINED: None

CITY COUNCIL PROCEEDED TO ITEM 5.1.

6. NEW BUSINESS

LRA Item 6.1: **Local Redevelopment Authority (LRA) Budget Report Fiscal Year End 2013-2014** – It is recommended that the Local Redevelopment Authority (LRA) Board of Directors (Board) review and accept the fiscal year end 2013-14 LRA Budget Report.

Debbie Olson, LRA Executive Director introduced the item, Melissa Holdaway, LRA Administrative Analyst, presented the budget report.

ACTION: *By motion moved/seconded (Campbell / Jones Cruz / passed 5-0) to accept the LRA Fiscal Year End 2013-2014 Budget Report as presented; motion carried by unanimous LRA Board roll call vote.*

AYES: Barber-Martinez, Jones Cruz, Tucker, Campbell, and Chair O'Brien

NAYS: None

ABSENT: None

ABSTAINED: None

Item 6.2: **Request Authorization to Enter into an Agreement for Professional Services with Moore Iacofano Goltsman, Inc. (dba MIG) to Perform an Update to the City's American with Disabilities Act (ADA) Self Evaluation and Transition Plan** – It is recommended that the City Council authorize the City Manager to enter into an agreement for professional services with MIG to complete an update to the City's American with Disabilities Act (ADA) Self Evaluation and Transition Plan.

Kathleen Cleek, Community Development Administration Manager, presented the staff report.

Public Comment: Mr. John Foley commented.

City Council and Staff discussed the item.

ACTION: *By motion moved/seconded (Jones Cruz / Tucker / passed 5-0) to approve Authorization to Enter into an Agreement for Professional Services with Moore Iacofano Goltsman, Inc. (dba MIG) to Perform an Update to the City's American with Disabilities Act (ADA) Self Evaluation and Transition Plan for a cost of \$50,000, to include the additional cost for services of:*

- *Option Task A - Evaluate all public sidewalks, crosswalks, curb ramps, and rail crossings for an additional service cost of \$9,340; and*
- *Option Task B - A two-part training workshop for City staff. Each workshop is 1-1/2 hours long and would reinforce the content of the City's ADA Self Evaluation and Transition Plan for an additional service cost of \$3,480.00.*

Motion carried by unanimous City Council roll call vote.

AYES: Barber-Martinez, Jones Cruz, Tucker, Campbell, and Mayor O'Brien

NAYS: None

ABSENT: None

ABSTAINED: None

Item 6.3: **Status Report and Update on the Progress with the Riverbank Downtown Specific Plan** - It is recommended that the City Council receive the status report on the Riverbank Downtown Specific Plan and provide comments as needed.

John Anderson, Community Development Services Consultant, presented the update; Council and Staff discussed the item.

MAYOR O'BRIEN SUGGESTED THAT, DUE TO THE LONG CLOSED SESSION ITEMS TO CONSIDER, CITY COUNCIL ALLOW FOR PUBLIC COMMENTS ON ITEMS 6.4, 6.5 AND 6.6, PRIOR TO GOING INTO CLOSED SESSION; NO ONE OBJECTED.

No public comments were made on the items.

MAYOR O'BRIEN PROCEEDED TO THE COMMENTS SECTION.

Item 6.4: **A Resolution of the City Council of the City of Riverbank, California, to Replace in its Entirety Section 5 – City Of Riverbank DESIGN STANDARDS WATER and Section 6 – City Of Riverbank DESIGN STANDARDS WASTEWATER of the City of Riverbank Standard Specifications with new Specifications and Drawings** – It is recommended that the City Council adopt a Resolution to replace in its entirety Section 5 – City of Riverbank DESIGN STANDARDS WATER and Section 6 – City of Riverbank DESIGN STANDARDS WASTEWATER of the City of Riverbank Standard Specifications with new specifications and drawings, which have been updated to represent the current industry and design parameters.

Item 6.5: **Recommend City Council Review and Provide Feedback on the Patterson Road Concept Plan** – It is recommended that the City Council receive a presentation and provide feedback on the Patterson Road Concept Plan.

Item 6.6: **Recommend City Council Receive a Presentation on the Status of the Nexus Fee Study** – It is recommended that the City Council receive an update on the status of the Nexus Fee Study.

7. COMMENTS (Information only – No action)

Item 7.1: Staff Comments

City Manager Anderson announced scheduled Special City Council meetings.

Item 7.2: Council/Authority Member Comments

Council/Authority Member Jones Cruz commented on the need for Council to take action on the River Cove matter.

Council/Authority Member Barber-Martinez announced October 20th was the last day to register to vote, and announced the meaning of the Walk to School Day event.

Vice Mayor/Chair Campbell commended the Development Services staff for their work on the Morrill Project and thanked the community for the success of the Food Sharing Organization's Spaghetti Dinner.

Item 7.3: Mayor/Chair Comments

No comments were made.

8. CLOSED SESSION

The public will have a limit of 5 minutes to comment on Closed Session item(s) as set forth on the agenda prior to the City Council/LRA Board recessing into Closed Session.

MAYOR/CHAIR O'BRIEN ANNOUNCED THE CLOSED SESSION ITEMS, AND OPENED THE ITEMS FOR PUBLIC COMMENT; NO ONE SPOKE.

MAYOR/CHAIR O'BRIEN RECESSED TO CLOSED SESSION AT 8:59 P.M.

LRA Item 8.1: CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code Section 54956.8

Property: APN #062-031-007; 062-031-006; 062-008-009

Agency Negotiator: Jill Anderson, City Manager

Property Negotiator: U.S. Army

Under Negotiation: Price, terms of payment, or both

LRA Item 8.2: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: 1 potential case

Item 8.3: CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6

Agency representative: Jill Anderson, City Manager

Employee organizations: Riverbank Miscellaneous Employees
Riverbank Mid-Management Bargaining Unit
Riverbank Executive Management

Item 8.4: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: 1 potential case

Item 8.5: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code § 54956.9(a)

Name of Case: Andria Allen and Frances Allen v. City of Riverbank
Stanislaus County Superior Court Case No. 670739

Recommendation:

It is recommended that City Council /LRA Board provide direction to Staff on the Closed Session item(s).

9. REPORT FROM CLOSED SESSION

MAYOR/CHAIR O'BRIEN RECONVENED THE MEETING AT 9:20 P.M.

LRA Item 9.1: Report from Closed Session LRA Item 8.1: **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Chair O'Brien reported that direction was provided to staff.

LRA Item 9.2: Report from Closed Session LRA Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Chair O'Brien reported that direction was provided to staff.

Item 9.3: Report from Closed Session on Item 8.3: **CONFERENCE WITH LABOR NEGOTIATORS**

Mayor O'Brien reported that direction was provided to staff.

Item 9.4: Report from Closed Session Item 8.4: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Mayor O'Brien reported that direction was provided to staff.

Item 9.5: Report from Closed Session Item 8.5: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Mayor O'Brien reported that direction was provided to staff.

10. INFORMATIONAL ITEMS (Information Only – No Action)

Item 10.1: Warrant Register for 08/14/2014, 08/22/2014, 08/28/2014, 09/04/2014, and 09/11/2014 and Credit Card Statement for 07/22/2014.

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meeting at 9:21 p.m.

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

APPROVED:

Richard D. O'Brien
Mayor / Chair

**RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY
AGENDA ITEM NO. 3.B-1**

SECTION 3: CONSENT CALENDAR

Meeting Date:	October 28, 2014
Subject:	Approval of the September 25, 2014, Special City Council Minutes
From:	Jill Anderson, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

It is recommended that the City Council approve the Special City Council Meeting Minutes as presented.

SUMMARY

The Draft Minutes of the September 25, 2014, Special City Council meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT:

1. September 25, 2014, Special City Council Minutes



**CITY OF RIVERBANK
SPECIAL CITY COUNCIL MEETING
MINUTES
MONDAY, SEPTEMBER 25, 2014**



The following minutes reflect action minutes, which may contain added clarification. A copy of the verbatim recording may be obtained, for a fee, by contacting the Administration Department at (209) 863-7122.

CALL TO ORDER:

The City Council of the City of Riverbank met this date in a special session at 6:00 p.m. in the Conference Room at the Riverbank Council Chambers, 6707 Third Street, Riverbank, California with Mayor Richard D. O'Brien presiding.

ROLL CALL:

Present: Mayor Richard D. O'Brien; Vice Mayor Cal Campbell
Councilmembers: Darlene Barber-Martinez, Leanne Jones Cruz, and Jeanine Tucker

CONFLICT OF INTEREST

Council Members and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one spoke.

1. PUBLIC BUSINESS FROM THE FLOOR (No Action Can Be Taken)

Pursuant to Government Code 54954.3, in reference to a special meeting, the public has the opportunity to address the City Council only on items appearing on this special meeting notice. Individual comments are limited to a **maximum of 5 minutes** per person and each person may speak once during this time. Time cannot be yielded to another person.

No one spoke.

2. BUSINESS

Item 2.1: Presentation of the City's Financial Forecast.

City Manager Jill Anderson introduced the item and Marisela Garcia, Director of Finance presented the Financial Forecast. (PowerPoint presentation attached.)

ADJOURNMENT

There being no further business, Mayor O'Brien adjourned the meeting at 7:14 p.m.

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment: PowerPoint presentation

DRAFT

GENERAL FUND 5 YEAR FINANCIAL FORECAST

September 25, 2014

PRESENTATION OVERVIEW

- Current Financial Policies
- Historical Revenues
- Historical Expenditures
- Five Year Financial Forecast
- Future Opportunities & Risks
- Final Recommendations

CURRENT FINANCIAL POLICIES

Operating Budget Policies

- The City will avoid budgetary procedures that balance current expenditures at the expense of meeting future years' expenses, such as postponing expenditures, accruing future years' revenue, or rolling over short-term debt.
- Provisions will be made for adequate maintenance of capital plant and equipment and for their orderly replacement, within budgetary limits.
- The budget will provide for adequate funding of all retirement systems (PERS, Union Retirement, ICMA) in accordance with contractual commitments.
- The City will maintain a budgetary control system to help City staff adhere to the budget.

CURRENT FINANCIAL POLICIES

Operating Budget Policies

- The City will be held accountable for ensuring that department expenditures stay within budget appropriations.
- All requests for City Council action which have a financial impact on the City and/or its various funds shall be reviewed and approved by the City Manager and Director of Finance before such requests can be included in the City Council Agenda.
- Requests for additional positions will only be considered during the City's annual budget process, except in those areas deemed to be of an emergency nature by the City Manager.

CURRENT FINANCIAL POLICIES

Operating Budget Policies

- New positions and/or reclassified positions approved as part of the budgetary process shall be reviewed to determine the appropriateness of the assigned classification and/or salary structure.
- Where possible, the City will integrate performance measurement, service level and productivity indicators in the City's published budget document.
- The City will provide a financial impact analysis of all policy initiatives, service changes, and new programs or projects.

CURRENT FINANCIAL POLICIES

Operating Budget Policies

- The City will aggressively seek State and Federal funds that are available for capital projects.
- Budget amendments or transfers between funds for \$5,000 or less require department head authorization, verification of available funding from the Finance Director, and approval from the City Manager. Transfers in excess of \$5,000 and all budget amendments that expand service levels require Council authorization in the form of an amending budget resolution.

CURRENT FINANCIAL POLICIES

Revenue Policies

- The City will endeavor to maintain a diversified and stable revenue system to shelter it from short-term fluctuation in any single revenue source.
- The City will estimate City annual revenues by an objective, conservative, analytical process.
- The City will strive to establish user charges and fees to recover the cost of providing the services and annually recalculate the full costs of activities supported by user fees to identify the impact of inflation and other cost increases.
- Non-recurring revenues will be used only to fund non-recurring expenditures.

GENERAL FUND REVENUES

GENERAL FUND REVENUES

- Major Revenue Sources
 - Sales Tax
 - Property Tax
 - Property Tax in Lieu of VLF
- Other Revenue Sources
 - Service Charges (Police Service Fees, Building & Planning Fees)
 - Subventions, Grants & Transfers In
 - Other Revenues (i.e. fines, interest, one-time revenues)

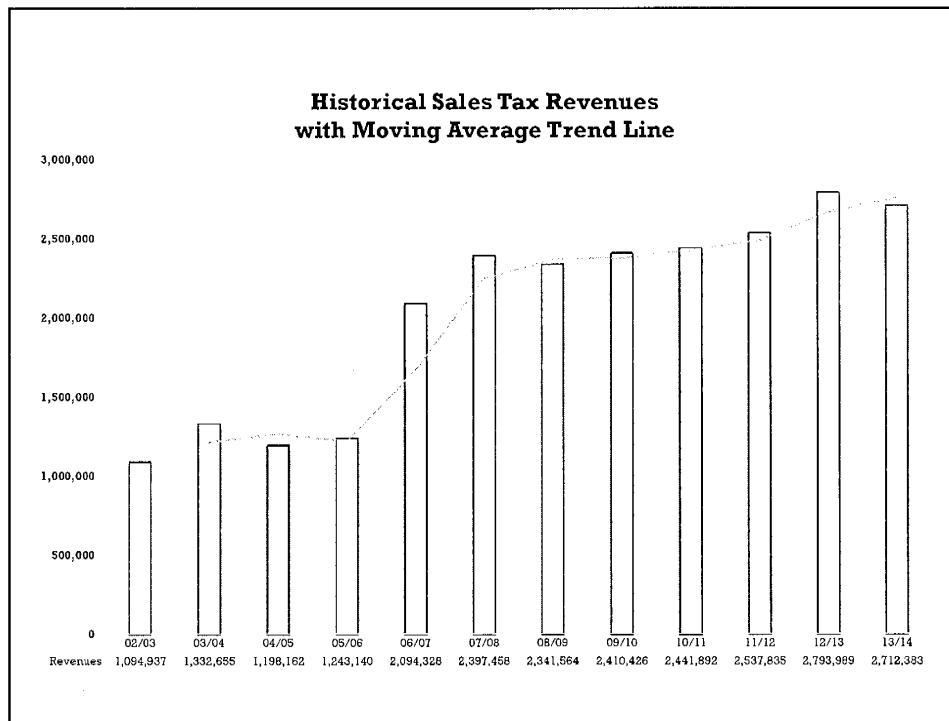
SALES TAX

- Sales and Use Tax is imposed on most retail transactions. The current sales tax rate in Stanislaus County is 7.625%.
- With the passage of Proposition 57 (the Triple Flip) in March 2004, the State shifted .25% of the City's sales tax allocation to the State General Fund to pay for recovery bonds. The .25% shift in sales tax was replaced with an equal amount of property taxes.
 - Ends in Fiscal Year 2015-16
- City's Top 25 Sales Tax Generators provide approx. 80% of the City's sales tax revenues.

SALES TAX

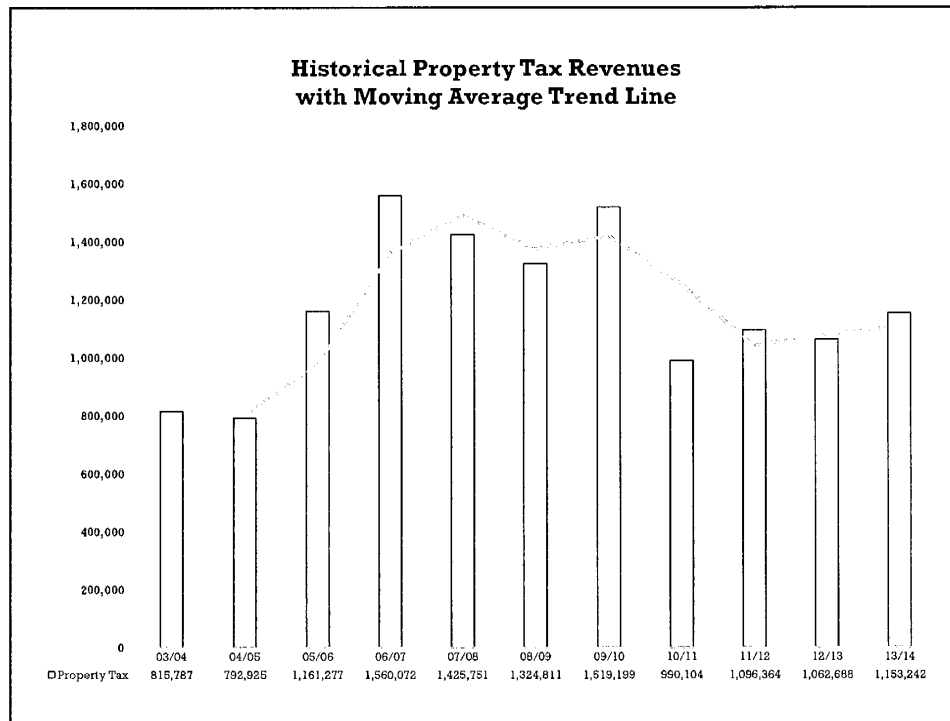
- Sales Tax Generating Categories

Department/Category	% of Sales Tax
General Retail	37%
Construction	20.8%
Transportation	19.8%
Food Products	17.4%
Business to Business	4.8%
Miscellaneous	0.1%



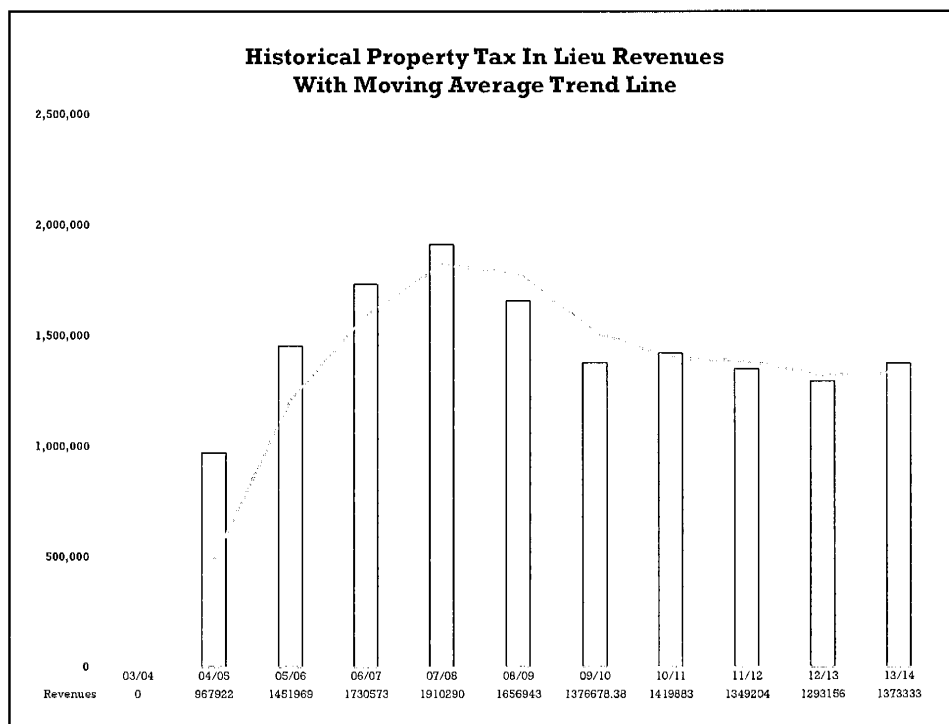
PROPERTY TAX

- Imposed on real property (land and permanent improvements) and tangible personal property (furniture, fixtures, and equipment)
- The general tax levy rate is 1% of the assessed value, adjusted by an annual inflation factor not to exceed 2%
- Property in the State of California is generally reassessed only upon change of ownership
- Property in Riverbank is assessed by the Stanislaus County Assessor's Office
- Cities and other local agencies, such as schools, special districts, and Stanislaus County share in County-wide property tax pool for purchases made within the county, but not within a specific jurisdiction



PROPERTY TAX IN LIEU OF VLF

- This revenue source accounts for the 1.35% Property Tax received from the State, which is in lieu of receiving the full 2% vehicle license fee.
- The State first began allocating this revenue source during the 2004-2005 fiscal year. Because it is classified as a “property tax”, the calculation of this revenue source is dependent on the assessed values of the properties located within the City.
- This revenue source is considered a property tax and is therefore affected by increases and decreases in property values.



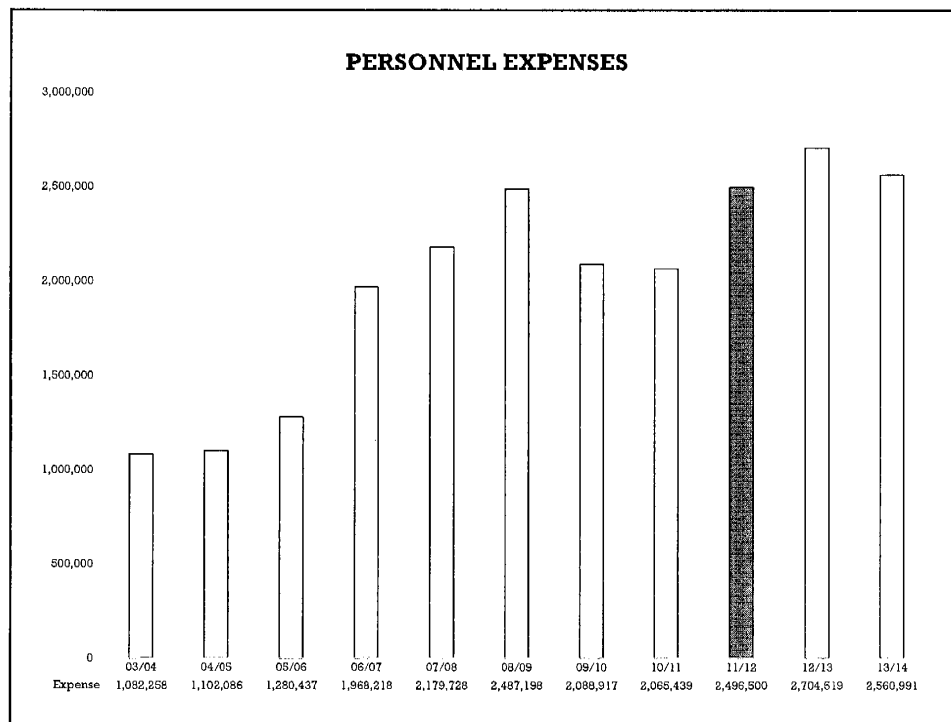
GENERAL FUND EXPENDITURES

EXPENDITURES

- Major Expenditure Categories
 - Personnel Costs (Salary & Benefits)
 - Stanislaus County Sheriff's Contract

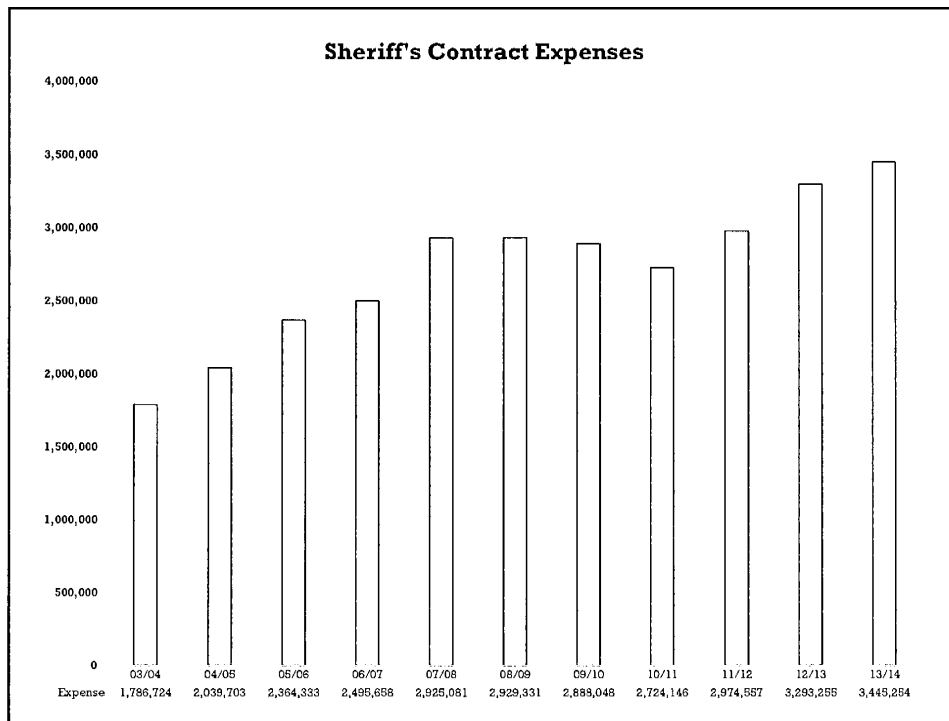
PERSONNEL COSTS

- Includes the following:
 - Base Salary
 - Overtime/Stand by
 - Health, Vision, Dental Insurance
 - Medicare
 - PERS Retirement Costs
 - National Industrial Pension Costs
 - SDI/Unemployment Costs
 - Worker's Compensation
 - Deferred Compensation



STANISLAUS COUNTY SHERIFF'S CONTRACT

- Contract established in 1995
- Current contract expires June 2015
- Supported by specialty units such as: SWAT, Hostage Negotiations, Dive Team, Bomb Team, Aero Squadron, K-9, Mounted Unit
- Current Sworn Staff: 18 (including Chief of Police)
- Non-Sworn Staff: 4
- 2 unfunded positions beginning FY 2013-14



FIVE YEAR FINANCIAL FORECAST

GENERAL FUND FIVE YEAR FISCAL FORECAST: 2014-19					
	SUPPLEMENTAL FORECAST				
	2014-15	2015-16	2016-17	2017-18	2018-19
AVAILABLE FUND BALANCE, BEGINNING OF YEAR	879,444	842,794	724,603	780,320	900,757
REVENUES & OTHER SOURCES *					
Taxes	6,095,200	6,246,927	6,410,129	6,578,273	6,757,495
Sales Tax - Frisco (Based on "Effective" 1% tax rate)	2,700,000	2,754,000	2,809,000	2,865,262	2,922,567
Minimums on Property Tax Relief	16,400	16,852	17,309	17,771	18,238
SD 113 Supplemental Taxes	8,600	8,970	9,156	9,330	9,515
Property Tax	1,205,400	1,332,765	1,399,403	1,469,873	1,542,842
Property Tax - Frisco of VLF	1,442,000	1,470,640	1,500,357	1,530,262	1,560,867
PILOT	20,000	30,000	30,000	30,000	30,000
Utility Tax					
Franchise Fees	527,100	537,642	548,105	559,368	570,510
Business License Fee	61,200	61,812	62,410	63,014	63,625
Real Property Transfer Tax	40,000	34,000	33,000	34,000	34,000
Subventions, Grants & Transfers In	1,785,100	1,758,216	1,763,476	1,794,159	1,812,090
Vehicle License Fees					
Transfers In	1,651,100	1,636,216	1,665,876	1,694,159	1,712,090
Other Subventions & Grants	100,000	100,000	100,000	100,000	100,000
Service Charges	200,800	210,840	214,843	218,925	223,090
Police Service Fees	129,000	137,150	138,159	140,912	143,791
Building & Planning Fees	61,600	64,680	65,974	67,383	68,826
Other Service Charges	10,200	10,710	10,710	10,710	10,710
Other Revenues	162,400	168,200	168,200	168,200	168,200
Fines & Penalties	32,100	32,800	32,800	32,800	32,800
Interest Earnings and Rents	48,600	50,000	50,000	50,000	50,000
Lease Proceeds Specific Plan					
Lease Fees Reimbursement					
PIAF Reimbursement					
Other Revenues	101,900	30,350	36,300	36,300	36,300
Total Revenues	8,263,700	8,334,273	8,509,038	8,709,858	8,905,874
EXPENDITURES *					
Staffing Costs	2,733,150	2,844,213	2,865,259	2,944,082	2,967,767
Operating - Non-staffing costs	1,498,850	1,694,818	1,562,399	1,547,680	1,614,378
Specialty Contracts	3,474,020	3,044,419	3,615,336	3,687,645	3,761,398
Housing Authority Assessment	23,000	23,460	23,929	24,408	24,886
Downtown Beautification Loan Repayment	102,250	126,250			
Transfers & General Fund Subsidies	591,150	383,624	386,305	395,846	403,312
SUBTOTAL EXPENSES	8,375,150	8,416,814	8,453,320	8,588,211	8,771,656
Fund Balance, Beginning of Year	879,444	842,794	724,603	780,320	900,757
Structural Surplus (Deficit) Expenditures	88,150	(82,592)	55,716	120,416	184,224
One Time Fund Balance Adjustment					
SUBTOTAL FUND BALANCE END OF YEAR, BEFORE ONE TIME EXPENSES	869,794	760,203	780,320	900,737	1,084,981
ONE TIME EXPENSES ADOPTED/RECOMMENDED					
Cap Ex Outlay	10,000	17,400	10,000	10,000	10,000
HVAC Upgrades	-	18,200	28,000	17,500	17,500
Heating Connect	50,000				
Website	30,000				
Server & Office Backup Generator	35,000				
Total Adopted or Recommended One Time Expenses	125,000	35,600	38,000	27,500	27,500
Ending Fund Balance	942,794	724,603	742,320	873,237	1,097,481
Reserve @ 10% of Revenues	826,370	833,427	850,904	870,986	890,587
Reserve Above/Below Policy Level	16,794	(108,797)	(108,584)	2,257	116,894
	10%	8%	9%	10%	11%

REVENUE ASSUMPTIONS

Revenue Source	Assumption
Sales Tax	2% Increase per year
Property Tax	5% Increase per year
Property Tax In Lieu	2% Increase per year
Transfers In	Based on Salary Projections

GENERAL FUND FIVE YEAR FISCAL FORECAST: 2014-19					
	SUPPLEMENTAL FORECAST				
	2014-15	2015-16	2016-17	2017-18	2018-19
AVAILABLE FUND BALANCE, BEGINNING OF YEAR	879,644	842,794	724,603	780,320	900,757
REVENUES & OTHER SOURCES *					
Taxes	6,095,200	6,246,927	6,410,119	6,578,573	6,752,495
Sales Tax + In-lieu (Based on "effective" 1% tax rate)	2,700,000	2,754,000	2,809,080	2,865,262	2,922,567
Homeowners Property Tax Relief	16,400	16,892	17,399	17,921	18,458
SB 813 Supplemental Taxes	8,800	8,976	9,156	9,339	9,525
Property Tax	1,269,300	1,332,765	1,399,403	1,469,373	1,542,842
Property Tax in lieu of VLF	1,442,000	1,470,840	1,500,257	1,530,262	1,560,867
PILOT	29,600	30,000	30,000	30,000	30,000
Unitary Tax	-	-	-	-	-
Franchise Fees	527,100	537,642	548,395	559,363	570,550
Business License Fee	61,200	61,812	62,430	63,054	63,685
Real Property Transfer Tax	40,800	34,000	34,000	34,000	34,000
Subventions, Grants & Transfers In	1,785,100	1,758,256	1,765,876	1,794,159	1,812,090
Vehicle License Fees	-	-	-	-	-
Transfers In	1,685,100	1,658,256	1,665,876	1,694,159	1,712,090
Other: Subventions & Grants	100,000	100,000	100,000	100,000	100,000
Service Charges	200,800	210,840	214,843	218,925	223,090
Police Service Fees	129,000	135,450	138,159	140,922	143,741
Building & Planning Fees	61,600	64,680	65,974	67,293	68,639
Other Service Charges	10,200	10,710	10,710	10,710	10,710
Other Revenues	182,600	118,200	118,200	118,200	118,200
Fines & Forfeitures	32,100	32,000	32,000	32,000	32,000
Interest Earnings and Rents	48,600	50,000	50,000	50,000	50,000
Loan Proceeds-Specific Plan	-	-	-	-	-
Legal Fees Reimbursement	-	-	-	-	-
PTAF Reimbursement	-	-	-	-	-
Other Revenues	101,900	36,200	36,200	36,200	36,200
Total Revenues	8,269,700	8,334,223	8,509,038	8,709,858	8,905,874

EXPENDITURE ASSUMPTIONS

• Staffing Costs

Expense Type	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Salaries	\$1,500 bonus	1% COLA	1% COLA	1% COLA
CalPERS	+1%	+1%	+1%	+1%
Health Insurance	+6%	+10%	+10%	+10%
Worker's Comp	+1%	+1%	+1%	+1%

• Sheriff's Contract

Expense Type	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Contract	+2%	+2%	+2%	+2%

EXPENDITURE ASSUMPTIONS

• Operating Costs

Expense Type	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Trainings	+14,000	No Change	No Change	No Change
Election Costs	-20,000	+50,000	0	+50,000
Bark/Fiber	+12,000	-12,000	+12,000	-12,000
Vehicle Charges	No Change	+10,000	+5,000	+5,000
Engineering	+10,000	No Change	No Change	No Change
ED Bank Loan	+126,250	-126,250	0	0

EXPENDITURE ASSUMPTIONS

• One-Time Expenses

Expenditure Type	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Housing Element	-50,000	0	0	0
Website	-30,000	5,000	5,000	5,000
Backup Generator	-35,000	0	0	0
HVAC Upgrades	+18,200	28,000	17,500	17,500

GENERAL FUND FIVE YEAR FISCAL FORECAST: 2014-19					
	SUPPLEMENTAL FORECAST				
	2014-15	2015-16	2016-17	2017-18	2018-19
AVAILABLE FUND BALANCE, BEGINNING OF YEAR	879,644	842,794	724,603	780,320	900,757
EXPENDITURES *					
Staffing Costs	2,735,150	2,844,213	2,865,259	2,944,082	2,967,767
Operating - Non-staffing costs	1,448,850	1,494,818	1,562,399	1,537,400	1,614,378
Sheriff's Contract	3,474,950	3,544,449	3,615,338	3,687,645	3,761,398
Housing Authority Assessment	23,000	23,460	23,929	24,408	24,896
Downtown Beautification Loan Repayment	102,250	126,250	-	-	-
Transfers & General Fund Subsidies	391,350	383,624	386,395	395,886	403,212
SUBTOTAL EXPENSES	8,175,550	8,416,814	8,453,320	8,589,421	8,771,650
Fund Balance, Beginning of Year	879,644	842,794	724,603	742,320	873,257
Structural Surplus (Deficit) Expenditures	88,150	(82,592)	55,718	120,436	134,224
One Time Fund Balance Adjustment					
SUBTOTAL FUND BALANCE END OF YEAR, BEFORE ONE TIME EXPENSES	967,794	760,203	780,320	900,757	1,034,981
ONE TIME EXPENSES ADOPTED/RECOMMENDED					
Capital Outlay	10,000	17,400	10,000	10,000	10,000
HVAC Upgrades	-	18,200	28,000	17,500	17,500
Housing Element	50,000				
Website	30,000				
Sheriff's Office Backup Generator	35,000				
Total Adopted or Recommended One Time Expenses	125,000	35,600	38,000	27,500	27,500
Ending Fund Balance	842,794	724,603	742,320	873,257	1,007,481
Reserve @ 10% of Revenues	826,400	833,400	850,900	871,000	890,600
Reserve Above/(Below) Policy Level	16,394	(108,797)	(108,580)	2,257	116,881
	10%	9%	9%	10%	11%

GENERAL FUND FIVE YEAR FISCAL FORECAST: 2014-19

	SUPPLEMENTAL FORECAST				
	2014-15	2015-16	2016-17	2017-18	2018-19
Ending Fund Balance	842,794	724,603	742,320	860,737	975,233
Reserve @ 10% of Revenues	826,400	833,400	850,900	871,600	891,500
Reserve Above/(Below) Policy Level	16,394	(108,797)	(108,580)	(10,863)	83,733
	10%	9%	9%	10%	11%

**FUTURE OPPORTUNITIES AND
RISKS**

FUTURE OPPORTUNITIES

- Crossroads West (Est. 6-7 years)
- Housing Development (East & West Side)
- Riverbank Industrial Complex
- Cannery Site Redevelopment
- North County Corridor

FUTURE RISKS

- Skate Park Litigation
- Continued changes to CalPERS Assumptions
- Repayment of Eleanor & Kentucky Property purchase to County
- Riverbank Oil Loan Repayment to System Development Fee Fund
- Sheriff's Office Recruitment & Retention
- Local Redevelopment Authority-Unknown Liability
- North County Corridor

FINAL RECOMMENDATIONS

FINAL RECOMMENDATIONS FOR FUTURE DISCUSSION

- Review Current Reserve Policy
 - Current policy is based on revenues
 - Common practice is to base on expenditures
- Begin Planning for Future Recessions
 - Creation of a Reserve Stabilization Funds
 - i.e. a percentage of reserve overages to be set aside for future economic downturns to avoid significant service reductions
- Continue Prudent Spending Practices
- Fund One-Time Expenditures with One-Time Funds

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.B-2

SECTION 3: CONSENT CALENDAR

Meeting Date:	October 28, 2014
Subject:	Approval of the September 30, 2014, Special City Council Minutes
From:	Jill Anderson, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

It is recommended that the City Council approve the Special City Council Meeting Minutes as presented.

SUMMARY

The Draft Minutes of the September 30, 2014 Special City Council meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT:

1. September 30, 2014, Special City Council Minutes



**CITY OF RIVERBANK
SPECIAL CITY COUNCIL MEETING
MINUTES
TUESDAY, SEPTEMBER 30, 2014**



The following minutes reflect action minutes, which may contain added clarification. A copy of the verbatim recording may be obtained, for a fee, by contacting the Administration Department at (209) 863-7122.

CALL TO ORDER:

The City Council of the City of Riverbank met this date in a special session at 8:30 a.m. in the Conference Room at the Riverbank Industrial Complex, 5300 Claus Road, Modesto, California with Mayor Richard D. O'Brien presiding.

ROLL CALL:

Present: Mayor Richard D. O'Brien; Vice Mayor Cal Campbell
Councilmembers: Darlene Barber-Martinez, Leanne Jones Cruz, and Jeanine Tucker

CONFLICT OF INTEREST

Council Members and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one spoke.

1. PUBLIC BUSINESS FROM THE FLOOR (No Action Can Be Taken)

Pursuant to Government Code 54954.3, in reference to a special meeting, the public has the opportunity to address the City Council only on items appearing on this special meeting notice. Individual comments are limited to a **maximum of 5 minutes** per person and each person may speak once during this time. Time cannot be yielded to another person.

No one spoke.

2. PRESENTATION

Item 2.1: **Discussion and Update of the City's Strategic Plan** – It is recommended that the City Council consider the City's Strategic Plan and provide direction and/or comments to guide Management Staff on the implementation and accomplishment of the Plan's goals.

Ms. Marilyn Snider of Snider Associates was present to facilitate the session and Recorder Michelle Snider Luna of Snider Education and Communication was also present. Council, Staff, and public members present engaged in the discussion and further development of the City's Strategic Plan as attached.

A morning recess was taken at 10:25 a.m. and the meeting resumed at 10:45 a.m.

A lunch recess was taken at 12:15 p.m. and the meeting resumed at 1:00 p.m.

ADJOURNMENT

There being no further business, Mayor O'Brien adjourned the meeting at 3:00 p.m.

ATTEST:

T. Jill Anderson
City Manager

APPROVED:

Richard D. O'Brien
Mayor

Attachment: September 30, 2014 Strategic Plan

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARINGS

Meeting Date: October 14, 2014

Subject: Presentation of the Final Solid Waste Study Prepared by Bartle Wells Associates and Request to:

(1) Open the Proposition 218 Public Hearing and Receive Written Protests to the Proposed Rate Increase for Solid Waste Disposal Services, and

(2) Adopt a Resolution Accepting and Closing the Proposition 218 Public Notification and Protest Process as it Relates to the Proposed Rate Increase for Solid Waste Disposal Services, and

(3) Consider Adopting a Resolution which adopts the Revised Rates for Solid Waste Disposal Services and Authorizing the City Manager to Execute the Franchise Agreement with Gilton Solid Waste Management, Inc. (this item is contingent upon the Results of the Protest Process), and

(4) Authorize the City Manager to Execute a Franchise Agreement with Gilton Solid Waste for Solid Waste Disposal Services.

From: Jill Anderson, City Manager

Submitted by: Marisela H. Garcia, Director of Finance
Kathleen Cleek, Development Services Administration Manager

RECOMMENDATION

It is recommended that the City Council receive a presentation by Bartle Wells Associates regarding the Final Draft of the Solid Waste Study and consider the following requests:

1. Open the Proposition 218 public hearing and receive written protests to the proposed rate increase for Solid Waste Disposal Services, and
2. Adopt a Resolution accepting and closing the Proposition 218 Public Notification and Protest Process as it relates to the proposed rate increase for solid waste disposal services, and

3. Adopt a Resolution approving the proposed Solid Waste Rates contingent upon the results of the protest process, and
4. Authorize the City Manager to execute a Franchise Agreement with Gilton Solid Waste for Solid Waste Disposal Services.

SUMMARY

Representatives from Bartle Wells Associates will present the final draft of the Solid Waste Study prepared pursuant to Proposition 218. The report focused on reviewing the rates proposed under Option 2 which would provide the following services to our residents: one 90 gallon trash can, one 90 gallon green/organic waste can, curbside electronic waste program, curbside bulky item waste program, illegal dump program, and a Christmas tree pickup program.

At the August 26, 2014 meeting, the City Council authorized city staff to proceed with the Proposition 218 process. Tonight is the conclusion of the Prop 218 process.

BACKGROUND

Gilton Solid Waste Management (Gilton) has been providing waste management services to the residents and businesses of Riverbank for the past 37 years. The most recent Agreement that the City had with Gilton Solid Waste Management began on July 1, 2003 and expired on July 1, 2011, and therefore, not subject to Proposition 218. The City received a letter from Gilton Solid Waste Management in February 2013, respectfully requesting that the City consider renewing a contract for services. On April 22, 2013, Gilton Solid Waste Management made a presentation to the City Council detailing the services they are currently providing the residents of Riverbank, and the additional waste and recycling services that the City Council may want to consider implementing in the future, should the contract be extended. At the end of the presentation the City Council gave direction to staff to explore renewing Gilton's contract, provide a cost breakdown of several service options, and provide a cost comparison matrix of options provided by other cities. Gilton Solid Waste Management presented three (3) different program options for the City Council's consideration at the February 24, 2014 City Council meeting. A presentation was made detailing the current solid waste services Gilton provides, and additional program options available along with the costs to provide those services. Gilton also provided a cost comparison matrix of the services and costs for solid waste services of other cities in the area.

On February 24, 2014, the City Council directed that Gilton continue to provide a 90 gal. trash and 90 gal. green/organic container with collection on a weekly basis and add a Curbside Electronic Waste Program, Curbside Bulky Item Program, Illegal Dump

Program & Christmas Tree Pick-up Program. The proposed rate for this service would be \$21.20 a month. While this would be an increase from the current rate of \$17.50 a month, it is the first increase since 2006, or 8 years. The City Council also reviewed the Commercial rate structure, which would potentially increase 5%. This would also be the first increase in the rate for commercial customers since 2006.

On March 24, 2014 the City Council received a presentation from the City Attorney's office regarding Proposition 218. Proposition 218, The Right to Vote on Taxes Act, was approved by California voters in 1996. Application of Proposition 218 requires voter approval of local tax levies and the implementation of assessment and property-related fee reform. The waste collection and disposal fees charged by the City of Riverbank are considered property-related fees under Proposition 218.

In order to comply with the requirements of Proposition 218, staff contracted with the firm of Bartle Wells Associates for the preparation of a Solid Waste Rate Study. The intent of the study is to evaluate the costs of providing solid waste services within the City and establish a basis for imposing the rate increases. The study focused on the rates proposed by Option 2, which are as follows:

Residential Rates:

Description	Current Rates	Proposed Rates 2
RESIDENTIAL (90R, 90Y)	\$ 17.50	\$ 21.20
RESIDENTIAL (30R, 90Y)	\$ 15.33	\$ 18.65
RESIDENTIAL DISCOUNT (90R, 90Y)	\$ 12.69	\$ 15.90
RESIDENTIAL DISCOUNT (30R, 90Y)	\$ 11.09	\$ 13.99
BUSINESS NON-R (90R, 90Y)	\$ 17.50	\$ 21.20
BUSINESS NON-R (30R, 90Y)	\$ 15.33	\$ 18.65
1 YD BIN P/U 1X	\$ 49.23	\$ 51.69
2 YD BIN P/U 1X	\$ 78.20	\$ 82.11
2 YD BIN P/U 2X	\$ 142.63	\$ 149.76
2 YD BIN P/U 3X	\$ 207.18	\$ 217.54
3 YD BIN P/U 1X	\$ 107.59	\$ 112.97
3 YD BIN P/U 2X	\$ 195.13	\$ 204.89
3 YD BIN P/U 3X	\$ 273.10	\$ 286.76
3 YD BIN P/U 4X	\$ 367.77	\$ 386.16
4 YD BIN P/U 1X	\$ 140.42	\$ 147.44
4 YD BIN P/U 2X	\$ 258.34	\$ 271.26
4 YD BIN P/U 3X	\$ 360.27	\$ 378.28
4 YD BIN P/U 4X	\$ 432.26	\$ 453.87
4 YD BIN P/U 5X	\$ 531.43	\$ 558.00
4 YD BIN P/U 6X	\$ 637.98	\$ 669.88
6 YD BIN P/U 1X	\$ 192.50	\$ 202.13
6 YD BIN P/U 2X	\$ 355.78	\$ 373.57
6 YD BIN P/U 3X	\$ 512.37	\$ 537.99
6 YD BIN P/U 4X	\$ 598.20	\$ 628.11
RESIDENTIAL (2-90R, 90Y)	\$ 23.21	\$ 27.95
BUSINESS NON-R (3-90R, 90Y)	\$ 28.92	\$ 34.70
BUSINESS NON-R (4-90R, 90Y)	\$ 34.63	\$ 41.45
RESIDENTIAL (3-90R, 90Y)	\$ 28.92	\$ 34.70
RESIDENTIAL DISCOUNT (2-90R, 90Y)	\$ 18.40	\$ 22.08
BUSINESS NON-R (2-90R, 90Y)	\$ 23.21	\$ 27.95
1CO-1RES 2-90 1-90 [1]	\$ 40.71	\$ 49.15

Commercial Rates:

Size	1 x Week	2 x Week	3 x Week	4 x Week	5 x Week	6 x Week
2 Cubic Yard	\$82.11	\$149.76	\$217.54	\$285.33	\$318.38	N/A
3 Cubic Yard	\$112.97	\$204.89	\$286.76	\$386.16	\$435.29	N/A
4 Cubic Yard	\$147.44	\$271.26	\$378.28	\$453.87	\$558.00	\$669.88
5 Cubic Yard	\$202.13	\$373.57	\$537.99	\$628.11	\$812.54	\$845.65

SOLID WASTE RATE STUDY FINDINGS

As reflected in the Solid Waste Study Report, herein attached, Bartle Wells presented the following findings:

“Based on the findings performed by Bartle Wells Associates, a public finance consulting firm that has been providing independent, objective utility rate analysis and advice to public agencies throughout California for 50 years, Gilton’s proposed rates are in line with the cost of service and it is recommended that the City Council adopt Option 2, as it would enhance current service while keeping the costs to the consumers low...”

Using the San Francisco Bay Area Consumer Price Index (CPI) as a basis for inflationary costs, \$17.50 in 2006 would equal \$20.90 in 2014, in terms of buying power. Gilton’s proposed rates for Option 1 of \$20.70 are in line with inflationary costs. Taking consideration for balancing costs and service needs, the City has indicated that it is most interested in adopting Option 2. Option 2 rates for Enhanced Service are the focus of this study. Gilton’s proposed rates for Option 2 (“Proposed Rates 2”) are \$21.20 per month.

Gilton also provides services for commercial customers. The commercial service rates are based on bin size and the number of times per week that bins are collected. These rates have also been in effect since 2006 and Gilton is requesting a 5 percent increase to off-set operating and disposal costs. This is a very mild rate increase, when taking into account that inflationary costs have increased by 19.4% since 2006, using CPI.”

PROPOSITION 218 PUBLIC NOTIFICATION AND PROTEST PROCESS

As authorized by the City Council at the August 26, 2014 meeting, staff began the Prop 218 public notification and protest process. This process requires a minimum protest period of 45 days. In order to comply with all the requirements, the following process was followed:

- Public Notification was processed and delivered to the US Postal Services on September 4, 2014, 53 days prior to tonight’s public hearing date. Mailing was sent to both the property address and the mailing address of property owner’s (if different). A total of 8,865 public notifications were mailed.
- Public Notification highlighted the date of the Public Hearing.
- Public Notification described the rates to be considered and the services to be provided.
- Public Notification explained to residents the protest process. All protests must be received in writing by the City Clerk and include the property owner’s name, address or APN, state that their intent is to protest the rates, and include the property owner’s signature.

Under Proposition 218 if written protests against the proposed fee or charge are presented to the City by a majority of owners of the identified parcels prior to the close of the public hearing, the agency shall not impose the fee or charge. As of the writing of this report, two (2) protests had been received.

FRANCHISE AGREEMENT

The intent of the franchise agreement between the City of Riverbank and Gilton Solid Waste is to continue to engage Gilton in providing refuse collection and disposal services for residential and commercial collection. By entering into this agreement Gilton will assist the City in meeting its AB 939 and AB 341 requirements. With this agreement, the City grants to Gilton Solid Waste the exclusive franchise, right and privilege to collect all Solid Waste, Green Waste and Recyclables within the Franchise Area and to transport the same to a sanitary landfill, transfer station, compost/mulching site, or waste-to-energy facility outside the City. Gilton Solid Waste will furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide residential and commercial refuse collection services for customers within the franchise area of city.

The following terms are included in the agreement:

1. 5 year agreement to expire in 2019.
2. In years 2-5, City will adjust the maximum charges made to Customers under this Agreement to reflect annual changes in the Consumer Price Index for All Urban Consumers ("CPI") published by the U.S. Department of Labor for the San Francisco-Oakland-San Jose, CA statistical area. Such adjustments shall not exceed two and a half percent (2.5%) per year. The adjustment shall become effective on the anniversary of the effective date of the agreement and be based on the previous twelve month index analysis from May to April.
3. The City will retain 12.85% of the gross revenues from residential accounts and the Collector shall pay the City 15% of the gross revenues from commercial accounts received by Collector for the removal of Solid Waste, Green Waste or Recyclables from within the boundaries of City.
4. Within ninety (90) days after the commencement of the agreement, Gilton will become responsible for billing commercial customers. The City will continue to bill residential customers on the water & sewer billing.

FINANCIAL IMPACT

Should the protest hearing reveal that a majority of the property owners did not protest the proposed rate increase, the City Council may consider adopting the Resolution to establish the new rates, effective November 1, 2014.

Waste collection and disposal fees are paid by the customers that receive service, therefore residents and commercial customers will note the increase in rates in the January 2015 billing.

The City will collect additional franchise fees on the gross revenues generated which are placed in the General Fund.

STRATEGIC PLAN

This report has been prepared to accomplish the following Three Year Goal established during the September 30, 2014 Strategic Planning Session:

“Achieve and Maintain Financial Stability and Sustainability”

ATTACHMENTS

1. Final Solid Waste Rate Study.
2. Resolution Accepting and Closing the Proposition 218 Public Notification and Protest Process as it Relates to the Proposed Rate Increase for Solid Waste Disposal Services.
3. Resolution Adopting the Revised Rates for solid Waste Disposal Services and Authorizing the City Manager to Execute the Franchise Agreement with Gilton Solid Waste Management, Inc. (this item is contingent upon the results of the protest process).
4. Draft Solid Waste Franchise Agreement.

EXHIBIT A

NOVEMBER 1, 2014 – OCTOBER 31, 2015

MONTHLY SOLID WASTE DISPOSAL RATES

Rate Code	Rate Type	Monthly Rate
GA01	RESIDENTIAL (90R, 90Y)	\$ 21.20
GA02	RESIDENTIAL (30R, 90Y)	\$ 18.65
GA03	RESIDENTIAL DISCOUNT (90R, 90Y)	\$ 15.90
GA04	RESIDENTIAL DISCOUNT (30R, 90Y)	\$ 13.99
GA05	BUSINESS NON-R (90R, 90Y)	\$ 21.20
GA06	BUSINESS NON-R (30R, 90Y)	\$ 18.65
GA07	COMMERCIAL 1 YD BIN P/U 1X	\$ 51.69
GA08	COMMERCIAL 2 YD BIN P/U 1X	\$ 82.11
GA09	COMMERCIAL 2 YD BIN P/U 2X	\$ 149.76
GA10	COMMERCIAL 2 YD BIN P/U 3X	\$ 217.54
GA13	COMMERCIAL 3 YD BIN P/U 1X	\$ 112.97
GA14	COMMERCIAL 3 YD BIN P/U 2X	\$ 204.89
GA15	COMMERCIAL 3 YD BIN P/U 3X	\$ 286.76
GA16	COMMERCIAL 3 YD BIN P/U 4X	\$ 386.16
GA18	COMMERCIAL 4 YD BIN P/U 1X	\$ 147.44
GA19	COMMERCIAL 4 YD BIN P/U 2X	\$ 271.26
GA20	COMMERCIAL 4 YD BIN P/U 3X	\$ 378.28
GA21	COMMERCIAL 4 YD BIN P/U 4X	\$ 453.87
GA22	COMMERCIAL 4 YD BIN P/U 5X	\$ 558.00
GA23	COMMERCIAL 4 YD BIN P/U 6X	\$ 669.88
GA24	COMMERCIAL 6 YD BIN P/U 1X	\$ 202.13
GA25	COMMERCIAL 6 YD BIN P/U 2X	\$ 373.57
GA26	COMMERCIAL 6 YD BIN P/U 3X	\$ 537.99
GA27	COMMERCIAL 6 YD BIN P/U 4X	\$ 628.11
GA30	RESIDENTIAL (2-90R, 90Y)	\$ 27.95
GA31	BUSINESS NON-R (3-90R, 90Y)	\$ 34.70
GA32	BUSINESS NON-R (4-90R, 90Y)	\$ 41.45
GA33	RESIDENTIAL (3-90R, 90Y)	\$ 34.70
GA40	RESIDENTIAL DISCOUNT (2-90R, 90Y)	\$ 22.08
GA41	BUSINESS NON-R (2-90R, 90Y)	\$ 27.95
GA43	1CO-1RES 2-90 1-90 [1]	\$ 49.15

Note: Rate codes GA30-GA42 are calculated by standard monthly service charge plus the charge for an extra bin

- The proposed charge for an additional 90-gallon trash container is \$6.75per month per additional container.

[1] Two monthly service charges and an extra bin charge.

CITY OF RIVERBANK

RESOLUTION NO. 2014-_____A

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, ACCEPTING AND CLOSING THE PROPOSITION 218 PUBLIC
NOTIFICATION AND PROTEST PROCESS AS IT RELATES TO A PROPOSED RATE
INCREASE FOR SOLID WASTE DISPOSAL SERVICES**

WHEREAS, the City of Riverbank ("City") has negotiated a franchise agreement for the collection, transportation and disposal of solid waste, green waste and recyclables ("Franchise Agreement") with Gilton Solid Waste Management, Inc. ("Gilton"); and

WHEREAS, the Solid Waste Rate Study, dated August 18, 2014, prepared by Bartle Wells Associates ("Rate Study"), finds that the various rates proposed by Gilton are reasonably related to the cost of service; and

WHEREAS, the Rate Study recommended that the City adopt Option 2, as explained therein, which the City Council has reviewed; and

WHEREAS, the City is proceeding to comply with Proposition 218 requirements in connection with the proposed rate increase and franchise agreement; and

WHEREAS, Proposition 218 notices were mailed, pursuant to Government Code 53755, to the mailing and billing addresses of owners and tenants of parcels within the City who are responsible for paying for solid waste services/record owners of each parcel receiving solid waste services on September 4, 2014 (53 days prior to the public hearing), which complies with the minimum 45-day notice requirement; and

WHEREAS, under Proposition 218 if written protests against the proposed fee or charge are presented to the City by a majority of owners of the identified parcels prior to the close of the public hearing, the agency shall not impose the fee or charge;

WHEREAS, the City Clerk has verified and counted the protests and determined that there are _____ valid protests.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, DOES HEREBY ACCEPT AND CLOSE the Proposition 218 public notification and protest process with receipt of less than a majority protest vote as declared by the City Clerk of the City of Riverbank. The City Council may adopt a rate increase for solid waste services in accordance with the Rate Study, consistent with Proposition 218.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a special meeting held on the 28th day of October, 2014; motioned by _____, seconded by _____, and upon roll call was carried by the following vote of:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

CITY OF RIVERBANK

RESOLUTION NO. 2014-_____B

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, ACCEPTING AND CLOSING THE PROPOSITION 218 PUBLIC
NOTIFICATION AND PROTEST PROCESS AS IT RELATES TO A PROPOSED RATE
INCREASE FOR SOLID WASTE DISPOSAL SERVICES**

WHEREAS, the City of Riverbank ("City") has negotiated a franchise agreement for the collection, transportation and disposal of solid waste, green waste and recyclables ("Franchise Agreement") with Gilton Solid Waste Management, Inc. ("Gilton"); and

WHEREAS, the Solid Waste Rate Study, dated August 18, 2014, prepared by Bartle Wells Associates ("Rate Study"), finds that the various rates proposed by Gilton are reasonably related to the cost of service; and

WHEREAS, the Rate Study recommended that the City adopt Option 2, as explained therein, which the City Council has reviewed; and

WHEREAS, the City is proceeding to comply with Proposition 218 requirements in connection with the proposed rate increase and franchise agreement; and

WHEREAS, Proposition 218 notices were mailed, pursuant to Government Code 53755, to the mailing and billing addresses of owners and tenants of parcels within the City who are responsible for paying for solid waste services/record owners of each parcel receiving solid waste services on September 4, 2014 (53 days prior to the public hearing), which complies with the minimum 45-day notice requirement; and

WHEREAS, under Proposition 218 if written protests against the proposed fee or charge are presented to the City by a majority of owners of the identified parcels prior to the close of the public hearing, the agency shall not impose the fee or charge;

WHEREAS, the City Clerk has verified and counted the protests and determined that there are _____ valid protests.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, DOES HEREBY ACCEPT AND CLOSE the Proposition 218 public notification and protest process with receipt of a majority protest vote as declared by the City Clerk of the City of Riverbank.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a special meeting held on the 28th day of October, 2014; motioned by _____, seconded by _____, and upon roll call was carried by the following vote of:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK ADOPTING THE REVISED RATES FOR SOLID WASTE DISPOSAL SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FRANCHISE AGREEMENT WITH GILTON SOLID WASTE MANAGEMENT, INC.

WHEREAS, the City of Riverbank ("City") has negotiated a franchise agreement for the collection, transportation and disposal of solid waste, green waste and recyclables ("Franchise Agreement") with Gilton Solid Waste Management, Inc. ("Gilton"); and,

WHEREAS, the Solid Waste Rate Study, dated August 18, 2014, prepared by Bartle Wells Associates ("Rate Study"), finds that the various rates proposed by Gilton and presented in Exhibit A, herein attached, are reasonably related to the cost of service; and,

WHEREAS, the City has complied with Proposition 218 requirements in connection with the proposed rate increase and franchise agreement; and,

WHEREAS, The City Council did accept and close the Proposition 218 public notification and protest process with receipt of less than a majority protest vote as declared by the City Clerk of the City of Riverbank; and,

WHEREAS, The City Council, as authorized by Ordinance No. 2014-007, may establish new solid waste disposal rates by Resolution,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby:

1. Adopts the revised rates as presented in Exhibit A, and which may be amended from time to time based on the franchise agreement, for Solid Waste Disposal Services; and,
2. Authorizes the City Manager to execute a Franchise Agreement with Gilton Solid Waste Management, Inc.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th day of October, 2014; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:
NAYS:
ABSENT:
ABSTAIN:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

Attachments: Exhibit A

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2014 (the "Effective Date") by and between the City of Riverbank ("City"), a municipal corporation of the State of California, and Gilton Solid Waste Management, Inc., a California corporation ("Collector"). The parties to this Agreement may each be referred to individually as a "Party" or collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. The California State Legislature enacted the California Integrated Waste Management Act of 1989 ("AB 939") which authorizes local jurisdictions to make adequate provisions for solid waste handling within their jurisdictions; and

B. On October 6, 2011, the Legislature passed Assembly Bill 341 ("AB 341"), amending the California Public Resources Code (the "Public Resources Code") therein requiring cities to encourage and document commercial solid waste recycling programs; and

C. The collection and disposition of garbage, refuse and waste is governed and regulated by applicable provisions set forth in Chapter 50 of the Riverbank Municipal Code (the "Code"), which may be amended from time to time and is incorporated herein by this reference; and

D. The City previously entered into a franchise agreement with Collector on July 1, 2003 (the "2003 Agreement") wherein the City selected Collector to provide services for the collection, recycling, and disposal of solid waste within the City.

E. The 2003 Agreement provides that the term of the agreement may be extended by mutual agreement of the Parties; and

F. The City and Collector now desire to update and extend the term of the 2003 Agreement for a minimum of five (5) years pursuant to the terms and conditions set forth herein; and

G. It is the City's objective to continue to engage Collector to provide refuse collection and disposal services for residential and commercial collection. By entering into this Agreement Collector shall assist City in meeting its AB 939 and AB 341 requirements; and

H. The City's refuse program shall be consistent with the County Solid Waste and Integrated Waste Management Plan and comply with all regulations promulgated by the local Stanislaus County enforcement agency and the Department of Resources Recycling and Recovery; and

I. The Parties desire to rescind the 2003 Agreement which shall be fully replaced and superseded by this Agreement as of the Effective Date.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and sufficient consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above (the “Recitals”) are incorporated herein by this reference and made a part of this Agreement. In the event any inconsistencies arise as between the Recitals and Sections 1 through 34 of this Agreement, Sections 1 through 34 shall prevail.

Section 2. Definitions. Unless otherwise noted in this Agreement, capitalized terms herein shall have the meanings set forth in **Exhibit A**. Whenever any term used in this Agreement has been defined by Division 30, Part 1, Chapter 2 of the Public Resources Code or the City’s Code, those definitions shall apply unless the term is otherwise defined in **Exhibit A**. In the event there is a discrepancy between the definitions contained in the Public Resources Code and the City’s Code, the definitions set forth in the Public Resources Code shall supersede all other definitions.

Section 3. Termination of 2003 Agreement. This Agreement hereby supersedes and replaces the 2003 Agreement by mutual agreement and consent of the Parties as of the Effective Date of this Agreement. Hereafter all previous agreements shall terminate and be of no further force and effect except with respect to covenants therein for acts and omissions occurring prior to the Effective Date.

Section 4. Franchise Area.

4.1. Franchise Area Defined. The franchise area granted by this Agreement shall be all residential and commercial premises located within city limits of City, as more particularly shown on **Exhibit B** (“Franchise Area”). As provided below, the Franchise Area may be changed by annexation, deannexation or re-organization.

4.2. Annexation Covered by Existing Franchise. All territories annexed during the Term of this Agreement shall be subject to this Agreement. However, properties served by another collector at the time of annexation, shall continue to be served by that source until the end of such collector’s franchise agreement or service contract with the subject landowner or five (5) years, whichever is sooner. Collector agrees to defend, indemnify and hold the City harmless against any claims by such other collector regarding its right to continue to serve the annexed area.

Section 5. Waste Collection and Disposal.

5.1. Scope of Services. Except as set forth in Section 5.4, the City hereby grants Collector the exclusive franchise, right and privilege to collect all Solid Waste, Green Waste and Recyclables within the Franchise Area and to transport the same to a sanitary landfill, transfer station, compost/mulching site, or waste-to-energy facility outside the City, which has been approved by the governmental agency having jurisdiction of the territory in which said site is located (the “Services”). City may designate alternative processing facilities if public health, safety, or fiscal interest requires, or compliance with applicable law necessitates the alternative.

Collector shall furnish all labor, supervision, materials, permits, licenses, and Equipment necessary to provide residential and commercial refuse collection Services for Customers within the Franchise Area of City. Collector shall perform its obligations under this Agreement in accordance with all applicable local, state, or federal laws and in a manner that maximizes the City's Solid Waste diversion rate to the extent possible.

5.2. Residential Service. Collector shall provide Solid Waste and Green Waste collection services to all residential premises within the City. Collector may provide Recyclables collection services to residential premises within the City. If the City elects to make residential Recyclables collection service mandatory, Collector shall provide such service to all residential premises and shall charge rates that do not exceed those listed in **Exhibit C**, as amended for such services.

5.3. Commercial Service. Collector shall provide Solid Waste collection services to all commercial premises within the City. Collector may provide Green Waste collection services to commercial premises within the City. Pursuant to the requirements set forth in AB 341, Collector shall offer to provide Recyclables collection services to any business that generates more than four cubic yards of commercial solid waste per week and to any multifamily residential dwelling of five units or more, and may provide Recyclables collection services to other commercial Customers and multifamily residential dwellings not meeting these criteria.

5.4. Excepted Services. Collector's exclusive franchise in this Agreement shall not include governmental entities if and to the extent the City has no legal power to require such entities to use Collector's Services. The provisions of this franchise shall not preclude or prohibit the City or any officer or employee thereof or any employee of the State, or any governmental subdivision thereof, from collecting, removing, and disposing of Solid Waste, Recyclables, or Green Waste from the City or State facilities.

Section 6. Collection and Bins.

6.1. Provision of Receptacles. Collector agrees to continue to provide and maintain all Carts, Bins and Roll-Off Boxes for the proper and secure storage of Solid Waste, Green Waste or Recyclables for all residential and commercial Customers. All residential Cart Customers shall be serviced once per week and commercial Bin Customers shall be serviced from one (1) to six (6) times per week as requested by the Customer. Roll-Off Box Customers will be serviced as arranged between the Customer and Collector.

6.2. Hours of Collection. Collection service of all Carts, Bins, and Roll-Off Boxes in residential areas and from commercial premises adjacent to residential areas shall not start before 6:00 a.m. or continue after 6:00 p.m., subject to change by resolution of the Riverbank City Council ("City Council"). However, the hours of collection may be extended temporarily as a result of extraordinary circumstances or conditions with the prior consent of the Riverbank City Manager ("City Manager").

6.3. Receptacle Replacement. Collector, without expense to City or any Customer, and within seventy-two (72) hours after notice, shall provide one replacement every four (4) years of lost or stolen Carts. Collector shall clean, paint over or replace, at its discretion, graffiti-tagged Carts as needed. Collector shall replace Carts damaged due to normal wear and tear within the time frame of one collection cycle. Collector shall maintain records of lost, stolen, damaged and graffiti-tagged Carts by specific address. Collector may charge for additional replacement Carts based on the actual cost of the Carts and their delivery.

Section 7. Term of Agreement. The term of this Agreement shall commence on the Effective Date and expire on _____, 2019, unless extended by the mutual consent of the Parties (the "Term"). At least sixty (60) days prior to the expiration of this Agreement, Collector may apply to City for an extension of the Term for an additional three (3) years. Upon such application, the City may grant or deny such request in its sole discretion. If the application to extend the Agreement is denied by City, the City may in its discretion advertise for competitive bids for Services with such Services to commence after the expiration of the Term of this Agreement. Nothing herein shall be deemed or construed to impair the right of the City to terminate the Agreement with Collector due to Collector's substantial failure to perform the Services and responsibilities specified and agreed to in this Agreement.

Section 8. Acceptance; Waiver. Collector agrees to be bound by and comply with all the requirements of this Agreement. Collector waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code.

Section 9. Rates and Fees.

9.1. Rates. The maximum rates to be charged by Collector are set forth in **Exhibit C** ("Rate" or "Rates") and may be adjusted by the City Council by ordinance or resolution. For the first year of the Agreement, Collector shall charge rates that are no greater than the maximum rates as provided in **Exhibit C**. In year two, three, four and five of the Agreement Term, the City will adjust the maximum charges made to Customers under this Agreement to reflect annual changes in the Consumer Price Index for All Urban Consumers ("CPI") published by the U.S. Department of Labor for the San Francisco-Oakland-San Jose, CA statistical area. Such adjustments shall not exceed two and a half percent (2.5%) per year. The adjustment shall become effective on the anniversary of the Effective Date and be based on the previous twelve month index analysis from May to April. In all subsequent years, the Collector may request, and the City Council shall consider, rate adjustments based on the above referenced CPI index, in addition to any other adjustments provided for under subsections 9.3 and 9.4.

9.2. Reimbursement for Notices. Collector shall be responsible for providing, or reimbursing the City for providing all required notices of any rate changes or increases expressly including, but not limited to, notices required under Proposition 218 and any law or regulations adopted to implement Proposition 218. City reserves the right to specify the form and content of

any such notice required by law or by the Code. City shall determine when a notice of a Rate change is required in its sole and complete discretion.

9.3. Tipping Fees. The Parties acknowledge and agree that the maximum Rates include compensation to Collector for tipping, gate or other disposal fees charged by any applicable disposal facilities. Notwithstanding any provision in this Agreement to the contrary, Collector, except in the case of Roll-Off Box Customers, shall not be entitled to receive from City, or any Customer, a separate or additional payment for tipping or gate fees. In addition to any other rate adjustments to which Collector may be entitled, Collector may request to increase its rates to the extent necessary to recover increased landfill, waste-to-energy facility, transfer station, and material recovery facility tipping or gate fees, provided that the landfill, waste-to-energy facility, transfer station, or material recovery facility is not owned or operated by Collector. Collector shall provide City with notice of the proposed new rates within thirty (30) days of such notice being received from Stanislaus County or other applicable authority, and shall provide the City with a copy of any notice regarding an increase in landfill or waste-to-energy facility tipping or gate fees. Collector shall not increase the Rates to recover increased tipping or gate fees, without prior written approval from City.

9.4. Extraordinary Cost Increases. Collector may petition City for an extraordinary rate adjustment or adjustments at any time during the Term of this Agreement, provided that such petition may be made based only upon increases in fuel costs or increased costs as a result of federal, state, or county mandates, or other documented impacts, which require changes in Collector's Services or operations under this Agreement. Collector shall include in its petition a financial presentation which demonstrates the extraordinary increase in operating costs. Any petition shall be heard by the City Council at a public hearing held after providing any required notices pursuant to this Section and applicable law. The City Council may grant or reject any such petition in its sole and complete discretion.

Section 10. Additional Services. In exercising the right and privilege to collect Solid Waste, Green Waste or Recyclables within the boundaries of City as herein granted, Collector agrees to act in accordance with the following:

Collector agrees to provide without additional charge to the City or its customers:

10.1. Curbside Bulky Item Collection Program. Collector shall collect and dispose of bulky item wastes, as defined in **Exhibit D**, from residential Customers up to two (2) times per calendar year. Such collections will be made by appointment as arranged between Customer and Collector.

10.2. Residential CRT Disposal/Recycling Program. Collector will provide vouchers to residential Customers, upon request, for the free disposal/recycling of up to two (2) Cathode Ray Tube ("CRT") containing appliances per calendar year.

10.3. Commercial CRT Disposal/Recycling Program: Collector will provide vouchers to commercial Customers, upon request, for the free disposal/recycling of up to four (4) CRT containing appliances per calendar year.

10.4. Curbside E-Waste Collection Program: Collector shall collect, recycle or dispose of specified E-Wastes (as defined in **Exhibit F**) from residential Customers up to four (4) times per calendar year. Such collections will be made by appointment as arranged between the Customer and Collector.

10.5. Christmas Tree Program. Collector will provide a residential Christmas tree collection and recycling program. Each year, during the first two (2) full weeks of January, Collector will pick-up Christmas trees from the front of residential properties in the City. Collections will be scheduled to coincide with the normal waste collection days.

10.6. City Facilities. Collector shall provide Solid Waste and Green Waste collection services to all City owned and operated facilities at no additional charge to the City. This does not include C&D Debris generated from City owned and operated facilities.

10.7. Community Events. At the City's request, Collector will provide waste containers, plus Solid Waste, Green Waste and Recyclables removal and disposal services for four (4) community events per year.

10.8. Promotional/Educational Support. No less than twice per year, if requested by City, Collector will distribute informational flyers or brochures to City Customers regarding the importance of recycling and separating wastes in order to achieve greater waste diversion, as well as the applicable commercial recycling requirements set forth in AB 341. In addition, Collector will provide technical support and assistance to City Staff in preparation of articles or newsletters related to waste reduction, reuse and recycling.

10.9. Commercial Recycling Programs. Collector will fully cooperate with, and assist the City with the implementation of any State mandated commercial recycling programs.

10.10. AB 939 Data. Collector agrees to continue to assist City in data collection and reporting pertaining to compliance with the Integrated Waste Management Act (AB 939), including any State required waste composition studies.

10.11. C&D Diversion Policy. When properly notified, Collector will assist City customers in their compliance with the City's C&D Debris Diversion Policy, attached at **Exhibit E**, as it may be amended. In addition, Collector shall comply with the City's C&D Debris Diversion Policy as applicable.

Section 11. Specific Service Requirements.

11.1. Collector Duty of Care and Diligence. Collector and Collector's employees, contractors, sub-contractors, operators, officers, directors, supervisors, owners, board members, representatives, and agents ("Collector's Agents") shall exercise all reasonable care and diligence in performing their obligations under this Agreement. Every effort will be made to prevent spilling, scattering or dropping Refuse during the collection or transportation process. However, in the event that Refuse is spilled, scattered or dropped, the truck operator shall immediately clean

up the material and place it in the truck. Every Cart, Bin and Roll-Off Box (collectively, "Container") must be replaced in an upright position. If a Container falls over, the operator must immediately set the Container in an upright position. It shall be further noted that Refuse collection easements are frequently co-located with other utility easements. Particular attention must be given to the location of water meters, transformers, guy wires, utility poles and irrigation structures. Authorization to use the easement does not abrogate Collector's responsibility to exercise caution to not infringe upon, damage, or trespass the property rights of other authorized users or property owners. Collector shall be familiar with, and operate within the guidelines set forth by the Occupational Safety Health Act (29 U.S.C. section 651 *et. seq.*). Collector is granted the right to use dedicated streets, alleys and refuse collection easements for the purpose of performing the Services, but this right is not exclusive. The Collector shall handle the Services in a manner that will cause the least inconvenience or annoyance to the general public and to property owners. Whenever the Collector's operations create a condition hazardous to traffic or to the public, Collector shall furnish, erect, and maintain such fences, barricades, lights, signs, and other devices, structures, or warnings and take any other protective measures as are necessary to prevent accidents or damage or injury to the public. Any barricade, lights, signs or other devices erected must conform to the requirements of the City Engineer and the Code.

11.2. Hazardous Waste. Under no circumstance shall Collector's employees knowingly collect Hazardous Waste or remove unsafe or poorly containerized Hazardous Waste from Customer premises. If Collector determines that material placed in a container for collection is Hazardous Waste, Excluded Waste, or other material that may not be legally accepted at an approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility or that presents a hazard to Collector employees, Collector shall have the right to refuse to accept such material. Collector shall leave, at the time of non-collection, a non-collection notice with Customers indicating the reason for refusing the material. Collector shall contact the generator and request that the generator arrange for proper disposal service. If the Hazardous Waste, Excluded Waste, or other objectionable material is identified at time of delivery to the approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility and the generator cannot be identified, Collector shall be solely responsible for handling and arranging transport and disposition of the Hazardous Waste, Excluded Waste, or other objectionable material.

11.3. Force Majeure. Collector shall not be in default under this Agreement in the event that the collection transportation, recycling and disposal services of Collector are temporarily interrupted or discontinued due to a "Force Majeure" event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods earthquakes, landslides and fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Collector. Force Majeure does not include: Collector's financial inability to perform; Collector's failure to obtain any necessary permits or licenses from other governmental agencies; or Collector's failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Collector.

11.4. Independent Contractor. Collector is an independent contractor and not an officer, agent, servant or employee of City. Collector is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and sub-grantees. Nothing in this

Agreement shall be construed as creating a partnership or joint venture between City and Collector. Neither Collector nor its officers, employees, agents or sub-grantees shall obtain any right to retirement or other benefits or right, which accrue to City employees.

11.5. Property Damage. Collector shall be responsible for any damage to City's driving surfaces, whether or not paved, resulting from vehicles providing Services under this Agreement. Collector shall be responsible for repairing or replacing any private or public property which is damaged due to the acts or omissions of employees, contractors, or agents of Collector to private or public property shall be repaired or replaced.

11.6 Right of Entry. Collector shall have the right, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Refuse pursuant to this Agreement. This right of entry shall last until the sooner of the termination of this Agreement or receipt by Collector of a written notice from City revoking Collector's right of entry. This right of entry is limited to carrying out the Services required by this Agreement.

Section 12. Customer Service Requirements.

12.1 Availability of Representatives. A responsible representative of Collector who is qualified to respond to public inquiries shall be available at Collector's office during office hours, excluding lunchtime closure, for communication with City, Customers or the public.

12.2. Employees. Collector shall exercise reasonable care to hire responsible employees, to supervise the work of such employees, and to discipline and, if necessary, discharge an employee failing to meet reasonable standards for performance of work set forth in this Agreement. Collector shall comply with applicable state and federal law pertaining to employment, including, but not limited to, applicable equal opportunity employment and affirmative action requirements.

12.3. Enforcement and Clean-up of Illegal Dumps. Collector and City shall cooperate to eliminate illegal dumping within the City. When illegal dumps are found on public property the City will attempt to identify the responsible party and advise them to clean-up the wastes or utilize the Bulky Item Collection Program to eliminate the problem. If no responsible party is identified, the City will request for Collector to remove any such waste. Collector will have three (3) working days following the notification by the City to remove the illegally dumped material.

12.4. Manner of Collection. Collector shall perform all collection services in a quiet and courteous manner and ensure that all Carts are placed on the premises from which they were removed in an upright position, with lids closed, and within five (5) feet of where they were originally placed before collection.

12.5. Office Hours. Collector's office hours shall be, at a minimum, from 8 a.m. to 5 p.m. daily, except for a lunch hour and closed on Saturdays, Sundays, and federal or State recognized holidays. A representative of Collector shall be available during office hours for communication with the public at Collector's principal place of business.

12.6. Service Complaints. All Service complaints shall be directed to Collector. Collector shall respond to all complaints, other than missed pickups, within twenty-four (24) hours if the twenty-four (24) hour period ends during the office hours specified in subsection 12.5, otherwise on the next business day. Collector shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all complaints and shall use its best efforts to resolve any complaints within the two (2) business days following the date on which such complaint is received. Complaints that cannot be reasonably resolved may be appealed to the City Manager or designee for final resolution.

12.7. Complaint Log. Collector agrees to maintain a log of all oral and written service complaints registered with Collector from Customers or the public within the City ("Complaint Log"). Collector shall record in the log all written and oral complaints, noting the name and address of the complainant, date and time of complaint, nature of complaint, and method and date of resolution. Such log shall be kept so that representatives of the City, upon request, may conveniently inspect it. Collector shall deliver, along with the quarterly reports specified in Section 13 or otherwise upon request of the City, a summary of complaints by number and type and excerpts from the log reflecting action to date.

12.8. Missed Pickups. In the event of a missed pickup, Collector shall complete the pickup the same day if the complaint is received by 12:00 p.m. or by 12:00 p.m. the following business day if the complaint is received after 12:00 p.m.

Section 13. Reports. Collector shall provide the City with quarterly reports detailing Collector's operations within City during that time. Reports will contain the information required by the City for compliance with AB 939 and for City to measure Collector's performance of items in this Agreement. Collector agrees to provide additional reports regarding its collection services as may be reasonably requested by the City to meet future reporting requirements of the City or the State. City or a consultant to City, on request, shall have the right to review the collection records of Collector at reasonable times and upon reasonable notice.

Section 14. Vehicles.

14.1. Compliance with Applicable Regulations. Collector shall at all times comply with all applicable rules, statutes, orders, and requirements adopted by any governmental agency with jurisdiction over air quality, including, but not limited to, the California Air Resources Board and the San Joaquin Valley Air Pollution Control District. In addition to any indemnification obligations set forth in this Agreement, Collector shall defend, indemnify, and hold harmless the City against any fines, penalties, losses, or claims arising out of Collector's failure to comply with this Section. All vehicles used by Collector under this Agreement shall be registered with the Department of Motor Vehicles of the State of California, be kept clean and in good repair, shall be uniformly painted, and shall be washed at least once every seven (7) calendar days. Collector's name, phone number, and vehicle number shall be prominently displayed on its vehicles.

14.2. Fluids and Waste. Collector shall immediately clean up any fluids or waste spilled from collection vehicles, and shall deploy and remove absorbent materials to the extent necessary to absorb all fluids. Collector shall provide the City with a copy of any spill report that Collector

is required to provide, and at the same time it is provided, to the State Office of Spill Prevention and Response. When necessary, Collector shall apply a suitable cleaning agent to the street surface or shall employ hydraulic steam cleaning to provide adequate cleaning. Collector shall comply at all times with all recommendations or limitations concerning laden weight of collection vehicles established by the State or any government agency, or the vehicle manufacturer.

Section 15. Collector's Employees.

15.1. Prohibition of Drugs or Alcohol. Collector will prohibit use of intoxicating substances by Collector's Agents, including its drivers and crewmembers, while on duty or in the course of performing the Services. Upon request by City, Collector will demonstrate compliance with the federal alcohol and drug testing statutes and regulations.

15.2. Employee Uniform. Collector's employees shall be required to wear a clean uniform bearing Collector's name. Employees who normally and regularly come into direct contact with Customers, including drivers, shall bear some means of individual identification such as a name tag or identification card.

15.3. Identification Required. Collector shall provide every employee, contractor, grantees, or sub-grantees that are in contact with the public with identification cards and badges. Upon request of City, Collector shall notify all Customers of the form of identification that each employee shall be carrying or displaying so that all Customers may easily identify one of Collector's employees. Collector shall provide City with a list of current employees, contractors, grantees, and sub-contractors to City upon request.

15.4. Valid Driver's License. Employees driving Collector's vehicles shall at all times possess and carry a valid and appropriate vehicle operator's license issued by the State of California, including a commercial driver's license, if required.

15.5. No Employment Relationship with City. Collector's Agents are not and shall not identify themselves as being employees of the City at any time, for any reason.

15.6. Employee Behavior. All contact by Collector with Customers will be done with courtesy and respect. Any incident with a Customer must be reported immediately to the City.

15.7. Employee Conduct. All superintendents, foremen and workers, or contractors employed by the Collector shall be capable and safety conscious workers, skilled in their respective trades. Collector shall not employ any person who is incapable or negligent in the due and proper performance of his or her duties. Collector shall furnish such supervision, labor and Equipment as is considered necessary for the fulfillment of the Services in an acceptable manner at a satisfactory rate of progress. City reserves the right to request for any worker of Collector to be prohibited from providing Services to City without cause for any reason.

15.8. Supervision. It is the Collector's responsibility to supervise the Services rendered and to provide direction to its employees and agents in the field. While City employees may suggest possible solutions to problems or unusual situations, Collector retains the responsibility

for all Services and how the Services will be delivered and conducted to the City and the Customers.

Section 16. Franchise Fees, Billing and Reports.

16.1. Franchise Fees. Collector and the City agree that for the privilege herein granted to Collector, City shall retain a sum equal to twelve point eight five (12.85%) percent of the gross revenues from residential accounts and the Collector shall pay the City fifteen (15%) percent of the gross revenues from commercial accounts received by Collector for the removal of Solid Waste, Green Waste or Recyclables from within the boundaries of City during the Term, or any extension thereof (the “Franchise Fees”). The Franchise Fees shall be paid by Collector to City on or before the last day of the month following the previous calendar quarter that the monies are collected by Collector.

16.2. Billing. Collector shall provide regular billing statements to commercial or industrial customers for which Collector provides billing service covering the monthly period in which services are rendered.

16.3. City and Collector Billing. As of the commencement of this Agreement, the Parties acknowledge that City is responsible for billing residential and commercial customers. Then within ninety (90) days after the commencement of this Agreement, the Collector will become responsible for billing commercial customers. City may request to audit the Collector’s records for proper commercial service billing, franchise fee computation and franchise fee payment. If upon request and completion of an audit the City determines that Collector’s billing practices do not meet reasonable standards, City may take over the billings and collection for Collector’s service to commercial customers under the terms of this Agreement at any time hereafter upon giving Collector ninety (90) days notice of its intention to do so. The City shall be entitled to retain fifteen percent (15%) of the amounts collected from any commercial Customer for which City is providing billing service. City shall pay eighty-five percent (85%) of the monies collected by City to Collector for such services when the amount has been determined and approved by the City at the first meeting of the City Council following the monthly period in which Services are rendered.

Section 17. Collector’s Books and Records: Audits. The books and records of Collector shall be subject to audit and inspection for the purpose of reviewing billing operations, accounts receivable and customer service, by City, its auditors or agents. Collector shall maintain all records relating to the Services, including, but not limited to, Customer lists, billing records, maps, AB 939 compliance records, AB 341 compliance records, and Customer complaints (collectively, the “Records”), for no less than three (3) years after the termination or expiration of the Term, or as may or any longer period required by applicable law. City shall have the right, upon five (5) business days advance notice, to inspect all Records, and other like materials of Collector which reasonably relate to Collector’s compliance with the provisions of this Agreement.

Collector’s Records shall be made available to City at a City facility, if reasonably practicable, or at Collector’s regular place of business during regular business hours. The City shall initially bear the cost of such audit. If such audit discloses an underpayment of the Franchise

Fees or other sums due under this Agreement in excess of three percent (3%) of the amount which should have been paid, Collector shall promptly tender to the City the amount of such underpayment, together with interest at the rate of ten percent (10%) computed from the date of underpayment, and shall further reimburse the City for the entirety of its audit costs, including, without limitation, auditor's costs and expenses, internal costs and expenses, and legal and other third party expenses. If such audit discloses an underpayment of less than three percent (3%), Collector shall promptly tender to City the amount of such underpayment, together with interest at the rate of ten percent (10%) per annum computed from the date of underpayment, and City shall bear the costs of the audit. If such audit discloses an overpayment, the City shall promptly repay such underpayment to Collector and the City shall bear the costs of the audit.

Section 18. Indemnification.

18.1. Indemnification of City. Collector agrees that it shall protect, defend, indemnify and hold harmless City, its elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("City's Agents") from and against any claim, action or proceeding that arises from this Agreement or any Services performed pursuant to or in connection with this Agreement ("Claim"), including but not limited to all losses, liabilities, fines, penalties, claims, damages, liabilities, judgments, attorney's fees, costs incurred for staff time, court costs, other expenses of litigation, or expenses of litigation awarded to the prevailing Party or Parties. This indemnification does not include gross negligence or willful acts of the City, or City's Agents. At City's discretion, Collector shall satisfy the obligation of this Section by reimbursing City for tendering its own defense. If Collector undertakes the defense of a Claim by providing City-approved representation, City may, participate in the defense of any such Claim.

To the extent permitted by Public Resources Code Section 40059.1, and to the extent noncompliance is caused by Collector's breach of or noncompliance with a provision of this Agreement, Collector agrees to protect and defend City or City's Agents, with counsel selected by the City, and to indemnify and hold harmless City or City's Agents from and against all fines or penalties imposed by the State if the waste diversion goals specified in the Public Resources Code are not met by the City with respect to the Solid Waste collected by Collector under this Agreement. Collector shall indemnify, defend with counsel acceptable to the City, protect and hold harmless the City and City's Agents from and against all claims, damages (including but not limited to special, consequential, and natural resources damages), injuries, response mediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and attorney and expert fees for the adverse party and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the City or City's Agents arising from or attributable to the negligence or willful misconduct of Collector or its affiliates and their respective officers, directors, employee and shareholders in handling Hazardous Waste either knowingly or under circumstances in which a reasonable person would or should have known that Hazardous Waste was being handled. The foregoing indemnity is also intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(c) and California Health and Safety Code Section 25364, to defend, insure, protect, hold harmless and indemnify the City from liability.

18.2. Indemnification of Collector. City shall indemnify, defend and hold Collector, its affiliates and their respective officers, directors, employees and shareholders harmless from and against any and all liabilities, losses, damages, claims, actions and causes of action, costs and expenses (including reasonable attorney's fees) arising from or in any manner arising out of City's obligations in this Agreement as well as the grossly negligent or willful acts of City or City's Agents. Subject to this indemnification, and upon demand of Collector, made by and through Collector's counsel, City shall appear in defense of Collector, and its officers, employees and agents in any claims or actions, whether judicial, administrative or otherwise arising out of the exercise of this Agreement.

Section 19. Insurance. Collector will continue to carry insurance, which shall be placed with insurers with a current A M Best's rating of no less than A VII, and which shall include all of the following:

19.1. Required Insurance.

19.1.1 Worker's Compensation. Collector shall obtain and maintain in full force and effect throughout the Term, worker's compensation insurance in accord with the provisions and requirements of the California Labor Code. Endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the Term. The policy providing coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The policy shall also be amended to waive all rights of subrogation against the City, its elected or appointed officials, employees, agents or representatives for losses which arise from the Services performed by the Collector pursuant to this Agreement.

19.1.2. General Commercial Liability Insurance. Collector shall carry commercial or comprehensive general liability insurance with a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence / aggregate for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form GG 00 01 11 88).

19.1.3. Automobile Liability Insurance. Collector shall carry automobile insurance with a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence for bodily injury, personal injury, and property damage, and which shall provide coverage for rented and non-owned vehicles. Coverage shall be at least as broad as Insurance Service form number CA 00 01 06 92 covering Automobile Liability, code 1 (any auto).

19.1.4. Public Liability Insurance. Collector shall carry public liability insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage.

19.1.5. Pollution or Environmental Liability Insurance. Collector shall carry Environmental or Pollution liability coverage appropriate for the waste activity contemplated in this Agreement, including sudden and accidental upset pollution liability for the amount of One

Million Dollars (\$1,000,000.00) per claim or occurrence and One Million Dollars (\$1,000,000.00) in the aggregate.

19.2. Additional Insurance Requirements. Within five (5) days of the Effective Date, Collector shall provide City with certificates of insurance for all of the policies required under this Section 19 ("Certificates"), excluding the required worker's compensation insurance. With the exception of the worker's compensation insurance, all of the insurance policies required in this Section 19 shall: provide that the policy will not be cancelled, allowed to expire, or materially reduced in coverage without at least thirty (30) days' prior written notice, or ten (10) days' in the case of non-payment of premium by Collector (as per insurance industry standard), to City of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; name City, and City's Agents as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Collector or operations performed by or on behalf of the Collector to perform the Services including materials, parts, or Equipment furnished in connection with the Services or operations by endorsement; be primary with respect to any insurance or self-insurance programs covering City or City's Agents and any insurance or self-insurance maintained by City or City's Agents shall be excess of Collector's insurance and shall not contribute to it; and contain standard separation of insured provisions.

19.3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to City and City's Agents, or Collector shall provide a financial guarantee satisfactory to City guaranteeing payment of loss related investigations, claim administration and defense expenses.

19.4. Verification of Coverage. Before the Services commence, Collector shall furnish City with original Certificates and endorsements effecting coverage required by this Section 19. The endorsements shall be on forms approved by the City which contain all of the information required in this Section 19.

19.5. Subcontractors. Collector shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Section 19.

Said insurance shall protect Collector and City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from the Services, whether such operations be by Collector itself, or by its agents, employees, contractors or sub-grantees. Copies of the policies or endorsements evidencing the above insurance coverage shall be filed with the City Clerk. All of the following endorsements are required to be made a part of the insurance policies required by this Agreement.

19.6. Increase in Coverage Requirements. The limits for the insurance coverage required under this Section 19 and the ratings required for insurance companies shall be subject to review and approval by the City Attorney every year and may be increased at that time, at the City Attorney's discretion, to match the coverage provided by the City's own liability insurance policy.

Section 20. Collector Liability for Damage to Street. Any physical damage caused by the negligent or willful acts or omissions of employees of Collector to public or private property shall be repaired or replaced by Collector at Collector's sole expense. Collector shall be responsible for damage to City's driving surfaces, whether paved or not paved, beyond normal wear and tear.

Section 21. Title to Solid Waste. All Solid Waste, Recyclables, and Green Waste collected pursuant to this Agreement shall remain the property of the Customer until such time as it is collected for disposal. It is expressly understood that all Solid Waste, Recyclables, and Green Waste collected under this Agreement becomes the property of Collector upon collection, subject to the requirement of delivery to an appropriate disposal site. Collector is hereby granted the right to retain, dispose of, and otherwise use such Solid Waste, Recyclables, and Green Waste, or any part thereof, in any fashion or for any lawful purpose desired by Collector, and to retain any benefit or profit resulting therefrom. Solid Waste which is disposed of at a disposal site shall become the property of the owner or operator of the disposal site once deposited there by Collector.

Section 22. Rights of City to Perform During an Emergency. Should Collector, for any reason whatsoever, excluding a Force Majeure as defined in Section 11.2, be unable to perform any of the Services required by this Agreement, for a period of more than seventy-two (72) hours, and the City Manager reasonably finds that the resulting accumulation of Refuse in City endangers or menaces the public health, safety or welfare, then, City shall have the right to temporarily take possession of and use Collector's Equipment to carry out Collector's obligations under this Agreement, upon twenty-four (24) hour prior written notice to Collector. Collector agrees that in such event it will fully cooperate with City to affect such a transfer of possession for City's use.

Collector agrees that, in such event, City may take temporary possession of and use all of said Equipment and facilities without paying Collector any rental or other charge, provided that when City takes possession of Collector's Equipment and facilities under this Section 22, City shall assume complete responsibility for the proper and normal use of such Equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above-mentioned property to Collector upon receipt of written notice from Collector stating it is able to resume its normal responsibility under this Agreement.

Section 23. Customer Confidentiality. Collector shall strictly observe and protect the right of privacy of the Customers. Information identifying individual Customers, or the composition or contents of a Customer's Refuse, shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude Collector from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939.

Collector shall not market or distribute, without City's advance written consent, which City may withhold in its sole and absolute discretion, mailing lists with the names or addresses of Customers.

The rights accorded Customers pursuant to this Section shall be in addition to any other privacy right accorded Customers pursuant to federal or state law.

Section 24. Reports and Adverse Information.

24.1. Reports. Within ninety (90) days after the close of Collector's fiscal year, Collector shall submit a written annual report, in a form approved by City, including, but not limited to, the following information:

24.1.1. A report on City's progress in meeting and maintaining its ability to meet its goals under AB 939 as applied to the Franchise Area, along with any recommended changes. Collector shall also provide the City's Public Works Director with quarterly reports on the quantity (by weight) of all Commercial Solid Waste, Residential Solid Waste, Recyclables, Compostables, and Green Waste collected.

24.1.2. A list of Collector's officers and member of its board of directors.

24.1.3. A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in Collector and any subsidiaries.

24.1.4. The most current annual audited financial statement, upon request. To the extent permitted by the Public Records Act, this document shall remain confidential.

24.1.5. A current financial statement, upon request.

24.2. Adverse Information. Collector shall provide City two (2) copies of all reports, or other material adversely affecting this Agreement, which Collector submits to: the State or federal Environmental Protection Agency; the Department of Resources Recycling and Recovery; or any other federal, State, or local agency. Copies shall be submitted to City simultaneously with Collector's filing of such matters with said agencies. Collector's routing correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

Collector shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Collector to any federal, state and local courts, regulatory agencies and other government bodies relating to Collector's performance of Services pursuant to this Agreement, as well as copies of all decisions, correspondence and actions by such agencies. Any confidential data exempt from public disclosure shall be retained in confidence by City or its authorized agents and shall only be made available for public inspections, as required by law.

Collector shall submit to City such other information or reports in such forms and at such times as City may reasonable request or require.

All reports and records required under this or any other section herein shall be furnished to City at the sole expense of Collector.

24.3. Failure to Report. The refusal, failure, or neglect of Collector to file any report required, or the inclusion of any materially false or misleading statement or representation made

intentionally, willfully, or knowingly by Collector in such report, may be deemed a material breach of this Agreement, and may subject Collector to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

Section 25. Bonds and Security.

25.1 Performance Bonds. Contemporaneously with the execution of this Agreement, Collector shall secure and execute a performance bond to be held by the City (the “Performance Bond”) to ensure performance of Collector for the total amount of Twenty-five Thousand and No/100 Dollars (\$25,000.00). The Performance Bond shall be on terms and in a form acceptable to the City Attorney and shall be issued by a California admitted insurer. The Performance Bond shall serve as security for the faithful performance by Collector of all the provisions and obligations of this Agreement.

Thirty (30) days following Collector’s failure to pay City an amount owed under this Agreement, if ever, the Performance Bond may be assessed by City upon five (5) days prior written notice to Collector for purposes including, but not limited to:

- A. Failure of Collector to pay City any sums due under the terms of the Agreement.
- B. Reimbursement of costs borne by City to correct violations of this Agreement, after five (5) days’ advance written notice to Collector.
- C. Monetary remedies or damages assessed against Collector due to a breach of this Agreement.

25.2. Replenishment of Bond. Collector shall restore the bond to its original amount of Twenty-five Thousand Dollars (\$25,000.00), within thirty (30) days receipt of notice from the City that any amount has been withdrawn from or assessed against the Performance Bond

Section 26. Breach of Agreement.

26.1. Determination of Breach. If the City Manager reasonably determines that Collector’s performance pursuant to this Agreement has not been in conformity with reasonable industry standards obtained in similar cities in Central California, the provisions of this Agreement, the requirements of the Department of Resources Recycling and Recovery, including, but not limited to, requirements for source reduction and recycling (as to the waste stream subject to this Agreement) or any other applicable federal, state or local law or regulation, including but not limited to the laws governing transfer, storage or disposal of Hazardous Waste, the City Manager may advise Collector in writing of such deficiencies. If Collector commits a material breach of this Agreement (“Breach”), City may terminate this Agreement, impose Liquidated Damages, or avail itself of any and all remedies set forth in Section 27 of this Agreement, in addition to all other remedies available to the City in law or equity.

26.2. Events that Constitute a Breach. A Breach includes but is not limited to the following:

26.2.1. Misrepresentation. Collector commits, or attempts to commit, any fraud, intentional material misrepresentation or deceit upon the City in relation to this Agreement or in the statements or materials submitted to City by Collector in connection with this Agreement as of the time the representation or disclosure is made.

26.2.2. Seizure or Attachment of Equipment. There is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating Equipment of Collector, including without limit its vehicles, maintenance or office facilities, or any part thereof of such proportion as to impair Collector's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and City-approved holidays.

26.2.3. Collector Bankruptcy. Collector files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Collector or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator, or similar official of Collector for a part of Collector's operating assets or any substantial part of Collector's property, or shall make any general assignment for the benefit of Collector's creditors, or shall fail generally to pay Collector's debts as they become due.

26.2.4. Court Order or Decree. Any court having jurisdiction enters a decree or order for relief with respect to Collector, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Collector consents to or fails to oppose any such proceeding, or any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of Collector or for any part of Collector's operating equipment or assets, or order the winding up or liquidation of the affairs of Collector.

26.2.5. Failure to Notify City. Collector fails to notify City in a timely manner of any receipt of notice of violation or official communication from those regulatory agencies regulating Solid Waste, Recyclables, and Green Waste collection, transport, processing, or disposal activities.

26.2.6. Lapse of Financial Requirement. If Collector fails to provide or maintain in full force and in effect, the following: any of the insurance policies required pursuant to Section 16 herein; the full amount of the Performance Bond required under Section 25.1 herein; or the full amount of the Payment Bond required under Section 25.2 herein.

26.2.7. Regulatory Violation. Collector violates any orders or filings of any regulatory body having jurisdiction over Collector relative to this Agreement, provided Collector

may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred.

26.2.8. Cessation of Services. Collector ceases to provide collection, transportation, processing, or recycling services as required under this Agreement for a period of three (3) consecutive business days or more, for any reason within the control of Collector.

26.2.9. Failure to Meet Payment or Reporting Requirements. Collector fails to make any payment required under this Agreement or refuses to provide City with required information, reports, or records in a timely manner as provided for in the Agreement.

26.2.10. Violation of AB 939. Any other act or omission by Collector, which materially violates the terms, conditions or requirements of the AB 939 as may be amended from time to time; or any other directive rule or regulation issued thereunder; unless the violation is corrected or remedied within the time set on the written notice of violation; or if Collector cannot reasonably correct or remedy the violation within the time set forth in such notice, Collector commences to correct or remedy such violation within the time set forth in such notice and diligently and in good faith continues to cure, correct, or remedy such violation thereafter.

26.2.11. Unremedied Acts or Omissions. Collector commits any act or omission which violates the terms, conditions, or requirements of this Agreement, or any other applicable laws and which is not corrected or remedied within the time set in the written notice of the violation or, if Collector cannot reasonably correct or remedy the breach within the time set forth in such notice, Collector should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

26.2.12. Failure to Correct Breach. Collector fails to correct any Breach within the applicable Cure Period.

26.3. Cure Rights. Notwithstanding any other provision of this Section 26 to the contrary, City shall provide Collector with reasonable notice of and a reasonable opportunity to cure any Breach of this Agreement during the time periods set forth below (the “Cure Period”). Collector shall begin cure of any Breach as soon as it becomes aware of the Breach, whether discovered by Collector or through notice from the City. Upon becoming cognizant of the Breach, Collector shall proceed to cure such Breach as follows:

26.3.1. Immediately, if the City determines the Breach endangers the health, safety, or welfare of the public; or

26.3.2. Within thirty (30) days of giving or receiving notice of the Breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, Collector shall have such additional time as is reasonably needed, no longer than sixty (60) days to expeditiously complete a cure. During any Cure Period, Collector shall provide City weekly written status updates informing City of Collector’s progress curing the Breach.

26.4 Right to Appeal. Collector may submit a response to claims of Breach contained in any written notice from the City within thirty (30) days of receipt of such notice. The City Manager shall review Collector's response and refer the matter to the City Council or decide the matter and notify Collector of that decision, in writing. A decision or order of City Manager shall be final and binding on Collector, if the Collector fails to file a "Notice of Appeal" with the Council within thirty (30) days of receipt of the City Manager's decision. Within ten (10) working days of receipt of a Notice of Appeal, the City Manager shall refer any Collector Notice of Appeal timely received to the City Council for proceedings in accordance which shall be conducted as follows:

Upon receiving a Notice of Appeal the City Council, shall set the matter for hearing within a reasonable time. City shall give Collector and any other person requesting the same, fourteen (14) days written notice of the time and place of the City Council hearing on the appeal. At the hearing, the City Council shall consider the report of the City Manager indicating the deficiencies, and shall give the Collector, or its representatives and any other interested person a reasonable opportunity to be heard. Based upon the evidence presented at the public hearing, the City Council shall determine whether the decision or order of the City Manager should be upheld. If, based upon the record, the City Council determines that the performance of Collector is in breach of any material term of this Agreement or any material provision of any applicable federal, state or local statute of regulation, the City Council has sole and absolute discretion to terminate this Agreement or impose damages as set forth herein. The decision of the City Council shall be final and conclusive, and there shall be no appeal of the City Council decision. Collector's performance under this Agreement is not excused during the period of time prior to the Council's final determination as to whether such performance is deficient.

Section 27. Termination, Liquidated Damages and other Remedies.

27.1. Termination. In the event Collector commits a Breach of this Agreement, City shall have the right to terminate this Agreement ("Termination").

27.2. Liquidated Damages.

27.2.1. City finds, and Collector agrees, that as of the Effective Date of this Agreement, it is impractical, if not impossible to reasonably ascertain the extent of damages which will be incurred by City as a result of a Breach by Collector of its obligations under this Agreement. Some reasons for the impracticability of ascertaining damages include, but are not limited to: the difficulty in estimating the substantial damage that results to Customers who are denied Solid Waste disposal services or denied quality or reliable service; and the difficulty valuing the damage caused from the inconvenience, anxiety, frustrations and deprivation of the benefits provided under the Agreement to individual members of the general public for whose benefit this Agreement exists. The Parties agree that these damages manifest in subjective ways and in varying degrees of intensity, and are incapable of measurement in precise monetary terms. The Parties agree that any remedy for such breaches, including the termination of this Agreement are, at best, a means of future correction and not remedies, which can adequately make the public whole for past breaches.

27.2.2. The City Council may, at its discretion, assess liquidated damages not to exceed the sum of Two Thousand Dollars (\$2,000) per day, for each calendar day that the Services are not provided by Collector in accordance with this Agreement for a period not to exceed forty-five (45) days (“Liquidated Damages”). In addition, the City Council may order assessment against the Performance Bond and Payment Bonds required by Section 25 as set forth herein, the termination of this Agreement, or both.

27.2.3. The City finds, and Collector acknowledges and agrees that the above-described liquidated damages provision represent a reasonable sum in light of all of the circumstances. Said liquidated damage sums shall be applicable to each calendar day of delay during which Collector has been found by the City Council to be in Breach pursuant to Section 26. Collector shall pay any Liquidated Damages assessed by the City Council within thirty (30) days after they are assessed. If they are not paid within the thirty-day (30) period, City may withdraw said amount from the Performance Bond or Payment Bond, as appropriate, pursuant to Section 25, order the Termination of the Franchise granted by this Agreement, or both.

27.3. Remedies Not Exclusive. The right of Termination or to impose Liquidated Damages are in addition to all other rights of City upon a failure of Collector to perform its obligations under this Agreement, including but not limited to the rights provided in Section 28.

Section 28. City’s Additional Remedies. In the event Collector commits a Breach of this Agreement, and the City has terminated this Agreement, in addition to the remedies set forth in Section 27, City shall have the following rights:

28.1. Rental of Collector Equipment. Notwithstanding the provisions set forth in Section 22 of this Agreement, City shall have the right to rent or lease Equipment from Collector for the purpose of collecting, transporting and disposing of Refuse which Collector is obligated to collect, transport and dispose of pursuant to this Agreement, for a period not to exceed six (6) months. If such Equipment is not owned by Collector, Collector shall assign to City, to the extent possible, the right to possess the Equipment. If City exercises its rights under this Section, City shall pay to Collector the reasonable rental value of the Equipment so taken for the period of City’s possession thereof.

28.2. Right to License others to Provide Disposal Services for the City. City shall have the right to license others to perform the Services otherwise to be performed by Collector hereunder, or to perform such Services itself.

28.3. Right to Other Damages. City shall have the right to obtain damages or injunctive relief. The Parties recognize and agree that in the event of Breach by Collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement by Collector and to enjoin the Breach thereof.

Section 29. Compliance with Applicable Law. Collector agrees that it shall comply with all applicable federal, state, and local laws and regulations, expressly including the provisions set forth in the Code which are applicable to the work or business in which it is herein franchised, and with any and all amendments to such applicable provisions during the Term.

Section 30. Assignment. The Franchise granted by this Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except Collector, either by act of the Collector or by operation of law, without the prior written consent of City expressed by a resolution or ordinance approved by the City Council, which may be withheld for any reason, conditioned or granted in the City's sole discretion. Any attempt by Collector to assign this Franchise without the consent of City shall be null and void.

If Collector attempts to transfer the Franchise prior to obtaining City consent, all of the profits or twenty-five percent (25%) of the gross revenues received pursuant to the Services provided under this Agreement, from the date of attempted transfer until the date of City consent, whichever is greater, shall be returned to City.

Section 31. Franchise Transfer: Fees. Any application for a Franchise transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in an amount to be set by the City by resolution or ordinance of the City Council, to cover the cost of all direct and indirect administrative expenses, including consultants and attorneys, necessary to adequately analyze the application and to reimburse City for all direct and indirect expenses. In the event that City's actual costs exceed the amount of the transfer fee, Collector shall reimburse City for all additional costs which are not covered by the transfer fee, up to, but not exceeding Five Thousand Dollars (\$5,000.00). Bills shall be supported with evidence of the expense or cost incurred. The applicant, for any such transfer, shall pay such bills within thirty (30) days of receipt. The Franchise transfer fees detailed in this Section are over and above any franchise fees specified in the other portions of this Agreement.

Section 32. City Must Approve Change in Control of Collector. City consent is required for any change in control of Collector. Collector is a corporation, and any acquisition of more than twenty-five percent (25%) of Collector's voting stock by a person, or group of persons acting in concert shall be deemed a change in control. Any change in control of the Collector occurring without prior City approval shall constitute a material breach of this Agreement.

Section 33. Amendment to Agreement. This Agreement is intended to carry out City's obligations to comply with the provisions of the AB 939, and implemented by regulations of the Department of Resources Recycling and Recovery ("Regulations"), as they may from time to time be amended. In the event that AB 939, or other state or federal laws or regulations enacted after the Effective Date, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except for Rate adjustments made pursuant to Section 9, this Agreement may be amended or modified only by a written agreement duly authorized and executed by both the City and Collector.

Section 34. General Provisions.

34.1. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of California. Venue for all legal proceedings arising from

this Agreement shall be in the Superior Court for the County of Stanislaus in the State of California. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Eastern District of the State of California.

34.2. Notices. Any notice or communication required hereunder between City and Collector must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

To City:

City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attn.: City Clerk
Tel: (209) 863-7198
Fax: (209) 869-7100

With courtesy copy to:

City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attention: City Manager
Tel: (209) 863-7122
Fax: (209) 869-7100

And

Churchwell White LLP
1201 K Street, Suite 710
Sacramento, California 95814
Attention: Douglas L. White, Esq.
Tel: (916) 468-0950
Fax: (916) 468-0951

To Collector: Gilton Solid Waste Management, Inc.
755 S. Yosemite Ave.
Oakdale CA 95361
Attention: President
Tel: (209) 527-3781
Fax: (209) 527-3781

With courtesy copy to: Bart Barringer
Mayol & Barringer
1327 J Street
Modesto, CA 95354

34.3. Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

34.4. Exhibits Incorporated. The following “Exhibits” are attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Exhibit Title</u>
Exhibit A	Definitions
Exhibit B	Franchise Area
Exhibit C	Rates
Exhibit D	Bulky Item Collection Program
Exhibit E	C&D Debris Diversion Policy
Exhibit F	Specified E-Waste

34.5. Time of Essence. Time is of the essence for the Agreement and each provision contained within and each provision is made and declared to be a material, necessary and essential part of the Agreement.

34.6. Authority. All Parties to the Agreement warrant and represent that they have the power and authority to enter into the Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into the Agreement. By entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

34.7. Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of the Agreement. Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

34.8. Entire Agreement. This Agreement, together with its specific references, attachments and Exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

34.9. Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement, including the 2003 Agreement.

34.10. Captions. The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

34.11. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” and “can” are permissive.

34.12. Successors and Assigns. All representations, covenants, and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of, any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns.

34.13. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

34.14. Attorney’s Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney’s fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

34.15. Necessary Acts and Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of the Agreement.

34.16. Waiver. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver

of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

[SIGNATURES ON FOLLOWING PAGE.]

DRAFT

IN WITNESS WHEREOF, this Agreement has been entered into by and between City and Collector as of the Effective Date.

CITY:

City of Riverbank, a municipal corporation of the State of California

By: _____
Jill Anderson, City Manager

Date Signed: _____

Approved as to Form:

By: _____
Tom Hallinan, City Attorney

Attest:

By: _____
Annabelle Aguilar, City Clerk

GILTON:

Gilton Solid Waste Management, Inc., a California Corporation

By: _____
Richard Gilton, President

Date Signed: _____

EXHIBIT A

Definitions

Capitalized words in the Agreement shall have the following meanings:

1. “AB” shall mean an Assembly Bill of the California Legislature.
2. “AB 341” shall mean the amendments to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), Chapter 476, as amended, supplemented, superseded, and replaced from time to time.
3. “AB 939” shall mean the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.
4. “Agreement” shall mean this Franchise Agreement between the City and Collector, including all exhibits and future amendments.
5. “Bin” or “Bins” shall mean receptacles provided by Collector for commercial customers which is picked up by Collection trucks by means of a front-loading apparatus.
6. “Bulky Items” shall mean large items of Solid Waste such as appliances, furniture, branches, and other oversize wastes whose large size precludes or complicates their placement in containers or handling by normal collection, processing, or disposal methods, but excluding Excluded Waste; items larger than five cubic yards or heavier than 500 pounds; and items of excessive size or density, such as engine blocks, spas, boats, and trailers. A list of acceptable and unacceptable Bulky Items is attached as **Exhibit D**.
7. “Breach” shall be as defined in Section 26.1 of this Agreement.
8. “Cart” or “Carts” shall mean industry standard receptacles for disposal of residential Solid Waste, Green Waste, and Recyclables, in a range of sizes. A Cart has wheels, a handle for ease of movement, and a tight-fitting, attached lid and is designed to be dumped manually or mechanically into a Solid Waste collection vehicle.
9. “Certificates” shall be as defined in Section 19.2 of this Agreement.
10. “City” shall mean the City of Riverbank, Stanislaus County, State of California.
11. “City’s Agents” shall be as defined in Section 18.1 of this Agreement.
12. “City Attorney” shall mean the city attorney for the City of Riverbank.
13. “City Council” shall mean the City Council of the City of Riverbank.
14. “City Engineer” shall mean the city engineer for the City of Riverbank.

15. “City Manager” shall mean the city manager for the City of Riverbank.
16. “Claim” shall be as defined in Section 18.1 of this Agreement.
17. “Collector” shall be as defined in the Preamble to this Agreement.
18. “Construction and Demolition Debris” or “C&D Debris” shall mean waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements and on houses, commercial buildings, and other structures, but not including any Excluded Waste.
19. “Container” or “Containers” shall be as defined in Section 11.1 of this Agreement.
20. “Cure Period” shall be as defined in Section 26.3. of this Agreement.
21. “Customer” or “Customers” shall mean an individual(s), entity or entities that receive any services provided by Collector pursuant to this Agreement. Customer shall also mean the person, organization, or corporation receiving services to which billing statements are sent.
22. “Effective Date” shall be as defined in the Preamble to the Agreement.
23. “Electronic Waste” or “E-Waste” shall mean waste containing or consisting of electronic devices and components, such as computers, monitors, terminals, computer cards and components, computer peripheral devices, main frame computers, keyboards, mice, printers and scanners, mini-systems, power supply units, servers, connectors/cables, storage discs, consumer electronics, printed circuit boards, televisions, chips and components, cellular and other phones, telecommunications equipment, and fax machines and copiers, but not including Excluded Waste.
24. “Equipment” shall mean Collector’s vehicles, tools, and equipment for the Services for which it is responsible under this Agreement.
25. “Excluded Waste” shall mean Hazardous Waste; Medical and Infectious Waste; liquid wastes; volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material; waste that Collector reasonably believes would, as a result of or upon disposal, be a violation of local, state, or federal law, regulation, or ordinance, including land use restrictions or conditions; waste that cannot be disposed of in Class III landfills; waste that in Collector’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance, or otherwise create or expose Collector or the City to potential liability. Excluded Waste does not include de minimis volumes or concentrations of waste of a type and amount normally found in residential Solid Waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Wastes in compliance with Sections 41500 and 41802 of the Public Resources Code.
26. “Exhibits” shall be as defined in Section 34.4. of this Agreement.

27. “Force Majeure” shall be as defined in Section 11.2. of this Agreement.
28. “Franchise Area” shall be as defined in Section 4.1. of this Agreement.
29. “Franchise Fees” shall mean both the fees retained by City and paid by Collector to City as defined in Section 16.1.
30. “Green Waste” shall mean all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar plant materials, but not including Excluded Waste, palm material, or items longer than five (5) feet or with a diameter greater than six (6) inches.
31. “Hazardous Waste” shall mean a waste, or combination of wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may do either of the following:
 - a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
 - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. (Public Resources Code Section 40141.)
32. “HDPE (High Density Polyethylene)” shall mean a recyclable plastic that includes, but is not limited to, milk jugs.
33. “Household Hazardous Waste” shall maintain the meaning set forth in Title 14, California Code of Regulations, Section 18502 or successor laws and regulations as may be amended from time to time.
34. “Liquidated Damages” shall be as defined in Section 27.2.1 of this Agreement.
35. “Medical and Infectious Waste” shall mean biomedical waste generated at residences in excess of legal limits or at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, and other similar establishments.
36. “Notice of Appeal” shall be as defined in Section 26.4 of this Agreement.
37. “Party” or “Parties” shall be as defined in the Preamble to this Agreement.
38. “Payment Bond” shall be as defined in Section 25.2 of this Agreement.
39. “Performance Bond” shall be as defined in Section 25.1 of this Agreement.

40. “PET (Polyethylene, Terephthalate)” PET means a recyclable plastic that includes, but is not limited to, 2-liter soda bottles.
41. “Rates” shall mean the rates charged by Collector or City to Customers within the City as set forth in Section 9.1.
42. “Recitals” shall be as defined in Section 1 of this Agreement.
43. “Records” shall be as defined in Section 13 of this Agreement.
44. “Recyclable Materials” or “Recyclables” shall mean those materials that may be separated on a commercially reasonable basis from Solid Waste and returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Subject to mutually agreed revision by the Parties, Recyclable Materials or Recyclables include, newspaper (including inserts, coupons, and store advertisements), corrugated cardboard, mixed waste paper (including office paper, computer paper, magazines, junk mail, catalogs, Kraft bags and Kraft paper, paperboard, egg containers, phone books, brown paper, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, and cereal and other similar food boxes), glass containers (including colored glass bottles and jars), aluminum (including beverage containers, foil, food containers, and small scrap metal), plastic milk and juice containers, steel or tin cans, small scrap metal, PETE and HDPE plastic containers (natural and colored), used motor oil and oil filters, and any other commercially viable recyclable materials mutually agreed to by Collector and the City.
45. “Refuse” shall mean general term for waste, including Solid Waste.
46. “Regulations” shall be as defined in Section 33 of this Agreement.
47. “Roll-Off Box” shall mean a container, with a minimum capacity of ten cubic yards, designed for mechanical emptying with a vehicle, and used for the storage and transportation of solid waste, green waste, recyclables, and other commodities.
48. “Services” shall be as defined in Section 5.1 of this Agreement.
49. “Solid Waste” shall mean and include all forms of residential and commercial waste generated within City limits and intended for disposal. Solid Waste as defined in Public Resources Code, Section 40191 and regulations promulgated thereunder and without limitation includes all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, Refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes. Excluded from the definition of Solid Waste are Excluded Waste, Recyclable Materials, and Green Waste. Notwithstanding any provision to the contrary, “Solid Waste” may include de minimis volumes or concentrations of waste of a type and

amount normally found in residential solid waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the Resources Code. For the purposes of this Agreement the Collector may, but is not required, to collect, haul, dispose or recycle any liquid wastes, abandoned vehicles, and parts thereof, industrial appliances; dewatered, treated or chemically fixed sewage sludge or manure.

50. “State” shall mean the State of California.
51. “Term” shall be as defined in Section 7 of this Agreement.
52. “Termination” shall be as defined in Section 27.1 of this Agreement.
53. “Universal Waste” shall mean any waste matter which the State of California classifies as 'universal waste,' including, but not limited to, items and materials listed in 22 CCR 66261.9, as it may be amended, as well as any items listed below not classified by the State of California as 'universal waste.' Universal Waste includes, but is not limited to, the following:
 - E-Waste;
 - Batteries (except automobile batteries);
 - Thermostats;
 - Lamps with fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and other lamps with hazardous waste characteristics;
 - Cathode ray tubes;
 - Aerosol cans;
 - Mercury-containing items, including light switches, pressure gauges, and thermometers;
 - Appliances, devices, and other objects containing electronic components, including (but not limited to) computers, computer monitors, cellular telephones, copiers, fax machines, DVD players, VCRs, and televisions; and
 - Prescription and non-prescription drugs, not including controlled substances.

EXHIBIT B

Franchise Area

DRAFT

EXHIBIT C
Rates

DRAFT

EXHIBIT D
City of Riverbank
Bulky Item Collection Program

- The Bulky Item Collection Program is available to all residential customers within the City of Riverbank.
- Customers are allowed to request up to two (2) collections per calendar year.
- To arrange collection, the customer must contact Collector and set up an appointment.
- Appointments will be scheduled by Collector and will occur within two (2) weeks of the customer's request.
- Bulky Items are limited to those items that will not fit within the customer's existing garbage container.
- Bulky Items are limited to those items listed below as "Acceptable", or to those items approved by Collector at the time the appointment is requested.
- Customers must place all Bulky Items on the paved street surface in front of their residence without blocking driveways or traffic, and must be easily accessible to Collector's vehicle.
- Customers must place all Bulky Items out for collection no earlier than 6:00 P.M., California time, before the scheduled collection day or no later than 6:00 A.M., California time, on the scheduled collection day.

<u>ACCEPTABLE ITEMS</u>		<u>UNACCEPTABLE ITEMS</u>	
Refrigerators*	Freezers*	Automobile parts	Tires
Water heaters	Air Conditioners	Garbage	Commercial waste
Washers	Dryers	Construction waste	Concrete / Asphalt
Dishwashers	Toilets/Sinks/Tubs	Sheetrock	Hazardous waste
Couches / Sofas	Tables / Chairs	Paints / Solvents	Dirt / Sod
Dressers	Mattresses	Liquid of any kind	Glass
Bed frames	Furniture	Green waste	Dead animals
Microwaves	Hot tubs / BBQs	Televisions	Computer monitors
Patio furniture	Doors / ladders		
Lawn mowers	Bicycles		
Exercise Equipment	Bundled, Dry Cardboard		

* Doors must be removed or locked to prevent access by minors

EXHIBIT E
Riverbank Construction & Demolition Debris Policy

DRAFT

EXHIBIT F
Acceptable E-Waste
for
Curbside Collection Program

Computers
Printers
Copiers
Scanners
Fax Machines
Telephones
Cellular Telephones
Stereos
DVD / VHS Players

Televisions (Cathode Ray Tubes)
Computer Monitors
Flat Screen Televisions
Lap Top Computers
Networking Equipment
Printed Circuit Boards
Servers
Main Frame Units

DRAFT

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARINGS

Meeting Date:	October 28, 2014
Subject/ Title:	Introduction and adoption of Urgency Ordinance No. 2014-009 of the City Council of the City of Riverbank, California, to Extend a Temporary Moratorium on the Issuance of Permits for Licenses for the Establishment and Operation of New Tattoo Establishments within the Boundaries of the City.
From:	Jill Anderson, City Manager
Submitted by:	Tom Hallinan, City Attorney John Anderson, Contract Community Development Director

RECOMMENDATION

It is recommended that the City Council introduce and adopt Urgency Ordinance No. 2014-009 of the City Council of the City of Riverbank, California, to Extend a Temporary Moratorium on the Issuance of Permits for Licenses for the Establishment and Operation of New Tattoo Establishments within the Boundaries of the City.

SUMMARY

The City of Riverbank's (the "City") municipal code does not currently regulate the operation or location of tattoo establishments. The proposed urgency ordinance would extend the existing forty-five (45) day moratorium on tattoo establishments for an additional ten (10) months and fifteen (15) days. This extension provides City staff with time to review the City's municipal code to determine how to properly regulate tattoo establishments. The City has been in communication with the owners of the existing tattoo establishments in the City during the initial forty-five (45) day moratorium period.

The City seeks to extend the moratorium in order to be sure to take into account feedback from the local business owners in the City regarding tattoo establishments in drafting regulations for these businesses. Like all businesses, tattoo establishments have their own unique issues and it is important that the City's regulations for tattoo establishments be tailored to address specific issues and not to be overly broad. Some other cities have experienced secondary effects from tattoo establishments, including

gang related activities,¹ illegal drug activity,² and the decrease in neighboring property value that can result from an overconcentration of tattoo establishments. To ensure that the negative impacts some other cities have experienced do not become issues for the City in the future, the City must review the City's municipal and zoning code to determine how tattoo establishments should be regulated and where they should be located.

A city may adopt an urgency interim ordinance under Government Code section 65858 that prohibits any use that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or planning department is considering, studying, or intending to study within a reasonable time. To adopt an extension of the moratorium, the City must comply with three (3) requirements. First, the City Council must find that the interim ordinance is required to protect the public health, safety, and welfare. Second, the ordinance must be passed by a four-fifths (4/5) majority vote of the City Council. Here, the ordinance is required to protect the public health, safety, and welfare as tattoo establishments can result in the transmission of infectious disease and often carry with them negative secondary effects. Finally, the City must give ten (10) day notice and hold a public hearing pursuant to Government Code section 65090 regarding the extension of the moratorium.

Where the City complies with these requirements under Government Code sections 65858 and 65090, it may extend a moratorium ordinance immediately without abiding by the typically required notice requirements for ordinances. Thus, the ten (10) day notice of the proposed extension of the moratorium is sufficient for the City to adopt the extension of the moratorium.

Should the City choose to extend the moratorium beyond the ten (10) month and fifteen (15) day limit created under this proposed urgency interim ordinance, the City Council must pass another interim ordinance. That ordinance is subject to a ten (10) day notice requirement under Government Code section 65090, and it extends the moratorium for one (1) additional year. That is the final time the City may extend the moratorium as the moratorium may only last a total of two (2) years. Any extension of the moratorium must be passed during the period the moratorium is in place.

BACKGROUND

After the City Council passed Ordinance No. 2014-008 on September 23, 2014, establishing a forty-five (45) day moratorium on tattoo establishments in the City, City staff has been in contact with the owners of and applicants for tattoo establishments in the City. These discussions have proven informative as the City continues to study and

¹ See, e.g. *United States Attorney's Office, Central District of California, Former President of Ventura Hells Angels Chapter Arrested on Federal Extortion and Firebombing Charges* (Aug. 12, 2011) <<http://www.justice.gov/usao/cac/Pressroom/2011/112.html>>.

² *United States Department of Justice, National Drug Intelligence Center, Drugs and Gangs Fast Facts* (Jan. 2005) <<http://www.justice.gov/archive/ndic/pubs11/13157/>> (Stating that gangs are known to commingle drug sales proceeds with income from tattoo establishments to launder money.)

draft regulations for tattoo establishments that address any potential safety or planning concern regarding tattoo establishments, gang-related activity.

The City seeks to encourage the continued success of owners of small businesses, such as tattoo establishments. The extension of the moratorium gives the City time to ensure that tattoo establishments continue to contribute to the economic well-being of the City while avoiding problems that could arise from oversaturation or lack of planning in a particular area. The extension ensures that the City can create regulations for tattoo establishments that are agreeable to all the interested parties.

The City may not entirely ban the establishment and operation of tattoo establishments in the City.³ Therefore the City is evaluating time, place, and manner regulations regarding how tattoo establishments function and are located in the City.⁴ Currently, the City does not regulate tattoo establishments at all. This is in part because the public health impacts of tattoos and related body modification techniques are largely regulated at the county level under state law where tattoo establishments are properly in compliance with state law.

The moratorium extension ensures that the City is not faced with an unmanageable problem while it takes the time to properly identify areas that are appropriate for new tattoo establishments in the City. This moratorium does not affect current tattoo establishments so long as the establishments do not wish to expand or relocate within the City. Thus, the citizens of the City are still able to exercise their First Amendment rights and receive tattoos during the moratorium period. The moratorium only serves to limit new tattoo establishments while the City studies the issues and finds solutions to the issues that have resulted from tattoo establishments recently.

FINANCIAL IMPACT

There is no direct cost in adopting the interim ordinance.

ENVIRONMENTAL DETERMINATION

The proposed moratorium on tattoo establishments is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately. Therefore, no CEQA analysis of the project is required.

ATTACHMENTS

1. The proposed ordinance is attached.

³ *Anderson v. City of Hermosa Beach* (9th Cir. 2010) 621 F.3d 1051, 1055.

⁴ *Id.*

CITY OF RIVERBANK
ORDINANCE NO. 2014-009

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
TO EXTEND THE TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS
FOR LICENSES FOR THE ESTABLISHMENT AND OPERATION OF NEW TATTOO
ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE CITY FOR AN
ADDITIONAL TEN (10) MONTHS AND FIFTEEN (15) DAYS PENDING STUDY OF
ZONING REGULATIONS THAT ARE NEEDED TO ALLEVIATE A CURRENT AND
ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE**

WHEREAS, pursuant to Section 65858 of the California Government Code, on September 23, 2014, the City Council of the City of Riverbank voted to adopt Urgency Ordinance No. 2014-008, placing a 45 day moratorium on new tattoo establishments in the City of Riverbank ("City"); and

WHEREAS, the City has communicated with several owners of tattoo establishments in the City to discuss regulations for tattoo establishments; and

WHEREAS, the City is currently in the process of drafting regulations based on those discussions. The extension of the moratorium is necessary to ensure that the City has time to properly draft the regulations for tattoo establishments; and

WHEREAS, the City's Municipal Code remains silent with regard to the regulation and location of tattoo establishments. It is necessary for the City to study the potential impact such facilities may have on the public health, safety, and welfare; and

WHEREAS, tattooing and other related body modification techniques are activities that, if undertaken in unsanitary conditions, can potentially lead to the transmission of infectious disease, including hepatitis, syphilis, tuberculosis, and HIV. In addition, some other cities have experienced secondary negative impacts from tattoo establishments, such as gang related activity which can cause an increase in crime the impairment of the market values and aesthetic and visual qualities of the properties adjacent to tattoo establishments; and

WHEREAS, the overconcentration of tattoo establishments could adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's municipal code regarding tattoo establishments. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

WHEREAS, Government Code section 65858 provides for the adoption of interim ordinances for certain express purposes and by a vote of four-fifth (4/5) majority of the voting City Council members; and

WHEREAS, after providing notice pursuant to California Government Code section 65090 and a public hearing, the City Council may, by a four-fifths vote, extend the moratorium for an additional period not to exceed ten (10) months and fifteen (15) days; and

WHEREAS, California Government Code section 65858, subsection (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, or welfare; and

WHEREAS, there is a current and immediate threat to the public health, safety, and welfare of the community if tattoo establishments continue to locate in the City without proper regulations in place; and

WHEREAS, the approval of additional entitlements for new or expanding tattoo establishments would result in that threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires to (1) address the community concerns regarding tattoo establishments, (2) study the potential impacts that tattoo establishments may have on the public health, safety, and welfare, (3) study and determine what local regulations may be appropriate or necessary for tattoo establishments, (4) study and determine the appropriate zoning and location for tattoo establishments, and (5) determine appropriate controls for the protection of public health and welfare.

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

Section 1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and findings of the City Council of the City.

Section 2. Moratorium.

In accordance with Government Code section 65858(a), this ordinance extends the moratorium imposed by Ordinance 2014-008, prohibiting the establishment and operation of new tattoo establishments within the city's boundaries for an additional ten (10) months and fifteen (15) days. After the effective date of this ordinance, the City shall prohibit the issuance of permits or licenses for all new tattoo establishments within the boundaries of the City.

Section 3. Definitions.

1. "Tattoo establishment" shall mean any premise or establishment and facilities incidental thereto which engages in the business of marking or coloring skin which is the method of placing designs, letters, scrolls, figures, symbols, or other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to penetrate the skin. "Tattoo establishment" shall include any premise or establishment and facilities incidental thereto that engages in any form of permanent alteration to one's skin or body parts including, but not limited to, body piercing, scarification, and branding. "Tattoo establishment" shall not include a permanent cosmetic facility.

2. "Body piercing" shall mean the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but it not limited to piercing of an ear, lip, tongue, nose, or eyebrow. "Body piercing" does not, for the purpose of this chapter, include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

3. "Scarification" shall mean the use of methods or techniques to produce scars on the human body for decorative purposes, including but not limited to cutting and skin peeling.

4. "Branding" shall mean the use super-heated metal object, chemical, or electricity to burn an image into the human body.

3. "Permanent cosmetic facility" shall mean any premise or establishment and facilities incidental thereto which involves the application of pigments to or under human skin for the purpose of permanently changing the color or other appearance of the skin. This includes but is not limited to permanent eyeliner, eye shadow, or lip color.

Section 4. Public Nuisance.

The establishment, maintenance, or operation of new or expanded tattoo establishment as defined herein within the City limits is a public nuisance. Violations of the Ordinance may be enforced by any applicable law, including but not limited to, injunctions, administrative citations, or criminal penalties.

Section 5. Exceptions.

At the discretion of City, the City may approve a business license for a tattoo establishment while this moratorium is in place if: (1) the business license application was first submitted to the City prior to September 23, 2014; and (2) the business license applicant agrees to conditions regarding their tattoo establishment as proposed and agreed to by the City Manager.

Section 6. California Environmental Quality Act (“CEQA”).

Pursuant to Section 15001 of the CEQA Guidelines, the Ordinance is exempt from CEQA based on the following:

(1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately.

(2) This Ordinance is not subject to CEQA under the general rule that CEQA applies only to a project or projects which have the potential for causing a significant effect on the environment. For the reason set forth in subparagraphs (1), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 7. Severability.

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause, or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 8. Effective Date and Duration.

This Ordinance shall become effective upon adoption if passed and adopted by at least four-fifths (4/5) vote of the City Council and shall extend the existing moratorium for ten (10) months and fifteen (15) days until September 23, 2015, unless extended by the City by one (1) additional year for a total duration of two (2) years in accordance with Government Code section 65858.

The foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Riverbank held on _____, 2014, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.3

SECTION 5: PUBLIC HEARINGS

Meeting Date:	October 28, 2014
Subject/ Title:	Introduction and adoption of an urgency interim ordinance creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers.
From:	Jill Anderson, City Manager
Submitted by:	Tom Hallinan, City Attorney John B. Anderson, Contract Community Development Director

RECOMMENDATION

Motion to introduce and adopt an urgency interim Ordinance No. 2014-011, creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers, as originally drafted (Attachment 1) or as modified by Planning Commission action (Attachment 2) to exclude language related to e-cigarette retailers.

SUMMARY

The proposed moratorium under this ordinance addresses the use of all types of devices that provide nicotine through the act of smoking and other related activities. The original version of the moratorium ("Original Ordinance"), which was presented to the City of Riverbank's (the "City") planning commission ("Planning Commission") extends to new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars and drug paraphernalia retailers. The revised moratorium ("Amended Ordinance") excludes e-cigarette retailers from the moratorium, pursuant to recommendations of the Planning Commission. The Amended Ordinance would temporarily prohibit new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers for an initial period of forty-five (45) days while the City further studies the matter. The Original Ordinance would also extend the prohibition to e-cigarette retailers.

A city may adopt an interim ordinance under Government Code section 65858 that prohibits any use that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or planning department is considering, studying, or intending to study within a reasonable time. For the initial adoption of the urgency

interim ordinance that establishes the forty-five (45) day moratorium on the use the City Council must comply with two (2) requirements. First, the City Council must find that the interim ordinance is required to protect the public health, safety, and welfare. Second, the ordinance must be passed by a four-fifths (4/5) majority vote of the City Council. Here, the ordinance is required to protect the public health, safety, and welfare as studies indicate that smoking hookah or e-cigarettes is just as harmful as smoking tobacco cigarettes and the dangers of smoking tobacco cigarettes are well established.

Should the City choose to extend the moratorium beyond the forty-five (45) day limit created under this proposed interim ordinance, the City Council must pass another interim ordinance. That ordinance is subject to a ten (10) day notice requirement under Government Code section 65090, and it extends the moratorium for ten (10) months and fifteen (15) days. The City may then extend the moratorium for one (1) additional year, for a moratorium that lasts a total of two (2) years. Any extension of the moratorium must be passed during the period the moratorium is in place.

BACKGROUND

A number of studies have been done regarding the health impacts of both hookah smoking and e-cigarette vapor inhalation. In 2005, the World Health Organization released an Advisory Note regarding waterpipe tobacco smoking.¹ The term waterpipe includes devices such as a hookah. The Advisory Note stated that individuals who engage in waterpipe smoking as well as individuals exposed to the secondhand smoke of hookah pipes are at risk for the same types of diseases that are caused by tobacco cigarette smoking and its secondhand smoke, including cancer, heart disease, respiratory disease, and adverse effects during pregnancy.

In addition, flavorings are often added to these devices to make the smoke or vapor taste sweet and packaging of these products is often designed in a way which could appeal to children. The activity of smoking hookah or e-cigarettes in a lounge space is for adults only, but it can affect children, depending upon where it is located. In order to protect the health, safety, and welfare of the children of the community, the businesses will need to be zoned carefully to address these impacts.

Drug paraphernalia retailers that sell merchandise associated with illicit drug use may result in high concentrations of illegal drug uses within certain areas of the City and may not be compatible with other existing and potential land uses within the City. Additionally, since e-cigarette can involve some of the same health concerns as tobacco products, it is important that the City have similar regulations for retailers selling e-cigarettes as it does for retailers selling tobacco products.

¹ World Health Organization Study Group on Tobacco Product Regulation, *Advisory Note: Waterpipe Tobacco Smoking: Health Effects, Research Needs and Recommended Actions by Regulators* (2005) <http://www.who.int/tobacco/global_interaction/tobreg/Waterpipe%20recommendation_Final.pdf> (as of: Apr. 16, 2014).

The proliferation of drug paraphernalia retailers, hookah lounges, e-cigarette lounges, e-cigarette retailers, and vapor bars may adversely affect the City's ability to attract and retain businesses and shoppers in the City. Drug paraphernalia retailers, hookah lounges, e-cigarette lounges, e-cigarette retailers, and vapor bars are often open late at night and are associated with the secondary effects of other businesses also open later such as bars and nightclubs. This impact can adversely affect infrastructure such as parking lots and landscaping which will also adversely affect the City's economic vitality.

The dangers of smoking tobacco cigarettes are well established and the secondary impacts of drug paraphernalia retailers are similar to those of hookah lounges and vapor bars.

PLANNING COMMISSION ACTION

At the regularly scheduled Planning Commission meeting of October 21, 2014, the Commission reviewed Ordinance 2014-011, creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. Three Planning Commissioners were present at this meeting: Chairperson Stewart, Commissioner Villapudua and Commissioner McKinney. With three (3) Commissioners present, any resolution needed to be passed unanimously, or a 3-0 vote.

The Planning Commission was presented with three options regarding Resolution 2014-014:

1. Motion to adopt Resolution No. 2014-014, recommending the City Council adopt interim urgency Ordinance No. 2014-011 creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers;
2. Motion to adopt Resolution No. 2014-014 as amended by the Commission, recommending the City Council adopt interim urgency Ordinance No. 2014-011 creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers;
3. Reject the Resolution No. 2014-014, not recommending the City Council adopt interim urgency Ordinance No. 2014-011 creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers.

During the public comment period, members of public spoke in opposition of certain portions of the ordinance. The following is a summary of the issues that were raised by the public:

- The public understood the need to give the City the time to understand and develop regulations for the land uses of Hookah Lounges and Drug Paraphernalia Establishments but E-Cigarette Retailers are already doing business in the City (i.e. Quick Marts, Grocery Stores, etc.) and could be considered a retail establishment. E-Cigarette Retailers should not be included in the interim urgency ordinance.
- Members of the public discussed how an E-Cigarette is water vapor and contains no nicotine like substances and instead contains plant materials. An additional comment was made by a member of the public, stating that E-vapor cigarettes are similar to some asthma treatments in hospitals.
- An E-Cigarette Retailer which has a pending application with the City spoke about the health benefits of E-Cigarettes. He stated that E-Cigarettes helped him and a member of his family quit cigarettes which contain tobacco. He also spoke about the positive impact his business would have to the community, how his business differs from other establishments which sell E-Cigarettes, and discussed how people wean off cigarettes containing tobacco with E-Cigarettes, reducing the amount of nicotine overtime.
- A member of the public discussed the reasons for an urgency ordinance, stating that the “flood gates” for these types of uses are not being open to the City and there is only one (1) business license application for an E-Cigarette Retailer, questioning the validity for the need for a moratorium. Concern was raised with the urgency the City is moving to adopt the proposed interim urgency ordinance, stating that there is no need for the City to adopt an interim urgency ordinance for these types of uses or issues; the types of uses in the interim urgency ordinance are not impacting the City negatively at present time.

During Planning Commission deliberations, the Commissioners discussed the issues presented by the public and discussed the difference between each of the proposed land uses in the moratorium: hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers.

Chairperson Stewart and Villapudua agreed with the public in that E-Cigarette retailer and E-Cigarette Lounges should be excluded from the interim urgency ordinance because E-Cigarettes contain water vapor and do not have the same harmful effects as tobacco related products such as cigarettes and hookahs. Commissioner McKinney spoke in favor of the interim urgency ordinance as it is written, stating that the City needs time to understand all of these land uses and regulate where they will be permitted, so that all new establishments can be treated equally. Discussion continued, weighting the public input as well as land use issues related to the location of these establishments.

Three separate motions were proposed during Planning Commission deliberations:

1. Commissioner Villapudua made the motion to adopt Resolution No. 2014-014 as amended by the Commission, recommending the City Council adopt interim urgency Ordinance No. 2014-011 creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. The proposed amendment excluded “E-Cigarette Lounges” and E-Cigarette Retailers” from Resolution 2014-014. Chairperson Stewart seconded the motion. The motion failed with a 2-1 vote.
2. Commissioner McKinney made the motion to adopt Resolution No. 2014-014, recommending the City Council adopt interim urgency Ordinance No. 2014-011 creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. Without a second, the motion failed.
3. Commissioner Villapudua made the motion to adopt Resolution No. 2014-14 as amended by the Commission, recommending the City Council adopt interim urgency Ordinance No. 2014-011 creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia. The proposed amendment excluded “E-Cigarette Retailers” from Planning Commission Resolution 2014-014. Chairperson Stewart seconded the motion. The motion passed with a 3-0 vote.

As discussed above, the Planning Commission ultimately chose to adopt Resolution No. 2014-014 as amended by the Commission. As adopted by the Planning Commission, Resolution No. 2014-014 recommends the City Council adopt an amended version of interim urgency Ordinance No. 2014-011 creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers, which excludes “E-Cigarette Retailers” from the moratorium.

By adopting Resolution 2014-14, the Planning Commission recommends that “E-Cigarette Retailers” be excluded from the proposed Interim urgency Ordinance No. 2014-011.

Planning Commission Resolution 2014-014, as amended by the vote of the Commissioners present at the regularly scheduled Planning Commission meeting of October 21, 2014 is attached to this Staff Report as Attachment 3.

ENVIRONMENTAL DETERMINATION

The proposed moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers is not a project within the meaning of Section 15378 of the State CEQA guidelines because it has no potential for resulting in a physical change to the environment, directly or indirectly. Therefore no CEQA analysis of the project is required.

FINANCIAL IMPACT

We are unaware of any long-term financial impact to the City which might be caused as a result of adopting the urgency ordinance. The urgency ordinances as proposed, will suspend new business license fees and sales taxes from applicants wishing to open businesses restricted by the moratorium suggested. It should be noted that the City does have an application for a pending e-cigarette business.

POSSIBLE CITY COUNCIL ACTIONS

The City Council's options regarding Interim Urgency Ordinance No. 2014-011 include:

1. Motion to adopt interim urgency Ordinance No. 2014-011 unmodified by Planning Commission recommendation, creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers, as established in **Attachment 1** of this Staff Report;
2. Motion to accept Planning Commission Resolution 2014-015 and adopt interim urgency Ordinance No. 2014-011, as amended by Planning Commission recommendation established in **Attachment 2** of this Staff Report, creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers. The amended interim urgency Ordinance No. 2014-011 excludes "E-Cigarette Retailers;" and
3. Motion to reject Planning Commission Resolution 2014-015 and reject interim urgency Ordinance No. 2014-11, not creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers.

ATTACHMENTS

1. City Council Ordinance 2014-011, unmodified by Planning Commission action
2. City Council Ordinance 2014-011, amended by Planning Commission action
3. Planning Commission Resolution 2014-014

ATTACHMENT 1

CITY OF RIVERBANK IN THE CITY COUNCIL ORDINANCE 2014-011

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK FOR A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF NEW HOOKAH LOUNGES, E-CIGARETTE LOUNGES, E-CIGARETTE RETAILERS, VAPOR BARS, AND DRUG PARAPHERNALIA RETAILERS FOR A PERIOD OF FORTY-FIVE (45) DAYS PENDING STUDY OF ZONING REGULATIONS THAT ARE NEEDED TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the City of Riverbank's ("City") Municipal Code is silent with regard to the regulation and location of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. It is necessary for the City to study the potential impact such facilities may have on the public health, safety, and welfare; and

WHEREAS, there is a threat to the public health, safety, and welfare of the community if hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers locate in the City without proper regulations in place; and

WHEREAS, hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers are typically adults-only uses in a commercial setting and may not be appropriate near uses where minors are present; and

WHEREAS, the proliferation of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality, and may promote the consumption and purchase of e-cigarettes by minors, possibly threatening the public health, safety, and welfare; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

WHEREAS, Government Code section 65858 provides for the adoption of interim ordinances for certain express purposes and by vote of four-fifth (4/5) majority of the voting City Council members; and

WHEREAS, this moratorium shall remain in effect for forty-five (45) days from the date of its adoption and may be extended, after notice and public hearing, for a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years; and

WHEREAS, California Government Code section 65858, subsection (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires to: (1) address the community concerns regarding the establishment and operation of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers; (2) study the potential impacts that hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers may have on the public health, safety, and welfare; (3) study and determine what local regulations may be appropriate or necessary for hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers; (4) study and determine the appropriate zoning and location for hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers and (5) determine appropriate controls for protection of public health and welfare.

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

Section 1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and findings of the City Council of the City.

Section 2. Moratorium Established.

After the effective date of this ordinance, the City shall prohibit the issuance of permits or licenses for all new hookah lounges, e-cigarette lounges, e-cigarette retailers,¹ vapor bars, and drug paraphernalia retailers within the boundaries of the City.

Section 3. Definitions.

1. “Drug paraphernalia” means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, or harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as further defined in Health and Safety Code section 11014.5.

2. “E-cigarette” or “electronic cigarette” shall mean an electronic or battery operated device, the use of which may resemble smoking, that can be used to deliver an inhaled dose of vapors, including nicotine or other substances. An e-cigarette includes any such device, whether manufactured, distributed, marketed, or sold as an

¹ E-Cigarette retailers was omitted in error from Section 2 of the version that was presented to Planning Commission on October 21, 2014.

electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vapor cigarette or any other product name or descriptor.

3. “E-cigarette lounge” or “vapor bar” shall mean any facility, building, structure or location, whether fixed or mobile, where customers utilize a heating element that vaporizes liquid solution that releases nicotine or flavored vapor, including the use of e-cigarettes.

4. “E-cigarette retailer” shall mean any establishment, whether fixed or mobile, that sells e-cigarettes or any products used in conjunction with e-cigarettes, include but not limited to kits, e-liquids and “juice”.

5. “Establishment” shall mean, as of the effective date of this moratorium, the opening or commencement of any such business as a new business; the conversion of an existing business to a hookah lounge, e-cigarette lounge, vapor bar, or drug paraphernalia retailer; the relocation of any such business; or the expansion, physical or otherwise, of any such business.

6. “Hookah lounge” shall means any facility, building, structure or location, whether fixed or mobile, where customers share flavored tobacco from a communal hookah, waterpipe, shisha, narghile, or other such smoking device, placed at various tables throughout the business.

6. “Drug paraphernalia retailer” shall mean any facility, building, structure or location, whether fixed or mobile, that devotes any floor space to drug paraphernalia products.

Section 4. Public Nuisance.

The establishment, maintenance, or operation of new or expanded hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, or drug paraphernalia retailers as defined herein within the City limits is a public nuisance. Violations of the Ordinance may be enforced by any applicable law, including but not limited to, injunctions, administrative citations, or criminal penalties.

Section 5. California Environmental Quality Act (“CEQA”).

Pursuant to Section 15001 of the CEQA Guidelines, this Ordinance is exempt from CEQA based on the following:

1. This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately.

2. This Ordinance is not subject to CEQA under the general rule that CEQA applies only to a project or projects which have the potential for causing a significant

effect on the environment. For the reason set forth in subparagraphs (1), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 6. Severability.

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause, or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 7. Effective Date and Duration.

This Ordinance shall become effective upon adoption if passed and adopted by at least four-fifths (4/5) vote of the City Council and shall be in effect for forty-five (45) days unless extended by the City a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years in accordance with Government Code section 65858.

The foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Riverbank held on _____, 2014, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS

ATTEST:

APPROVED

Annabelle Aguilar, CMC
City Clerk

Richard O'Brien
Mayor

ATTACHMENT 2

CITY OF RIVERBANK IN THE CITY COUNCIL ORDINANCE 2014-011

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK FOR A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF NEW HOOKAH LOUNGES, E-CIGARETTE LOUNGES, VAPOR BARS, AND DRUG PARAPHERNALIA RETAILERS FOR A PERIOD OF FORTY-FIVE (45) DAYS PENDING STUDY OF ZONING REGULATIONS THAT ARE NEEDED TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the City of Riverbank's ("City") Municipal Code is silent with regard to the regulation and location of hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers. It is necessary for the City to study the potential impact such facilities may have on the public health, safety, and welfare; and

WHEREAS, there is a threat to the public health, safety, and welfare of the community if hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers locate in the City without proper regulations in place; and

WHEREAS, hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers are typically adults-only uses in a commercial setting and may not be appropriate near uses where minors are present; and

WHEREAS, the proliferation of hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality, and may promote the consumption and purchase of e-cigarettes by minors, possibly threatening the public health, safety, and welfare; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

WHEREAS, Government Code section 65858 provides for the adoption of interim ordinances for certain express purposes and by vote of four-fifth (4/5) majority of the voting City Council members; and

WHEREAS, this moratorium shall remain in effect for forty-five (45) days from the date of its adoption and may be extended, after notice and public hearing, for a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years; and

WHEREAS, California Government Code section 65858, subsection (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires to: (1) address the community concerns regarding the establishment and operation of hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers; (2) study the potential impacts that hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers may have on the public health, safety, and welfare; (3) study and determine what local regulations may be appropriate or necessary for hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers; (4) study and determine the appropriate zoning and location for hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers and (5) determine appropriate controls for protection of public health and welfare.

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

Section 1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and findings of the City Council of the City.

Section 2. Moratorium Established.

After the effective date of this ordinance, the City shall prohibit the issuance of permits or licenses for all new hookah lounges, e-cigarette lounges, e-cigarette retailers,¹ vapor bars, and drug paraphernalia retailers within the boundaries of the City.

Section 3. Definitions.

1. "Drug paraphernalia" means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, or harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as further defined in Health and Safety Code section 11014.5.

2. "E-cigarette" or "electronic cigarette" shall mean an electronic or battery operated device, the use of which may resemble smoking, that can be used to deliver an inhaled dose of vapors, including nicotine or other substances. An e-cigarette includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vapor cigarette or any other product name or descriptor.

¹ E-Cigarette retailers was omitted in error from Section 2 of the version that was presented to Planning Commission on October 21, 2014.

3. "E-cigarette lounge" or "vapor bar" shall mean any facility, building, structure or location, whether fixed or mobile, where customers utilize a heating element that vaporizes liquid solution that releases nicotine or flavored vapor, including the use of e-cigarettes.

4. "Establishment" shall mean, as of the effective date of this moratorium, the opening or commencement of any such business as a new business; the conversion of an existing business to a hookah lounge, e-cigarette lounge, vapor bar, or drug paraphernalia retailer; the relocation of any such business; or the expansion, physical or otherwise, of any such business.

5. "Hookah lounge" shall mean any facility, building, structure or location, whether fixed or mobile, where customers share flavored tobacco from a communal hookah, waterpipe, shisha, narghile, or other such smoking device, placed at various tables throughout the business.

6. "Drug paraphernalia retailer" shall mean any facility, building, structure or location, whether fixed or mobile, that devotes any floor space to drug paraphernalia products.

Section 4. Public Nuisance.

The establishment, maintenance, or operation of new or expanded hookah lounges, e-cigarette lounges, vapor bars, or drug paraphernalia retailers as defined herein within the City limits is a public nuisance. Violations of the Ordinance may be enforced by any applicable law, including but not limited to, injunctions, administrative citations, or criminal penalties.

Section 5. California Environmental Quality Act ("CEQA").

Pursuant to Section 15001 of the CEQA Guidelines, this Ordinance is exempt from CEQA based on the following:

1. This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately.

2. This Ordinance is not subject to CEQA under the general rule that CEQA applies only to a project or projects which have the potential for causing a significant effect on the environment. For the reason set forth in subparagraphs (1), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 6. Severability.

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause, or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 7. Effective Date and Duration.

This Ordinance shall become effective upon adoption if passed and adopted by at least four-fifths (4/5) vote of the City Council and shall be in effect for forty-five (45) days unless extended by the City a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years in accordance with Government Code section 65858.

The foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Riverbank held on _____, 2014, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS

ATTEST:

APPROVED

Annabelle Aguilar, CMC
City Clerk

Richard O'Brien
Mayor

**CITY OF RIVERBANK
RESOLUTION 2014-014
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK**

WHEREAS, the City's Municipal Code is silent with regard to the regulation and location of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. It is necessary for the City to study the potential impact such facilities may have on the public health, safety, and welfare; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Riverbank hereby recommends City Council approval of Ordinance No. 2014-011, as amended by Planning Commission vote on October 21, 2014, establishing a moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers for a period of forty-five (45) days, which is attached hereto as **Exhibit A** and incorporated herein by this reference, based on the following findings:

- a. There is a threat to the public health, safety, and welfare of the community if hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers locate in the City without proper regulations in place; and
- b. Hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers are typically adults-only uses in a commercial setting and may not be appropriate near uses where minors are present; and
- c. The proliferation of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality, and may promote the consumption and purchase of e-cigarettes by minors, possibly threatening the public health, safety, and welfare.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 21st day of October, 2014; motioned by Commissioner Villapudua, seconded by Chair Stewart, and upon roll call was carried by the following vote of 3-0:

AYES: Chair Stewart, Commission Villapudua and Commission McKinney

NAYS: None

ABSENT: Commissioner Degele and Commissioner Hughes

ABSTAIN: None

ATTEST:



John B. Anderson
Contract Community Development Director

APPROVED:

Joan Stewart
Planning Commission Chair

Attachments:
Exhibit A: City Council Ordinance 2014-011

Exhibit A

EXHIBIT A

CITY OF RIVERBANK
IN THE CITY COUNCIL
ORDINANCE 2014-011

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK FOR A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF NEW HOOKAH LOUNGES, E-CIGARETTE LOUNGES, ~~E-CIGARETTE RETAILERS~~, VAPOR BARS, AND DRUG PARAPHERNALIA RETAILERS FOR A PERIOD OF FORTY-FIVE (45) DAYS PENDING STUDY OF ZONING REGULATIONS THAT ARE NEEDED TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the City of Riverbank's ("City") Municipal Code is silent with regard to the regulation and location of hookah lounges, e-cigarette lounges, ~~e-cigarette-retailers~~, vapor bars, and drug paraphernalia retailers. It is necessary for the City to study the potential impact such facilities may have on the public health, safety, and welfare; and

WHEREAS, there is a threat to the public health, safety, and welfare of the community if hookah lounges, e-cigarette lounges, ~~e-cigarette-retailers~~, vapor bars, and drug paraphernalia retailers locate in the City without proper regulations in place; and

WHEREAS, hookah lounges, e-cigarette lounges, ~~e-cigarette-retailers~~, vapor bars, and drug paraphernalia retailers are typically adults-only uses in a commercial setting and may not be appropriate near uses where minors are present; and

WHEREAS, the proliferation of hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, vapor bars, and drug paraphernalia retailers may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality, and may promote the consumption and purchase of e-cigarettes by minors, possibly threatening the public health, safety, and welfare; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, vapor bars, and drug paraphernalia retailers. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

WHEREAS, Government Code section 65858 provides for the adoption of interim ordinances for certain express purposes and by vote of four-fifth (4/5) majority of the voting City Council members; and

WHEREAS, this moratorium shall remain in effect for forty-five (45) days from the date of its adoption and may be extended, after notice and public hearing, for a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years; and

WHEREAS, California Government Code section 65858, subsection (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires to: (1) address the community concerns regarding the establishment and operation of hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, vapor bars, and drug paraphernalia retailers; (2) study the potential impacts that hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, vapor bars, and drug paraphernalia retailers may have on the public health, safety, and welfare; (3) study and determine what local regulations may be appropriate or necessary for hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, vapor bars, and drug paraphernalia retailers; (4) study and determine the appropriate zoning and location for hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, vapor bars, and drug paraphernalia retailers and (5) determine appropriate controls for protection of public health and welfare.

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

Section 1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and findings of the City Council of the City.

Section 2. Moratorium Established.

After the effective date of this ordinance, the City shall prohibit the issuance of permits or licenses for all new hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, ¹vapor bars, and drug paraphernalia retailers within the boundaries of the City.

Section 3. Definitions.

1. "Drug paraphernalia" means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, or harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as further defined in Health and Safety Code section 11014.5.

2. "E-cigarette" or "electronic cigarette" shall mean an electronic or battery operated device, the use of which may resemble smoking, that can be used to deliver an inhaled dose of vapors, including nicotine or other substances. An e-cigarette includes any such device, whether manufactured, distributed, marketed, or sold as an

¹ E-Cigarette retailers was omitted in error from Section 2 of the version that was presented to Planning Commission on October 21, 2014.

electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vapor cigarette or any other product name or descriptor.

3. "E-cigarette lounge" or "vapor bar" shall mean any facility, building, structure or location, whether fixed or mobile, where customers utilize a heating element that vaporizes liquid solution that releases nicotine or flavored vapor, including the use of e-cigarettes.

~~4. "E-cigarette retailer" shall mean any establishment, whether fixed or mobile, that sells e-cigarettes or any products used in conjunction with e-cigarettes, include but not limited to kits, e-liquids and "juice".~~

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45. "Establishment" shall mean, as of the effective date of this moratorium, the opening or commencement of any such business as a new business; the conversion of an existing business to a hookah lounge, e-cigarette lounge, vapor bar, or drug paraphernalia retailer; the relocation of any such business; or the expansion, physical or otherwise, of any such business.

56. "Hookah lounge" shall means any facility, building, structure or location, whether fixed or mobile, where customers share flavored tobacco from a communal hookah, waterpipe, shisha, narghile, or other such smoking device, placed at various tables throughout the business.

66. "Drug paraphernalia retailer" shall mean any facility, building, structure or location, whether fixed or mobile, that devotes any floor space to drug paraphernalia products.

Section 4. Public Nuisance.

The establishment, maintenance, or operation of new or expanded hookah lounges, e-cigarette lounges, ~~e-cigarette retailers~~, vapor bars, or drug paraphernalia retailers as defined herein within the City limits is a public nuisance. Violations of the Ordinance may be enforced by any applicable law, including but not limited to, injunctions, administrative citations, or criminal penalties.

Section 5. California Environmental Quality Act ("CEQA").

Pursuant to Section 15001 of the CEQA Guidelines, this Ordinance is exempt from CEQA based on the following:

1. This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately.

2. This Ordinance is not subject to CEQA under the general rule that CEQA applies only to a project or projects which have the potential for causing a significant

effect on the environment. For the reason set forth in subparagraphs (1), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 6. Severability.

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause, or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 7. Effective Date and Duration.

This Ordinance shall become effective upon adoption if passed and adopted by at least four-fifths (4/5) vote of the City Council and shall be in effect for forty-five (45) days unless extended by the City a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years in accordance with Government Code section 65858.

The foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Riverbank held on _____, 2014, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS

ATTEST:

APPROVED

Annabelle Aguilar, CMC
City Clerk

Richard O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.4

SECTION 5: PUBLIC HEARINGS

Meeting Date:	October 28, 2014
Subject/ Title:	Introduction and adoption of an urgency interim ordinance creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices.
From:	Jill Anderson, City Manager
Submitted by:	Tom Hallinan, City Attorney John B. Anderson, Contract Community Development Director

RECOMMENDATION

It is recommended that Council introduce and adopt an urgency interim ordinance No. 2014-012 creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices.

SUMMARY

The City of Riverbank's (the "City") Municipal Code currently regulates bingo, but the computer stations at internet access businesses using simulated gambling devices are used in a different manner than conventional video game machines and other related video game equipment. Individuals generally pay a charge and then may occupy a station for multiple consecutive hours, which often results in long lines outside these businesses. The lines outside, if unmitigated, can create safety issues by blocking public right of ways and other unknown impacts on the surrounding area and businesses.

The ordinance that creates the moratorium is specifically tailored to businesses that provide a sweepstakes promotion that depends on Vegas style gambling interfaces on the computers that provide internet access as an incentive for individuals to visit the business. The proposed moratorium will have no effect on regular internet café businesses that simply provide internet access to individuals even when the business charges for such services. Essentially, this moratorium targets a very specific business that has arisen as an attempt to offer gambling opportunities without complying with state gambling laws.

A city may adopt an interim ordinance under Government Code section 65858 that prohibits any use that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or planning department is considering, studying, or intending to study within a reasonable time. For the initial adoption of the urgency interim ordinance that establishes the forty-five (45) day moratorium on the use the City Council must comply with two (2) requirements. First, the City Council must find that the interim ordinance is required to protect the public health, safety, and welfare. Second, the ordinance must be passed by a four-fifths (4/5) majority vote of the City Council. Here, the ordinance is required to protect the public health, safety, and welfare as internet access businesses using simulated gambling devices may be engaged in an illegal activity and have detrimental secondary effects.

Should the City choose to extend the moratorium beyond the forty-five (45) day limit created under this proposed interim ordinance, the City Council must pass another interim ordinance. That ordinance is subject to a ten (10) day notice requirement under Government Code section 65090, and it extends the moratorium for ten (10) months and fifteen (15) days. The City may then extend the moratorium for one (1) additional year, for a moratorium that last a total of two (2) years. Any extension of the moratorium must be passed during the period the moratorium is in place.

BACKGROUND

The current provisions of the City's Municipal Code fail to thoroughly address the impacts related to the location and manner of development, establishment, and operation of internet access businesses using simulated gambling devices in relation to public health, safety, and welfare concerns, including, but not limited to, the impacts these businesses may have on parking, surrounding uses, and the community. In addition, students and minors are often targeted with advertising for the internet access businesses using simulated gambling devices which may encourage the assembly of significant numbers of unsupervised minors. This can result in truancy problems where minors avoid attending school by patronizing the internet access businesses using simulated gambling devices.

According to the California Bureau of Gambling Control, the operation of internet access businesses using simulated gambling devices that sell internet time or phone cards in conjunction with a promotional sweepstakes are illegal online gambling operations. Gambling is prohibited in California by state law, except for in card club establishments and on Indian or tribal property.¹ Therefore, many of these businesses are engaged in illegal activities where they sell internet time or phone cards with a promotional sweepstakes program.

¹ Cal. Bureau of Gambling Control, Law Enforcement Advisory: Internet Cafes (December 5, 2012) <https://oag.ca.gov/sites/all/files/agweb/pdfs/gambling/internet_cafes.pdf> (as of: Apr. 16, 2014).

The promotional sweepstakes operations provide a chance to win cash or prizes through the betting of purchased or won sweepstakes game entries. These games frequently have the appearance of casino-style games of chance, such as slot machines, and to the extent that these promotional sweepstakes games are not illegal under state law, the City's zoning ordinance and Municipal Code do not specifically regulate them. The City must review its Municipal Code and zoning ordinance to address the impacts to the public safety, health, and welfare for these sweepstakes to the extent they are legal.

ENVIRONMENTAL DETERMINATION

The proposed moratorium on the establishment and operation of new internet access businesses using simulated gambling devices is not a project within the meaning of Section 15378 of the state CEQA guidelines because it has no potential for resulting in a physical change to the environment, directly or ultimately. Therefore no CEQA analysis of the project is required.

PLANNING COMMISSION ACTION

On October 21, 2014, the Planning Commission held a public hearing to consider the interim urgency ordinance creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices. Three Planning Commissioners were present at this meeting: Chairperson Stewart, Commissioner Villapudua and Commissioner McKinney. With three (3) Commissioners present, any motion presented will need to be passed unanimously, or a 3-0 vote.

The Planning Commission was presented with three options regarding Resolution 2014-015:

1. Motion to adopt Resolution No. 2014-015, recommending the City Council adopt interim urgency Ordinance No. 2014-012 creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices;
2. Motion to adopt Resolution No. 2014-015 as amended by the Commission, recommending the City Council adopt interim urgency Ordinance No. 2014-012 creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices;
3. Reject Resolution No. 2014-015, not recommending the City Council adopt interim urgency Ordinance No. 2014-012 creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices.

During their deliberation, the Planning Commissioners raised some questions regarding the differences between Internet Cafes and internet access businesses using simulated gambling devices. The interim urgency Ordinance will have no effect on regular internet café businesses that simply provide internet access to individuals even when the business charges for such services. The distinction is the use of simulated gambling devices, as part of the internet access provided at these establishments.

During the public comment period, no one from the public spoke on the matter.

Commissioner Villapudua made the motion to adopt Resolution No. 2014-015, recommending the City Council of the City of Riverbank adopt interim urgency Ordinance No. 2014-012 creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices. Chairperson Stewart seconded the motion.

With a unanimous vote, the Planning Commission adopted Resolution No. 2014-015, recommending the City Council of the City of Riverbank adopt interim urgency Ordinance No. 2014-012 creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices.

FINANCIAL IMPACT

There is no direct cost in adopting the interim ordinance. However, the City will not receive new business license fees from applicants wishing to open new internet access businesses using simulated gambling devices. Also, prohibiting new businesses can inhibit the growth of the City's tax base, but only temporarily while the City develops a strategy for incorporating these businesses into the City.

ATTACHMENTS

1. City Council Ordinance 2014-012
2. Planning Commission Resolution 2014-015

EXHIBIT A

CITY OF RIVERBANK IN THE CITY COUNCIL ORDINANCE 2014-XX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK FOR A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF NEW INTERNET ACCESS BUSINESSES USING SIMULATED GAMBLING DEVICES FOR A PERIOD OF 45 DAYS PENDING STUDY OF ZONING REGULATIONS THAT ARE NEEDED TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the City of Riverbank ("City") is aware of an increase in development, establishment, and operation of internet access businesses using simulated gambling devices throughout California, including in several cities near the City itself; and

WHEREAS, the provisions of the City's Municipal Code that may regulate the development, establishment, and operation of the internet access businesses using simulated gambling devices in the City are inadequate and need review, study, and revision. The current provisions also fail to thoroughly address the impacts related to the location and manner of development, establishment, and operation of internet access businesses using simulated gambling devices in relation to public health, safety, and welfare concerns, including, but not limited to, the impacts these businesses may have on parking, surrounding uses, and the community; and

WHEREAS, the internet access businesses using simulated gambling devices often appeal to students and minors within the local community, thereby potentially encouraging the assembly of significant numbers of unsupervised minors; and

WHEREAS, the City's Municipal Code regulates bingo, but the computer stations at internet access businesses using simulated gambling devices are used in a different manner than bingo parlors or other video games amusement establishments, resulting in different impacts and escaping from existing regulations due to a technicality. Individuals generally pay a charge and then may occupy a station for multiple consecutive hours which often results in long lines outside these businesses. This creates unknown secondary impacts on the surrounding area and businesses; and

WHEREAS, gambling is prohibited in California by state law, except in card club establishments and on Indian or tribal properties. The California Bureau of Gambling Control has determined that internet access businesses using simulated gambling devices that sell internet time or phone cards in conjunction with a promotional sweepstakes are illegal online gambling operations; and

WHEREAS, the promotional sweepstakes that are illegal online gambling operations which are sometimes offered at internet access businesses using simulated gambling devices provide the chance to win cash or prizes through the betting of purchased or won sweepstakes game entries. These games can have the appearance of casino-style games of chance, such as slot machines, and to the extent that these promotional sweepstakes games are not illegal under state law, the City's zoning ordinance and Municipal Code do not specifically regulate them; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding internet access businesses using simulated gambling devices. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

WHEREAS, Government Code section 65858 provides for the adoption of interim ordinances for certain express purposes and by vote of four-fifth (4/5) majority of the voting City Council members; and

WHEREAS, this moratorium shall remain in effect for forty-five (45) days from the date of its adoption and may be extended, after notice and public hearing, for a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years; and

WHEREAS, California Government Code section 65858, subsection (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires to (1) address the community concerns regarding the establishment and operation of internet access businesses using simulated gambling devices, (2) study the potential impacts that internet access businesses using simulated gambling devices may have on the public health, safety, and welfare, (3) study and determine what local regulations may be appropriate or necessary for internet access businesses using simulated gambling devices, (4) study and determine the appropriate zoning and location for internet access businesses using simulated gambling devices, and (5) determine appropriate controls for protection of public health and welfare.

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

Section 1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and findings of the City Council of the City.

Section 2. Moratorium Established.

After the effective date of this ordinance, the City shall prohibit the issuance of permits or licenses for all new internet access businesses using simulated gambling devices within the boundaries of the City.

Section 3. Definition.

1. Internet access businesses using simulated gambling devices defined.

"Internet access businesses using simulated gambling devices" shall mean an establishment that meets all of the following requirements:

a. The establishment provides four (4) or more computers or other electronic devices for access to the world wide web, internet, email, video games, or computer software programs which operate alone or are networked (via LAN, WAN, or otherwise) or which function as a client or server program;

b. The establishment seeks compensation, in any form, from users;

c. The establishment offers users a contest or game of skill, entertainment, amusement, or chance, whether or not registering a score; and

d. The establishment offers users a chance to win anything of value, any cash payout or anything that could be redeemed, directly or indirectly, for any cash payout.

2. Bingo excepted.

Nothing herein shall be construed to prohibit issuance of a license to conduct bingo games under Chapter 112 of the Riverbank Municipal Code.

Section 4. Restricted Activities.

For the period of forty-five (45) days, commencing on the date of the adoption of this interim ordinance, or until such time as this ordinance may expire subject to any extension of this ordinance that the City Council may adopt and approve pursuant to Government Code section 65868, no use permit, variance, building permit, business license, or any other permit or entitlement for use shall be approved of or issued for the commencement, establishment, operation, relocation or expansion of any internet access businesses using simulated gambling devices as that phrase is defined herein, and no other person or entity shall commence, establish, operate, relocate or expand any internet access businesses using simulated gambling devices, or

participate as an employee, contractor, agent, volunteer, or in any other manner or capacity, in any internet access businesses using simulated gambling devices, upon any property in any zoning district in the City during the period this ordinance is in effect.

Section 5. Applicability.

The ordinance will not affect any existing or proposed internet cafes, business centers, or copy shops that do not offer customers gaming on simulated gambling devices. Notwithstanding the foregoing, the City may take such enforcement action as is appropriate against such businesses to abate a public nuisance or if it is determined that the operation of the business is illegal. Additionally, this Ordinance will not affect exiting internet access businesses using simulated gambling devices that have already been issued a business license by the City before October 21, 2014, provided there are any.

Section 6. Public Nuisance.

The establishment, maintenance, or operation of internet access businesses using simulated gambling devices as defined herein within the City limits is a public nuisance. Violations of the Ordinance may be enforced by any applicable law, including but not limited to, injunctions, administrative citations, or criminal penalties.

Section 7. California Environmental Quality Act ("CEQA").

Pursuant to Section 15001 of the CEQA Guidelines, the Ordinance is exempt from CEQA based on the following:

1. This Ordinance is not a project within the meaning of Section 15378 of the state CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately.

2. This Ordinance is not subject to CEQA under the general rule that CEQA applies only to a project or projects which have the potential for causing a significant effect on the environment. For the reason set forth in subparagraph (1), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 8. Severability.

If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance which can be implemented without the invalid provision, clause, or application; and to this end, the provisions of this Ordinance are declared to be severable.

Section 9. Effective Date and Duration.

This Ordinance shall become effective upon adoption if passed and adopted by at least four-fifths (4/5) vote of the City Council and shall be in effect for forty-five (45) days unless extended by the City a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years in accordance with Government Code section 65858

The foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Riverbank held on _____, 2014, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS

ATTEST:

APPROVED

Annabelle Aguilar, CMC
City Clerk

Richard O'Brien
Mayor

**CITY OF RIVERBANK
RESOLUTION 2014-015**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK

WHEREAS, the City of Riverbank ("City") is aware of an increase in development, establishment, and operation of internet access businesses using simulated gambling devices throughout California; and

WHEREAS, the provisions of the City's Municipal Code that may regulate the development, establishment, and operation of the internet access businesses using simulated gambling devices in the City are inadequate and need review, study, and revision. The current provisions also fail to thoroughly address the impacts related to the location and manner of development, establishment, and operation of internet access businesses using simulated gambling devices in relation to public health, safety, and welfare concerns, including, but not limited to, the impacts these businesses may have on parking, surrounding uses, and the community; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding internet access businesses using simulated gambling devices. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Riverbank hereby recommends City Council approval of Ordinance No. XXXX establishing a moratorium on the establishment and operation of new internet access businesses using simulated gambling devices for a period of forty-five (45) days, which is attached hereto as **Exhibit A** and incorporated herein by this reference, based on the following findings:

- a. There is a potential threat to the public health, safety, and welfare of the community if internet access businesses using simulated gambling devices locate in the City without proper regulations in place; and
- b. The internet access businesses using simulated gambling devices can appeal to students and minors within the local community, thereby potentially encouraging the assembly of significant numbers of unsupervised minors; and

- c. The City's Municipal Code regulates bingo, but the computer stations at internet access businesses using simulated gambling devices are used in a different manner than conventional video game machines, resulting in different impacts and escaping from existing regulations due to a technicality. Individuals generally pay a charge and then may occupy a station for multiple consecutive hours which can result in long lines outside these businesses. This creates unknown secondary impacts on the surrounding area and businesses; and
- d. Gambling is prohibited in California by state law, except in card club establishments and on Indian or tribal properties. The California Bureau of Gambling Control has determined that internet access businesses using simulated gambling devices that sell internet time or phone cards in conjunction with a promotional sweepstakes are illegal online gambling operations; and
- e. The promotional sweepstakes that are illegal online gambling operations which can be offered at internet access businesses using simulated gambling devices, provide the chance to win cash or prizes through the betting of purchased or won sweepstakes game entries. These games can have the appearance of casino-style games of chance, such as slot machines, and to the extent that these promotional sweepstakes games are not illegal under state law, the City's zoning ordinance and Municipal Code do not specifically regulate them.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 21st day of October, 2014; motioned by Commissioner Villapudua, seconded by Commissioner McKinney, and upon roll call was carried by the following vote of 3-0:

AYES: Chair Stewart, Commissioner Villapudua and Commissioner McKinney

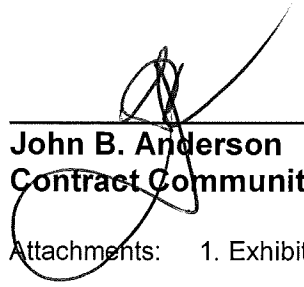
NAYS: None

ABSENT: Commissioner Degele and Commissioner Hughes

ABSTAIN: None

ATTEST:

APPROVED:



John B. Anderson
Contract Community Development Director



Joan Stewart
Planning Commission Chair

Attachments: 1. Exhibit A: Ordinance 2014-XXX

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.5

SECTION 5: PUBLIC HEARINGS

Meeting Date:	October 28 th , 2014
Subject/ Title:	Expenditure of Supplemental Law Enforcement Services Fund
From:	Jill Anderson, City Manager
Submitted by:	Chief Kiely, Riverbank Police Services

RECOMMENDATION

It is recommended that the City Council approve the expenditure of the fiscal year 2014-2015 Supplemental Law Enforcement Services Fund (SLESF) to off-set the cost of a sworn Deputy Sheriff position as described in this agenda item.

SUMMARY

Riverbank Police Services has started the current fiscal year with an SLESF fund balance of \$37,302.32. This fiscal year the City will receive \$99,938.60 in additional SLESF revenue for a total of \$137,240.92 available to be expended. It is my recommendation that the City Council authorize the expenditure of these funds totaling \$137,240.92 to offset the cost of one of our sworn Deputy Sheriff positions (salary and benefits) which is \$133,547.

Legislation requires that City Council hold a public hearing on the Police Chief's request for the expenditure of the funds and act upon his request, and that the hearing be held "separate and apart from the process applicable to the proposed allocations of the City general fund." This is the time set for the public hearing.

BACKGROUND

The Supplemental Law Enforcement Services Fund (SLESF) is a grant the state awards to all Police and Sheriff's Departments. These funds are generated from statewide sales and use tax and distributed by the State Controller. The minimum amount awarded to a jurisdiction is approximately \$100,000, which is the amount we receive. The legislature's condition on the expenditure of the funds is that the jurisdictions "shall appropriate the moneys exclusively to fund front line municipal police services, in accordance with written requests submitted by the Chief of Police."

FINANCIAL IMPACT

\$100,000 of additional state grant funds will be placed into the SLESF Account # 101-000.000-501.001, and the recommended expenditure for the 2014-2015 fiscal year of \$133,547.

ATTACHMENT

1. Fiscal Year 2013-2014 expenditure report.

**STANISLAUS COUNTY
SUPPLEMENTAL LAW ENFORCEMENT
OVERSIGHT COMMITTEE**

Request for Annual Reconciliation
for S.L.E.S.F. (COPS) Fund

To be completed by City/County Agency

Organization: City of Riverbank

Preparer's Name: Marisela H. Garcia

Preparer's Telephone No.: (209) 863-7110

Date Prepared: 10/09/2014

For Mo/Yr Ending: 06/2014

Total Revenue Received: \$99,938.60

Date of Hearing for 2014/2015 fiscal year plan: 10/28/2014

Please complete and attach:

- Expenditure detail
- Agency worksheet

Certifications

The preparer certifies that the above information is true and correct. All funds have been used to supplement all other funding, have not supplanted any other funding, and have been expended in compliance with AB1913. Unspent allotments have been identified as SLESF funds and set aside for purposed outlined in AB1913.



Director of Finance

10/09/2014

(Name)

(Title)

(Date)

Please remit to:

Stanislaus County Sheriff's Department
c/o Seth Rogers, Finance
250 East Hackett Road
Modesto, CA 95353

Fax: (209) 525-7030

Stanislaus
County

Supplemental law Enforcement Standardized Forms
Oversight Committee Summary
For the Fiscal Year Ended June 30, 2014

Categories	Riverbank
Beginning Fund Balance	\$57,704.72
Prior Year Adjustment	
Prior Year Encumbrance Reversals	
Restated Beginning Fund Balance	\$57,704.72
REVENUES	
State Funding	\$99,938.60
Interest Revenue	\$0.00
Interest Revenue - 07/2005 - 06/2011	\$0.00
Total Revenue	\$99,938.60
EXPENDITURES	
Salaries and Benefits	\$120,341.00
Services and Supplies	
Equipment	
Administrative Overhead	
Total Expenditure	\$120,341.00
Reverted Moneys	\$0.00
ENCUMBRANCES	
<u>Current Year</u>	
Services and Supplies	
Equipment	
Total Encumbrances, Current Year	\$0.00
Net Change in Fund Balance	(\$20,402.40)
Ending Fund Balance	\$37,302.32
STATISTICAL DATA	
<u>Positions</u>	
Sworn Officers	1.00
Correctional Officers	0.00
Prosecutors	0.00
Investigators	0.00
Support Staff	0.00
Total Positions	1.00

Supplemental Law Enforcement Services

AGENCY

NAME: CITY OF RIVERBANK

Expenditure Detail

		AMOUNT EXPENDED 2013 - 2014
<u>SALARIES & BENEFITS</u>		
STAFF		
Number (FTE paid by these funds)	Job Class	
1	Deputy Sheriff	\$120,341
Extra Help Hours		
Overtime Hours		
Grant match (SLESF funds used for match)		
Sub-total Salaries		\$ 120,341
<u>SERVICES & SUPPLIES</u>		
Services or supplies purchases		
Training expense		
Other		
Sub-total Services & Supplies		0
<u>EQUIPMENT</u>		
Vehicles		
Other equipment (specify type)		
Sub-total equipment		0
TOTAL EXPENSE		\$ 120,341

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	October 28, 2014
Subject:	Consider Petition from Silgan Containers Manufacturing to Waive Water, Wastewater, and Storm Drain System Development Fees
From:	Jill Anderson, City Manager
Submitted by:	Marisela H. Garcia, Director of Finance John B. Anderson, Contract Community Development Director

RECOMMENDATION

It is recommended that the City Council consider the petition from Silgan Containers Manufacturing to waive the Water, Wastewater, and Storm Drain System Development Fees assessed on the construction of a 19,800 sq. ft. detached metal warehouse building which includes a fire sprinkler system, and consider approval of a waiver of the fees related to Wastewater and the Storm Drain System.

SUMMARY

On October 6, 2014 Silgan Containers provided a written protest to the payment of the Water, Wastewater, and Storm Drain System Development Fees which was assessed on the construction of their 19,800 sq. ft. detached metal building which includes a fire sprinkler system. There is currently no administrative process to consider these requests at a staff level and therefore the protest has been brought forward to the City Council for consideration.

BACKGROUND

On May 30, 2014 the City received a building permit application from Silgan Containers Manufacturing Corporation for the construction of a 19,800 sq. ft. detached metal building to be used solely as a warehouse/storage space. Building Code regulations require that this building be equipped with a fire sprinkler system which requires access to the City's water system. This project, being classified as an expansion and/or addition to an existing nonresidential structure, was assessed the following System Development Fees:

Fee Type	Amount
Streets/Public Works	\$66,587.40
Water	\$15,236.10
Waste Water	\$11,474.10
Storm Drain	\$18,998.10
Police/General Government	\$34,798.50
Total System Development Fees	\$147,094.20

On October 6, 2014 Mr. Reggie Katzakian, representative for Silgan Containers Manufacturing Corporation submitted a request to consider the waiver of the Storm Drain, Wastewater, and Water System Development Fees, as seen in Exhibit A. Silgan Containers paid these fees under protest (Exhibit B) in order to proceed with the construction of the storage building as scheduled. Silgan Container is requesting the waiver of these three fees using the following assumptions:

- 1) **Wastewater:** No restrooms will be included in the building.
- 2) **Water:** No new hose bibs will be extended to the building for water usage.
- 3) **Storm Drain:** Silgan is required to maintain all storm runoff from the building into a new storm drainage pond to be built onsite.

SYSTEM DEVELOPMENT FEES

The City currently collects System Development Fees to defray the impact of new development as authorized by Government Code §66000-66025. The City's System Development Fee program is codified in §150.30 titled "System Development Fees" which establishes the authority for imposing and charging the fees. System Development fees are collected in order to:

- 1) To provide an adequate and constant method for the financing of the unfunded portion of need systems development costs throughout the city, reasonably related to projected community growth.
- 2) To promote the orderly and efficient expansion of public improvements to adequately meet the domestic and economic needs of the community and to minimize adverse fiscal and environmental impacts of new development.
- 3) To ensure the continuation of necessary services including, but not limited to, police and general administrative services.
- 4) To establish equitable methods for minimizing public facility and service costs to the city associated with new development.

As defined within our municipal code, System Development Fees are ***charged to new construction, including the expansion of and/or the addition to an existing, nonresidential structure, to mitigate the unfunded portion of the determined impact of the development.***

ANALYSIS

The City Manager, Contract Community Development Director, and Director of Finance analyzed the request received from Silgan Containers. An evaluation of the potential impacts of this project were considered and the following determinations were made:

- 1) Waste Water – The project will have no impact on the City's sewer collection or waste water treatment system. As proposed the warehouse expansion will not include restroom facilities and will not increase the number of employees reporting to the operation. Additionally, there will be no installation of new sewer lines which might connect to our system. Staff has therefore determined the proposed addition will not create additional burdens on the City Sewer System thereby creating no impact. In this regard, staff cannot justify collecting sewer impact fees for the building project as proposed and based on the circumstances represented.
- 2) Storm Drain – A condition of the project requires that the applicant maintain all storm water runoff from the proposed warehouse building on site through the construction of a storm drainage pond. This storm drainage pond will be designed to meet City standards including complying with Low Impact Development standards and the new State MS4 requirements. The project proponent will be required to maintain and monitor this new storm drainage system and the system will not rely on any connection to public storm drainage. The applicant has sufficient space on the existing site to manage an expansion of the storm drainage basin in the event of system failure. In this regard, staff cannot justify collecting a storm impact fees for the building as proposed and based on the circumstances represented.
- 3) Water - Due to the installation of a fire suppression (sprinkler) system the applicant will be required to have access to adequate fire flow and a consistent public water supply. The proposed warehouse structure will rely on the City's Master Water System and therefore will have an impact on these services. Staff does not support a waiver of the City's current water system fee as proposed by the applicant.

SILGAN CONTAINERS FEE WAIVER DETERMINATION

Based on the analysis performed, staff has determined that a waiver of the Waste Water and Storm Drain System Development Fees might be appropriate for the City Council to consider. There is not sufficient evidence to support the waiver of the Water System Development Fee. Therefore, the City Council is being asked to take action on the Silgan request as a policy of the Council, based on the specific facts represented in the applicant's request.

FUTURE CONSIDERATION

The City is currently undergoing an update of the 2005 System Development Fees (SDF). The City's SDF program does not provide an administrative procedure to consider waiver of fees and/or negotiations for fee reductions at any level including administrative and/or City Council. The City Council can consider adding an administrative procedure in order to facilitate job growth and economic considerations to the SDF process.

FINANCIAL IMPACT

The System Development Fee program is designed as a mechanism to collect impact fees to build infrastructure necessary to support new Growth City wide. Careful evaluation of each proposed project is necessary to ensure we understand potential funding shortfalls which might be created as a result of granting such fee requests. In the Silgan case presented above, staff is confident that we can represent that the fee waiver will not result in a funding shortfall in the sewer and storm drainage fee accounts because the project will not have a demand for Public Sewer and Storm Drainage services.

STRATEGIC PLAN

While this item is not related to the City of Riverbank's Strategic Plan, the evaluation of the fee waiver request has been done in the spirit of the City's mission, which is to provide exceptional municipal services in a fiscally sound and professionally responsible manner for our community. The City's Strategic Plan can be found at www.riverbank.org.

ATTACHMENTS

1. Exhibit A: Silgan Container Fee Waiver Request
2. Exhibit B: Silgan Container Payment of Fees under Protest



October 6, 2014

Ms. Janet Smallen
Sr. Community Development Specialist
City of Riverbank, Riverbank, CA

Janet,

In a review of the fees for the Silgan Container new building, attached I see fees for storm drain, waste water and water. As you are aware, a condition of this permit requires Silgan to maintain all storm runoff from the building in a new storm drainage pond to be built.

This building is designed for storage of cans built that are now shipped out every day, so no additional employees will be added. Therefore no new bathrooms are required by permit, so no new waste water will be created. There are also no new hose bibs to be extended to this building for water usage.

So this is a formal request that these fees be waived for this permit. I am ready to bring in the balance of fees to have this permit issued as soon as I get your response. The fire and school fees have been paid. I look forward to your response. Should you have any additional needs, please feel free to call on me.

Sincerely



Reggie Katzakian

EXHIBIT B

October 16, 2014

RE: Building Permit #BP14-0180

This letter is to document the protest of the System Development Fees assessed to Silgan Containers Manufacturing on Building Permit #14-0180. On October 16, 2014 Silgan Containers paid, under protest, the following fees System Development Fees:

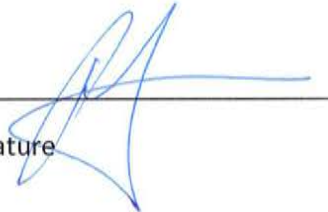
1. Water: \$15,236.10
2. Waste Water: \$11,474.10
3. Storm Drain: \$18,998.10

Silgan Containers respectfully requests that the City Council approve the waiver of these fees that have been paid under protest and provide reimbursement to Silgan Containers Manufacturing.

REGGIE KATZAKIS

Print Name

Signature



RIVERBANK CITY COUNCIL AGENDA ITEM NO. 10.1

SECTION 10: INFORMATIONAL ITEM

Meeting Date:	October 28, 2014
Subject/ Title:	Warrant Register for 10/09/2014 and 10/16/2014.
From:	Jill Anderson, City Manager
Submitted by:	Marisela H. Garcia, Director of Finance/City Treasurer

RECOMMENDATION:

It is recommended that the City Council review as an informational item the warrant registers for 10/09/2014 and 10/16/2014

SUMMARY:

The warrant register presented to the City Council is a listing of all expenditures paid. Major expenditures presented on the warrant register include the following:

10/09/2014 Warrant

Check No.	Vendor & Description	Funding Source	Amount
43605	A&L Products, Inc.: Tent Rental for Cheese & Wine	Cheese & Wine (163)	\$2,086.85
43613	Bartle Wells Associates: Water & Sewer Rate Study	Water/Sewer Funds	\$6,237.11
43629	Garrett Thompson: Silva Park Phase 2	Crossroads L&L/Parks SDF	\$51,227.00
43670	State Water Resources Control Board: SRF Loan Payment for 2001 WWTP Expansion	Sewer Fund (106)	\$65,563.11

10/16/2014 Warrant

Check No.	Vendor & Description	Funding Source	Amount
43681	A-List Security: Event and Overnight Security for Cheese & Wine	Cheese & Wine (163)	\$3,460.00
43695	JCD Atmospheric Studios: Electrical	Cheese &	\$6,594.00

	Services for Cheese & Wine	Wine (163)	
43696	Jeffrey Donahue Associates: Market Rate Analysis for RIC	LRA OEA Grant (198)	\$22,000.00

FINANCIAL IMPACT:

Reductions in various funds for payment of expenses.

ATTACHMENTS: (List attachments in order of placement)

1. Warrant Registers: 10/09/2014 and 10/16/2014

WARRANT REGISTER

Date: **10/09/2014**

City of Riverbank

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
A & A PORTABLES INC.	TEMPORARY FENCE-ANTIQUE ROSE	209-467-000-707-003	43604	10/09/2014	1,214.40
				Vendor Total:	1,214.40
A & L PRODUCTS, INC.	CHEESE & WINE EVENT	163-459-000-702-031	43605	10/09/2014	2,086.85
				Vendor Total:	2,086.85
ACTION FLAG CO.	FLAGS	101-407-000-702-030	43606	10/09/2014	329.74
				Vendor Total:	329.74
ADTECH	MONTHLY MAIN. - SEPTEMBER 2014	101-408-000-702-032	43607	10/09/2014	3,150.00
				Vendor Total:	3,150.00
AMERINE SYSTEMS INC.	BUILDING MAINTENANCE	197-439-000-706-029	43608	10/09/2014	450.00
				Vendor Total:	450.00
JILL ANDERSON	STRATEGIC PLAN REIMBURSEMENT	101-401-000-702-032	43603	10/09/2014	222.04
				Vendor Total:	222.04
ARBOR COMMUNICATIONS	EQUIPMENT MAINTENANCE	101-408-000-702-039	43609	10/09/2014	1,687.16
				Vendor Total:	1,687.16
AT & T MOBILITY	COMMUNICATIONS	114-433-000-704-022	43610	10/09/2014	108.54
AT & T MOBILITY	COMMUNICATIONS	106-423-000-704-022	43610		108.55
AT & T MOBILITY	COMMUNICATIONS	101-406-000-704-022	43610		112.97
AT & T MOBILITY	COMMUNICATIONS	106-424-000-704-022	43610		31.44
AT & T MOBILITY	COMMUNICATIONS	177-411-000-704-022	43610		31.44
AT & T MOBILITY	COMMUNICATIONS	119-442-000-704-022	43610		31.43
				Vendor Total:	424.37
AT&T	COMMUNICATIONS	101-407-000-704-022	43611	10/09/2014	566.20
				Vendor Total:	566.20
AT&T-CALNET 2	COMMUNICATIONS	101-409-000-704-022	43612	10/09/2014	21.97
AT&T-CALNET 3	COMMUNICATIONS	134-459-000-704-022	43612		43.27
AT&T-CALNET 4	COMMUNICATIONS	101-412-000-704-022	43612		18.57
AT&T-CALNET 5	COMMUNICATIONS	106-423-000-704-022	43612		15.21
AT&T-CALNET 6	COMMUNICATIONS	101-406-000-704-022	43612		19.52
				Vendor Total:	118.54
BARTLE WELLS ASSOCIATES	CONSULTING SERVICES	114-000-000-200-175	43613	10/09/2014	3,118.56
BARTLE WELLS ASSOCIATES	CONSULTING SERVICES	106-000-000-200-175	43613		3,118.55
				Vendor Total:	6,237.11
WILLIAM STERLING BASS	DEPOSIT REFUND	114-000-000-200-171	43614	10/09/2014	10.06
				Vendor Total:	10.06
SHANNON LEIGH BETTANINI	DEPOSIT REFUND	114-000-000-200-171	43615	10/09/2014	34.69
				Vendor Total:	34.69
SEAN BRADLEY	DEPOSIT REFUND	114-000-000-200-171	43616	10/09/2014	18.68
				Vendor Total:	18.68
REVA L. CALLAWAY	LAUNDRY & CELL PHONE STIPEND	118-441-000-706-079	43617	10/09/2014	70.00
				Vendor Total:	70.00
CENTRAL SANITARY SUPPLY	JANITORIAL SUPPLIES	101-407-000-706-029	43618	10/09/2014	15.04
CENTRAL SANITARY SUPPLY	JANITORIAL SUPPLIES	118-441-000-703-066	43618		1,534.37
				Vendor Total:	1,549.41
CITY OF OAKDALE	ANIMAL CONTROL SER. - SEP 2014	101-411-000-702-034	43619	10/09/2014	13,011.45
				Vendor Total:	13,011.45
DENAIR LUMBER COMPANY, INC.	BUILDING MAINTENANCE	101-414-000-706-029	43620	10/09/2014	23.47
				Vendor Total:	23.47
DONLEE PUMP COMPANY	VEHICLE FUEL	119-442-000-705-041	43621	10/09/2014	150.00
				Vendor Total:	150.00
NEWTON DORRETT	LAUNDRY & CELL PHONE STIPEND	118-441-000-706-079	43622	10/09/2014	70.00
				Vendor Total:	70.00
E.R. VINE & SONS, INC.	VEHICLE FUEL	119-442-000-705-041	43623	10/09/2014	5,929.69
				Vendor Total:	5,929.69

WARRANT REGISTER

Date: **10/09/2014**

City of Riverbank

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
FAR WEST	WATER SAMPLES	114-433-000-702-032	43624	10/09/2014	700.00
				Vendor Total:	700.00
FASTENAL COMPANY	VEHICLE MAINTENANCE	119-442-000-705-040	43625	10/09/2014	7.98
				Vendor Total:	7.98
FEDEX	POSTAGE	101-403-000-703-024	43626	10/09/2014	16.90
				Vendor Total:	16.90
FIELD ASSET SERVICES	DEPOSIT REFUND	114-000-000-200-171	43627	10/09/2014	9.60
				Vendor Total:	9.60
FRANZEN-HILL CORPORATION	CNG MAINTENANCE	119-442-000-702-044	43628	10/09/2014	5,536.77
				Vendor Total:	5,536.77
GARRETT THOMPSON	SILVA PARK PHASE 2	220-590-000-707-003	43629	10/09/2014	20,000.00
GARRETT THOMPSON	SILVA PARK PHASE 3	209-467-000-707-003	43629		31,227.00
				Vendor Total:	51,227.00
GEIL ENTERPRISES, INC.	SECURITY SERVICES - LRA	197-439-000-702-063	43630	10/09/2014	13,768.80
				Vendor Total:	13,768.80
GEORGE REED, INC.	OAKDALE & MORRILL SIGNAL	151-477-000-707-101	43631	10/09/2014	1,084.00
				Vendor Total:	1,084.00
GILTON SOLID WASTE MGMT. INC.	STREET SWEEPING - SEP 2014	102-418-000-702-036	43632	10/09/2014	7,164.03
GILTON SOLID WASTE MGMT. INC.	STREET SWEEPING - SEP 2015	101-000-000-200-160	43632		212,698.93
GILTON SOLID WASTE MGMT. INC.	STREET SWEEPING - SEP 2016	197-439-000-704-021	43632		99.55
				Vendor Total:	219,962.51
GOLDEN STATE PLUMBING	BUILDING MAINTENANCE	213-597-043-702-059	43633	10/09/2014	150.00
				Vendor Total:	150.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	132-457-000-702-032	43634	10/09/2014	125.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	101-414-000-702-032	43634		7,890.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	220-590-000-706-029	43634		90.28
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	175-590-000-706-029	43634		450.67
				Vendor Total:	8,555.95
HOLT AG SOLUTIONS	POOL EXPENSE	101-414-000-703-050	43635	10/09/2014	13.09
				Vendor Total:	13.09
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-414-000-706-029	43636	10/09/2014	855.01
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-414-000-703-050	43636		113.70
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-413-000-706-029	43636		22.02
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-414-000-706-081	43636		19.12
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-407-000-706-029	43636		112.90
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	114-433-000-702-030	43636		179.16
				Vendor Total:	1,301.91
J.B. ANDERSON	HOUSING ELEMENT UPDATE	101-405-000-702-032	43637	10/09/2014	18,340.00
				Vendor Total:	18,340.00
LOUISE R. KNITTEL	OVERPAYMENT REFUND	114-000-000-200-171	43638	10/09/2014	60.00
LOUISE R. KNITTEL	OVERPAYMENT REFUND	114-000-000-200-170	43638		24.69
				Vendor Total:	84.69
KNORR SYSTEMS, INC.	POOL EXPENSE	101-414-000-703-050	43639	10/09/2014	204.13
				Vendor Total:	204.13
LESLIE'S POOL SUPPLIES, INC.	POOL EXPENSE	101-414-000-703-050	43640	10/09/2014	18.82
				Vendor Total:	18.82
JAKE & OFELIA MARINO	OVERPAYMENT REFUND	114-000-000-200-170	43641	10/09/2014	89.20
				Vendor Total:	89.20
ELILIA MARQUEZ	DEPOSIT REFUND	114-000-000-200-171	43642	10/09/2014	9.43
				Vendor Total:	9.43
MATEL REALTORS	DEPOSIT REFUND	114-000-000-200-171	43643	10/09/2014	22.43
				Vendor Total:	22.43

WARRANT REGISTER

Date: 10/09/2014

City of Riverbank

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
RENE MEGOZA	DEPOSIT REFUND	114-000-000-200-171	43644	10/09/2014	4.15
				Vendor Total:	4.15
MID	UTILITIES	106-424-000-704-021	43645	10/09/2014	23,900.59
				Vendor Total:	23,900.59
MO - CAL	COPY COUNT - PW	106-424-000-702-031	43646	10/09/2014	322.98
MO - CAL	COPY COUNT - PW	101-412-000-702-031	43646		322.98
MO - CAL	COPY COUNT - PW	114-433-000-702-031	43646		322.99
				Vendor Total:	968.95
MATTHEW J. MOLLOY	DEPOSIT REFUND	114-000-000-200-171	43647	10/09/2014	22.89
				Vendor Total:	22.89
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-402-000-708-009	43648	10/09/2014	244.64
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-403-000-708-009	43648		1,223.20
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-405-000-708-009	43648		244.64
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-406-000-708-009	43648		489.28
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-407-000-708-009	43648		244.64
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-408-000-708-009	43648		978.56
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-412-000-708-009	43648		1,223.20
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	101-414-000-708-009	43648		978.56
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	102-418-000-708-009	43648		1,223.20
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	106-423-000-708-009	43648		489.28
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	106-424-000-708-009	43648		733.92
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	114-433-000-708-009	43648		1,223.20
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	117-411-000-708-009	43648		244.64
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	119-442-000-708-009	43648		244.64
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	134-459-000-708-009	43648		489.28
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	198-439-000-708-009	43648		733.92
NATIONAL INDUSTRIAL	PENSION CONTRIBUTION	213-438-000-708-009	43648		244.64
				Vendor Total:	11,253.44
NORQUIST	HEATING & AIR MAINTENANCE	101-414-000-702-032	43649	10/09/2014	1,285.00
				Vendor Total:	1,285.00
OAKDALE ACE HARDWARE	EQUIPMENT MAINTENANCE	101-414-000-706-029	43651	10/09/2014	7.11
OAKDALE ACE HARDWARE	EQUIPMENT MAINTENANCE	114-433-000-702-030	43651		380.83
				Vendor Total:	387.94
OAKDALE LEADER	ADVERTISEMENT	101-403-000-706-023	43652	10/09/2014	172.13
OAKDALE LEADER	ADVERTISEMENT	101-405-000-706-023	43652		996.04
OAKDALE LEADER	ADVERTISEMENT	151-477-000-707-123	43652		235.88
OAKDALE LEADER	ADVERTISEMENT	101-408-000-703-023	43652		60.50
				Vendor Total:	1,464.55
DEBBIE OLSON	REIMBURSEMENT - LRA	197-439-000-706-037	43653	10/09/2014	25.77
DEBBIE OLSON	REIMBURSEMENT - LRA	198-439-505-706-037	43653		425.88
				Vendor Total:	451.65
STEVEN OLSON	DEPOSIT REFUND	114-000-000-200-171	43654	10/09/2014	8.32
				Vendor Total:	8.32
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	119-442-000-705-040	43650	10/09/2014	665.28
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	119-442-000-706-028	43650		94.93
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	102-418-000-706-026	43650		16.13
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	101-414-000-706-029	43650		3.76
				Vendor Total:	780.10
PACIFIC GAS & ELECTRIC	UTILITIES - LRA	197-439-000-704-021	43655	10/09/2014	132.81
PACIFIC GAS & ELECTRIC	UTILITIES	119-442-000-705-041	43655		369.29
PACIFIC GAS & ELECTRIC	UTILITIES	114-433-000-704-021	43655		23,459.17
PACIFIC GAS & ELECTRIC	UTILITIES	175-590-000-704-021	43655		207.94
PACIFIC GAS & ELECTRIC	UTILITIES	101-414-000-704-021	43655		768.88
PACIFIC GAS & ELECTRIC	UTILITIES	101-409-000-704-021	43655		3,346.09
PACIFIC GAS & ELECTRIC	UTILITIES	106-423-000-704-021	43655		2,274.89
PACIFIC GAS & ELECTRIC	UTILITIES	106-424-000-704-021	43655		907.01
PACIFIC GAS & ELECTRIC	UTILITIES	102-418-000-704-021	43655		6,888.20

WARRANT REGISTER

Date: 10/09/2014

City of Riverbank

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
PACIFIC GAS & ELECTRIC	UTILITIES	101-407-000-704-021	43655		1,958.08
PACIFIC GAS & ELECTRIC	UTILITIES	118-411-000-704-021	43655		2,620.90
PACIFIC GAS & ELECTRIC	UTILITIES	163-459-000-706-005	43655		31.53
PACIFIC GAS & ELECTRIC	UTILITIES	118-441-000-704-021	43655		420.95
				Vendor Total:	43,385.74
PACIFIC PLAN REVIEW	6101 TERMINAL AVE	101-000-000-600-090	43656	10/09/2014	2,447.65
PACIFIC PLAN REVIEW	6102 TERMINAL AVE	101-405-000-702-032	43656		425.00
				Vendor Total:	2,872.65
PACIFIC STORAGE COMPANY	SHREDDING & STORAGE FEE	101-403-000-703-025	43657	10/09/2014	27.82
PACIFIC STORAGE COMPANY	SHREDDING & STORAGE FEE	101-405-000-703-025	43657		27.82
PACIFIC STORAGE COMPANY	SHREDDING & STORAGE FEE	101-408-000-703-025	43657		27.82
PACIFIC STORAGE COMPANY	SHREDDING & STORAGE FEE	101-412-000-703-025	43657		27.83
PACIFIC STORAGE COMPANY	SHREDDING & STORAGE FEE	101-408-000-706-066	43657		100.00
				Vendor Total:	211.29
PETTY CASH	LRA	197-439-000-702-053	43658	10/09/2014	16.16
PETTY CASH	LRA	197-439-000-706-037	43658		50.63
				Vendor Total:	66.79
PINNACLE SOLUTIONS	GARBAGE PROP 218 NOTICE	101-403-000-702-032	43659	10/09/2014	3,546.03
				Vendor Total:	3,546.03
MARIO & NORA RAGOSA	DEPOSIT REFUND	114-000-000-200-171	43660	10/09/2014	19.57
				Vendor Total:	19.57
RESOURCE BUILDING MATERIALS	BUILDING MAINTENANCE	101-414-000-706-029	43661	10/09/2014	38.75
RESOURCE BUILDING MATERIALS	BUILDING MAINTENANCE	106-423-000-706-029	43661		72.81
RESOURCE BUILDING MATERIALS	BUILDING MAINTENANCE	106-424-000-706-029	43661		138.84
				Vendor Total:	250.40
RONI ROBERTS	DEPOSIT REFUND	114-000-000-200-171	43662	10/09/2014	12.76
				Vendor Total:	12.76
SALINAS PORTABLES INC.	EQUIPMENT MAINTENANCE	118-441-000-703-066	43663	10/09/2014	120.00
				Vendor Total:	120.00
SAN JOAQUIN ENGINEERING	MONTHLY MANAGEMENT FEE - LRA	197-439-000-702-063	43664	10/09/2014	39,468.26
SAN JOAQUIN ENGINEERING	MONTHLY MANAGEMENT FEE - LRA	197-439-000-706-029			525.11
				Vendor Total:	39,993.37
SHIRTWORLD	SCREEN	134-459-000-703-027	43665	10/09/2014	65.00
				Vendor Total:	65.00
SURUJ BHAN SINGH	DEPOSIT REFUND	114-000-000-200-171	43666	10/09/2014	17.08
				Vendor Total:	17.08
SJVAPCD	PERMITS TO OPERATE	119-442-000-705-041	43667	10/09/2014	34.00
				Vendor Total:	34.00
STANISLAUS COUNTY	FOOD ESTABLISHMENT	118-441-000-706-026	43668	10/09/2014	428.00
				Vendor Total:	428.00
STANISLAUS FOUNDATION	DENTAL LIABILITY	201-000-000-200-082	43669	10/09/2014	1,158.80
				Vendor Total:	1,158.80
STATE WATER RESOURCES	ANNUAL SRF LOAN REPAYMENT	106-000-000-300-010	43670	10/09/2014	53,293.21
STATE WATER RESOURCES	ANNUAL SRF LOAN REPAYMENT	106-000-000-200-185	43670		8,220.84
STATE WATER RESOURCES	ANNUAL SRF LOAN REPAYMENT	106-424-000-706-076	43670		4,049.06
				Vendor Total:	65,563.11
STEVES CHEVROLET-BUICK INC.	VEHICLE MAINTENANCE	119-442-000-705-040	43671	10/09/2014	50.55
				Vendor Total:	50.55
SWRCB STORM WTR SECTION	PERMIT FEES	208-467-000-707-086	43672	10/09/2014	563.00
				Vendor Total:	563.00
THALES CONSULTING INC.	ANNUAL STREET REPORT	101-403-000-702-032	43673	10/09/2014	1,260.00
				Vendor Total:	1,260.00
TILBURY AUTO PARTS	BUILDING MAINTENANCE	101-414-000-706-029	43674	10/09/2014	116.60
				Vendor Total:	116.60

WARRANT REGISTER

Date: 10/09/2014

City of Riverbank

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
CARLOS VIGIL	DEPOSIT REFUND	114-000-000-200-170	43675	10/09/2014	109.06
				Vendor Total:	109.06
WARDEN'S	OFFICE SUPPLIES	138-461-000-707-003	43676	10/09/2014	1,957.64
WARDEN'S	OFFICE SUPPLIES	101-403-000-703-025	43676		144.48
				Vendor Total:	2,102.12
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	220-590-000-702-032	43677	10/09/2014	580.40
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	177-590-000-702-032	43677		236.66
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	178-590-000-702-032	43677		186.68
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	175-590-000-702-032	43677		281.58
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	179-590-000-702-032	43677		224.28
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	171-590-000-702-032	43677		181.81
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	172-590-000-702-032	43677		173.68
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	156-555-000-706-062	43677		506.61
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	170-555-000-706-062	43677		457.63
				Vendor Total:	2,829.33
WILSON TECHNOLOGIES	TELEPHONE MAINTENANCE	101-401-000-702-032	43678	10/09/2014	175.00
				Vendor Total:	175.00
				Grand Total:	563,934.90
				Less Credit Memos:	0.00
				Net Total:	563,934.90
				Less Hand Check Total:	222.04
				Outstanding Invoice Total :	563,712.86

Total Invoices: 115

WARRANT REGISTER

Date: 10/16/2014

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
A - LIST SECURITY	SECURITY FOR CHEESE & WINE	163-459-000-702-032	43681	10/16/2014	3,460.00
				Vendor Total:	3,460.00
ARROWHEAD	BOTTLED WATER - LRA	197-439-000-704-021	43682	10/16/2014	94.53
				Vendor Total:	94.53
AT&T-CALNET 2	COMMUNICATIONS - LRA	198-439-505-702-053	43683	10/16/2014	367.63
				Vendor Total:	367.63
REBEKAH BREWER	DEPOSIT REFUND	118-000-000-200-150	43684	10/16/2014	100.00
				Vendor Total:	100.00
CALIFORNIA C.A.D. SOLUTIONS	DATA UPDATES	101-403-000-702-032	43685	10/16/2014	375.00
CALIFORNIA C.A.D. SOLUTIONS	DATA UPDATES	101-408-000-702-032			468.75
				Vendor Total:	843.75
CENTRAL SANITARY SUPPLY	JANITORIAL SUPPLIES	101-414-000-706-029	43686	10/16/2014	16.63
				Vendor Total:	16.63
CHARTER COMMUNICATIONS	COMMUNICATIONS - NORTH	101-408-000-702-032	43687	10/16/2014	91.28
				Vendor Total:	91.28
CHEMQUIP, INC.	BUILDING MAINTENANCE - LRA	197-439-000-706-029	43688	10/16/2014	135.52
				Vendor Total:	135.52
COLLICUTT ENERGY	EQUIPMENT MAINTENANCE	106-423-000-702-032	43689	10/16/2014	599.93
COLLICUTT ENERGY	EQUIPMENT MAINTENANCE	119-442-000-702-030			535.63
				Vendor Total:	1,135.56
DIV.OF THE STATE ARCHITECT	SB1186 QUARTERLY FEES	101-000-000-200-189	43690	10/16/2014	25.80
				Vendor Total:	25.80
FAR WEST	LAB SAMPLES	106-424-000-702-032	43691	10/16/2014	3,202.25
FAR WEST	LAB SAMPLES	197-439-000-706-029			90.00
				Vendor Total:	3,292.25
FASTENAL COMPANY	BUILDING MAINTENANCE	102-418-000-703-062	43692	10/16/2014	73.02
				Vendor Total:	73.02
GRAINGER	BUILDING MAINTENANCE	106-424-000-706-029	43693	10/16/2014	210.06
				Vendor Total:	210.06
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	106-424-000-706-029	43694	10/16/2014	1,371.31
				Vendor Total:	1,371.31
JCD ATMOSPHERIC STUDIOS A COF POWER UTILITIES -CHEESE & WINE		163-459-000-706-005	43695	10/16/2014	6,594.00
				Vendor Total:	6,594.00
JEFFREY DONOHOE ASSOCIATES L MARKET ANALYSIS - LRA		198-439-503-702-032	43696	10/16/2014	22,000.00
				Vendor Total:	22,000.00
JILL KNAPP	CHEESE & WINE - STAGES	163-459-000-702-031	43697	10/16/2014	2,000.00
				Vendor Total:	2,000.00
MID	UTILITIES	102-418-000-704-021	43698	10/16/2014	84.22
MID	UTILITIES	220-590-000-704-021	43698		102.97
MID	UTILITIES	101-413-000-704-021	43698		298.71
MID	UTILITIES	114-433-000-704-021	43698		898.34
				Vendor Total:	1,384.24
MISSION UNIFORM SERVICE	CLEANING SERVICE	101-407-000-706-073	43699	10/16/2014	50.00
				Vendor Total:	50.00
DAVID MITCHELL	DEPOSIT REFUND	118-000-000-200-150	43700	10/16/2014	100.00
				Vendor Total:	100.00
FRANK MONCHEIN	OVERPAYMENT REFUND	114-000-000-200-170	43701	10/16/2014	1,482.64
				Vendor Total:	1,482.64
ONTEL SECURITY SERVICES, INC.	SECURITY SERVICES	118-441-000-703-030	43702	10/16/2014	1,114.46
				Vendor Total:	1,114.46
PACIFIC PLAN REVIEW	2466 TOPEKA - EDWARDS SOLAR	101-000-000-600-090	43704	10/16/2014	4,505.00
				Vendor Total:	4,505.00

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PETTY CASH	PARKS & RECS	101-414-000-706-029	43705	10/16/2014	9.66
PETTY CASH	PARKS & RECS	134-459-000-703-027	43705		113.08
				Vendor Total:	122.74
PROGRESSIVE SOLUTIONS, INC.	CONFERENCE REGISTRATION	101-403-000-706-037	43679	10/16/2014	750.00
				Vendor Total:	750.00
ANNA SERRANO	DEPOSIT REFUND	118-000-000-200-150	43706	10/16/2014	100.00
				Vendor Total:	100.00
SHIRTWORLD	SOCCER UNIFORMS	118-441-000-706-026	43707	10/16/2014	959.53
				Vendor Total:	959.53
SJVAPCD	ENGINEERING TIME FEES	106-424-000-702-056	43680	10/16/2014	3,303.30
				Vendor Total:	3,303.30
STANISLAUS FOUNDATION	DENTAL LIABILITY	201-000-000-200-082	43708	10/16/2014	590.00
				Vendor Total:	590.00
MATT WELLMAN	DEPOSIT REFUND	118-000-000-200-150	43709	10/16/2014	100.00
				Vendor Total:	100.00
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-405-000-703-025	43710	10/16/2014	12.64
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-403-000-703-025	43710		12.64
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-412-000-703-025	43710		12.65
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-406-000-703-025	43710		12.65
				Vendor Total:	50.58
				Grand Total:	56,573.83
				Less Credit Memos:	-150.00
				Net Total:	56,423.83
				Less Hand Check Total:	4,053.30
				Outstanding Invoice Total :	52,370.53

Total Invoices: 58