

1. City Council And LRA Agenda

Documents: [CC-LRA AGENDA_02-10-15.PDF](#)

2. City Council And LRA Agenda/Reports (With 2nd Revision To January 27, 2015 Minutes)

Documents: [CC-LRA AGENDA_02-10-15_W-REPORTS_2ND REVISED MINUTES012715.PDF](#)



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

AGENDA

TUESDAY, FEBRUARY 10, 2015 – 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 Darlene Barber-Martinez
Council/Authority Member Cal Campbell
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.
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1. PRESENTATIONS

- Item 1.1:** Potential Growth in the City of Riverbank as it Relates to the Area East of the Riverbank Industrial Complex.

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.

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 January 13, 2015, City Council and Local Redevelopment Authority Minutes.

Item 3.B-1: Approval of the January 27, 2015, City Council and Local Redevelopment Authority Minutes.

Item 3.C: **Consideration of Continuing the Declared Emergency for the 7th Street Storm Drain Outfall Line Destabilized Embankment** – It is recommended that the City Council consider continuing the emergency pertaining to the 7th Street Storm Drain Outfall Line. Per **City Council Resolution No. 2015-002** that hereby declares and approves the continuance of action for emergency repair work on the 7th Street Storm Drain outfall until such time as, the emergency action no longer exists: therefore terminated. Public Contract Code 220050 (c) (1) states we will review the emergency action at every scheduled City Council meeting until the emergency no longer exist.

Item 3.D: A **Resolution** of the City Council of the City of Riverbank, California, Approving the Memorandum of Understanding Between the Stanislaus Business Alliance and the City of Riverbank Regarding the Joint Implementation of the Countywide Economic Development Plan and Marketing Strategy for Fiscal Year 2014-2015.

Item 3.E: A **Resolution** of the City Council of the City of Riverbank Approving The First Amendment to the Agreement for City Attorney Services and Authorizing the City Manager for the City to Execute the First Amendment.

Item 3.F: A **Resolution** of the City Council of the City of Riverbank, California, Appointing Arlene Figueroa to the Budget Advisory Committee.

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

4. UNFINISHED BUSINESS

Item 4.1: **Presentation of Additional Options for Creating City Council Districts in the City of Riverbank Pursuant to the California Voting Rights Act** – It is recommended that the City Council consider the presentation of draft plans and analysis prepared by National Demographic Corporation (NDC) to evaluate the options for Creating City Council Districts in the City of Riverbank and provide feedback as needed.

5. PUBLIC HEARINGS

The Public Hearing Notices for the following public hearing items to be considered by the City Council were published on January 28, 2015, in the local newspaper of general circulation for Items 5.1 and 5.2 (¼ display ad) and for Items 5.3 and 5.4.

Item 5.1: **First Reading and Introduction by Title Only of an Ordinance of the City Council of the City of Riverbank, California, Adding Chapter 125: Tattoo and Body Art Establishments to Title XI: Business Regulations and Amending Title XV: Zoning, Amending 1) Section 153.076: Uses Permitted in the Neighborhood Commercial District C-1 Zone, 2) Section 153.092: Uses Permitted in the General Commercial District C-2 Zone and 3) Section 153.106: Uses Permitted in the Commercial-Industrial C-M Zone of the City's Municipal Code** – It is recommended that the City Council conduct the first reading and introduction by title only of the proposed ordinance adding Chapter 125, Tattoo and Body Art Establishments to Title XI, Business Regulations, and amending Chapter 153, Zoning of the municipal code as originally drafted (Attachment 1) or as modified by the Planning Commission's action (Attachment 2), adding language related to Site Location and selling alcohol for on premise or off premise consumption.

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 XV, Chapter 153: Zoning, Amending 1) Section 153.003: Definitions, 2) Section 153.061: Uses Permitted in the Multiple Family Residential District R-3 Zone, 3) Section 153.077: Uses Permitted with a Use Permit in the Neighborhood Commercial District C-1 Zone, 4) Section 153.093: Uses Permitted with a Use Permit In The General Commercial District C-2 Zone, and 5) Section 153.107: Uses Permitted with a Use Permit In The Commercial-Industrial C-M Zone of the City's Municipal Code** – It is recommended that the City Council conduct the first reading and introduction by title only of the proposed ordinance, amending the zoning code to include the definitions for Emergency Shelters, Supportive Housing, Target Population, Transitional Housing and amending the definition of Family and Dwelling, Single Family and to include Emergency Shelters, Supportive Housing and Transitional Housing as a Permitted Use in the Multiple Family Residential District R-3 Zone and a Permitted Use with a Use Permit (CUP) in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone.

Item 5.3: **First Reading and Introduction of an Ordinance of the City Council of the City of Riverbank, California, Amending Title XV: Land Usage, Chapter 153: Zoning, Section 153.185: Density Bonus Requirements of the City's Municipal Code** – It is recommended that the City Council conduct the first reading and introduction by title only of the proposed ordinance to amend Section 153.185: Density Bonus Requirements of the City's Zoning Code.

Item 5.4: **First Reading and Introduction by Title Only of an Ordinance of the City Council of the City of Riverbank, California Adding Sections 153.221 Through 153.229 To Title XV: Land Usage, Chapter 153: Zoning of the City's Municipal Code** – It is recommended that the City Council conduct the first reading and introduction of the proposed Ordinance, adding Sections 153.221 through 153.229, Reasonable Accommodation to Chapter 153, Zoning, of Title XV, Land Usage of the Riverbank Municipal Code

6. NEW BUSINESS

Item 6.1: **A Resolution of the City Council of the City of Riverbank, California, Approving a Memorandum Of Understanding with the Riverbank Mid-Management Employees Association for the Term Of January 3, 2015 To June 30, 2017, Regarding The Salaries, Benefits, Hours, And Other Terms And Conditions Of Employment** – It is recommended that the City Council adopt a Resolution approving the Memorandum of Understanding between the City of Riverbank and the Riverbank Mid-Management Employees Association.

Item 6.2: **Jacob Myers Park Master Plan Update** – It is recommended that the City Council review the Master Plan for Jacob Myers Park and provide input.

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

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.

Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (2) potential case

Item 8.2: **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

Recommendation:

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

9. REPORT FROM CLOSED SESSION

Item 9.1: Report on Closed Session Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION; (2) POTENTIAL CASES**

Item 9.2: Report on Closed Session on Item 8.2 **CONFERENCE WITH LABOR NEGOTIATORS**

10. INFORMATIONAL ITEMS (Information Only – No Action)

Item 10.1: Warrant Registers for 12/17/2014 and 01/08/2015.

ADJOURNMENT (The next regular City Council meeting –**Tuesday**, Feb. 24 @ 6:00 pm)

UPCOMING EVENTS:

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.
February	▪ <u>City Offices are Closed Alternating Fridays:</u> - o Friday, February 6 & 20; open 8:00 am – 5:00 pm - o Friday, February 13 & 27; CLOSED
February 16	▪ <u>City offices are CLOSED:</u> In honor of President's Day.
Cancelled Regular City Council Meetings	▪ Tuesday, May 26, 2015; Tuesday, July 14; Tuesday, September 8, 2015; and Tuesday, December 22, 2015.

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.

AFFIDAVIT OF POSTING

I, Annabelle Aguilar, do hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours prior to the meeting in accordance to the Brown Act.

Posted this 5th day of February, 2015

/s/Annabelle H. Aguilar, CMC, City Clerk /LRA Recorder

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 72-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.

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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.)
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I, Annabelle Aguilar, do hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours prior to the meeting in accordance to the Brown Act.

Posted this 5th day of February, 2015

/s/Annabelle H. Aguilar, CMC, City Clerk /LRA Recorder

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RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.1

SECTION 1: PRESENTATIONS

Meeting Date:	February 10, 2015
Subject:	Potential Growth in the City of Riverbank as it Relates to the Area East of the Riverbank Industrial Complex
From:	Jill Anderson, City Manager
Submitted by:	John B. Anderson, Consulting Community Development Director

RECOMMENDATION

This item has been scheduled to provide the City Council an overview of the potential growth impacts of existing Plans, Projects and Regional Impacts to the City of Riverbank as it relates to the area east of the Riverbank Army Ammunitions Plant.

SUMMARY

The purpose of this information item is to discuss the Industrial opportunities the City has in the area east of the Riverbank Industrial Complex (RIC) with the information we have available today, such as Master and Specific Plans, building data, the City's 2005-2025 General Plan and the County's efforts with North County Corridor.

The area east of the RIC is just south of the Bruinville Area Master Plan and is bounded by Claribel Road to the south, the RIC to the west, parcels east of Eleanor Avenue and MID Lateral to the north. The RIC primary access point is Claus and Claribel Road and the site is designated as Industrial/Business Park (I/BP). The area east is designated I/BP adjacent to Claribel Road and a mix between Medium Density Residential (MDR) and Lower Density Residential (LDR) to the north.

Currently, there are 142 finished lots, 402 entitled lots with valid Tentative Maps and 331 entitled lots in which have expired Tentative Maps. Most of the entitled lots with valid TMs are located within the Bruinville Master Plan Area and the Finished lots are part of Elmwood Estates and Cornerstone.

The North County Corridor is a major County capital project in which would re-align Highway 108, develop a major east-west Expressway that would follow Keirnan Avenue/Claribel Road and eventually connect with Highway 120, past Oakdale. There are currently two alternative routes that the NCC could take. Plan 1A and 1B is aligned

along Claribel Road and will be aligned north of Claribel as it passes the RIC. Plan 2A and 2B has the same alignment on Claribel Road but follows Claribel Road past the RIC and does not go north. Primary access in this area, as it stands right now, is Claus and Claribel and is designated for full improvements such as an at grade interchange.

Industrial Opportunities East of the RIC

Currently, the alignment options for the North County Corridor diminish the industrial opportunities the City has in this area. Access is restricted, so vehicles around the Eleanor Avenue area would have to travel north then west to be able to access the NCC. To assist this, the City would need to persuade the County to consider an interchange at Eleanor Avenue. This would provide primary access to the NCC at Eleanor Avenue and Claribel Road and would increase the development potential for the entire area.

For the County to consider this option, however, the City will have to commit to developing a long term plan for this area, such as a Master Plan. This would show the County that the City is committed to providing Industrial development along the NCC and access at Eleanor is critical to its success.

FINANCIAL IMPACT

There is no financial impact associated with this report; however, the potential for expanding business opportunities will benefit the City over the long-term.

STRATEGIC PLAN

Identifying opportunities for business growth is consistent with the City's Strategic Plan, specifically the goal to retain and attract business in Riverbank.

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	February 10, 2015
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:	February 10, 2015
Subject:	Approval of the January 13, 2015, City Council and Local Redevelopment Authority Minutes
From:	Jill Anderson, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

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 January 13, 2015, regular City Council and the Local Redevelopment Authority Board meetings have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. January 13, 2015, City Council and LRA Minutes



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

MINUTES

TUESDAY, JANUARY 13, 2015



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 and 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, Suite B, Riverbank, California, with Mayor/Chair Richard D. O'Brien presiding.

FLAG SALUTE: Mayor/Chair Richard D. O'Brien asked Cub Scout Mitchell Owens to lead the flag salute.

INVOCATION: Reverend Charles Neal

ROLL CALL:
Present Mayor/Chair Richard D. O'Brien; Vice Mayor/Chair Cal Campbell
Council/Authority Members: Darlene Barber-Martinez and
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.

No one declared a conflict.

1. PRESENTATIONS

Item 1.1: Presentation to Dano Friedman of Soul Patch Tattoo.

Mayor O'Brien presented a certificate of recognition to Mr. Friedman for his successful new business in downtown Riverbank; Mr. Friedman thanked everyone for their support.

Item 1.2: Presentation to Shawn and Maria Mecca of Pure Water Boutique.

Mayor O'Brien presented a certificate of recognition to Mr. Mecca for his successful new business in downtown Riverbank; Mr. Mecca thanked everyone for their support.

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.

Ramon Bermudez spoke in regards to being nominated for an award by the Man of the year Citizen of the Year Committee (MOY/COY) and congratulated the other nominees, and commented on issues with City streets.

Scott McRitchie announced the January 24th MOY/COY banquet.

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 December 9, 2014, City Council and Local Redevelopment Authority Minutes.

Item 3.C: **Resolution No. 2015-001** **Appointing a Member to the City of Riverbank Budget Advisory Committee** – It is recommended that the City Council approve by resolution the appointment of Cindy Fosi as a member of the City of Riverbank Budget Advisory Committee consistent with the recommendation of Mayor O'Brien.

Item 3.D: **Out-of-State Travel Request for the Mayor to Attend the Conference of Mayors Conference and to Participate in Meetings with Army Officials Regarding the Transfer of the Former Riverbank Army Ammunition Plant** – It is recommended that the City Council approve the out-of-state travel request for Mayor Richard O'Brien to travel to Washington D.C. to attend the U.S. Conference of Mayors meeting in Washington, D.C. January 21-23, 2015 and to also participate in meetings with Army officials regarding the disposition of final transfer documents.

LRA Item 3.E: **Out-of-State Travel Request for the Executive Director of the Local Redevelopment Authority to Participate in Meetings with Army Officials in Washington, D.C.** – It is recommended that the Local Redevelopment Authority ("LRA") Authority Board approve the out-of-state travel request for the Executive Director of the LRA to travel to Washington D.C. the week of January 19, 2015 for planned meetings with Army officials regarding the former Riverbank Army Ammunition Plant transfer documents.

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.E, 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*

4. UNFINISHED BUSINESS

There were no items to consider.

5. PUBLIC HEARINGS

There were no items to consider.

6. NEW BUSINESS

Item 6.1: **Presentation of Options for Creating City Council Districts in the City of Riverbank Pursuant to the California Voting Rights Act** – It is recommended that the City Council consider the presentation of draft plans and analysis prepared by National Demographic Corporation to evaluate the options for Creating City Council Districts in the City of Riverbank and provide feedback as needed.

Mr. Justin Levitt, National Demographics Corporation, presented draft District Boundary Maps, Plans A, B, B2, C, and D, with their corresponding demographic data.

City Council and Mr. Levitt discussed the information.

Mayor O'Brien requested to view a map that provided East-to-West district boundaries.

Public Comment

- *Mr. Edward Jones spoke in opposition of dividing the city into districts based on different Nationalities.*
- *Ms. Maggie Mejia, President of the Latino Community Roundtable of Stanislaus County, spoke in regards to the reasons their organization urged the City to convert Riverbank's electoral process to district elections.*
- *Mr. Ramon Bermudez spoke in regards to viewing more details on the hardcopies of the proposed maps, commented on errors he viewed with the data, and stated he was in favor of the action and process.*

Councilmember Barber-Martinez stated that additional time was needed to study the information received and agreed with receiving a plan to consider boundaries running East-to-West and consider areas of annexation. She also requested to see how the maps that were presented lined up with the electoral district boundaries that the School Districts adopted.

Vice Mayor Campbell agreed with an East-to-West plans, along with a few revisions, to have a combination of all types of communities; Mayor O'Brien agreed that time would be available to view other alternatives if the matter was presented for a 2016 vote.

Mayor O'Brien requested to have some of the map plans displayed for public outreach at the February 19th gathering at the Galaxy Theatre event. Mr. Levitt mentioned that Google maps were available on the City's web site where the streets could be seen and allow the public to zoom in for details.

Councilmember Jones Cruz spoke in regards to her concerns with Plan D and the division of precinct 4, extensively dividing the neighborhoods; however, the other plans appeared reasonable.

Councilmember Tucker agreed with the comments made by Councilmember Jones Cruz.

Mayor O'Brien reiterated to have the data and large map displays for February 19th and other future events where a combination of gathering and the opportunity to obtain public feedback can occur.

City Manager Jill Anderson stated that based on the direction provided by City Council, she would work with the Consultants to schedule the presentation of the information at the second meeting in January and the first meeting in February, and at some point look at [scheduling] a public workshop or town hall meeting for this item sometime in March, separate from a Council meeting.

Item 6.2: **Presentation by Commercial Architecture Inc. on Conceptual Designs for Riverbank Pool Locker Rooms, Community Center Building and City Hall North Renovations** – It is recommended that the City Council hear the presentation, view the conceptual designs and provide input.

Sue Fitzpatrick, Director of Parks and Recreation, presented the staff report and introduced Mr. Ted Brandvold and Ms. Stacy Wellnitz of Commercial Architecture, Inc. who presented the architectural and cost options; City Council and Staff discussed the item.

Public Comment

- *Mr. Scott McRitchie spoke in regards to not understanding why the Community Center's kitchen has not been shut down because it did not meet the four sink requirements in order to handle any food; he would like this item to be addressed more quickly.*
- *Mr. Ramon Bermudez spoke in regards to obtaining grants to fund the projects.*

City Council and Staff discussed the item and the ability to obtain grant project funding.

Mayor O'Brien inquired about a 3-D rendition of the projects; an attempt would be made to provide 3-D views of the projects.

Item 6.3: **Evaluation of the 2014 Riverbank Cheese & Wine Festival** – It is recommended that the City Council evaluate the 2014 Cheese & Wine Festival and provide direction in regards to the future administration of the event.

Sue Fitzpatrick, Director of Parks and Recreation, presented the staff report.

Mr. Chris Ricci, Chris Ricci Presents, Inc., provided his view of the sponsorship funds needed, the decline in beer sales, consideration of how the event is set up to improve the cheese and wine tasting, and consideration of the hours of the event.

City Council and Staff discussed the item.

Public Comment

- *Mr. Edward Jones spoke in favor of the event.*
- *Mr. Shawn Mecca spoke in favor of the City's two-year commitment in administering the event, which is great for his downtown business, and relocating the wine tasting.*
- *Mr. Ramon Bermudez spoke in favor of the event.*

All Members of the City Council agreed with: 1) Option-1: The City will manage the Festival contracting with Chris Ricci Presents, Inc. (with less pressure for sponsorship), 2) for a two-year (2015 and 2016) commitment, and 3) to be evaluated annually.

Item 6.4 **Annual Nomination and Appointment of the Vice Mayor** – It is recommended that the Mayor nominate a Councilmember to serve as Vice Mayor and the City Council, by motion for approval, make the appointment for a one-year term.

Mayor O'Brien nominated Councilmember Barber-Martinez to serve as the Vice Mayor for a one-year term; Councilmember Barber-Martinez accepted; there were no objections.

ACTION: *By motion moved/seconded (Tucker / Campbell / passed 5-0) to approve the appointment of Councilmember Barber-Martinez as Vice Mayor for a one-year term.*

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 6.5: **City Council Appointments to External Boards and Committees and City Council/LRA Appointments to Internal Committees for the Year 2015** – It is recommended that the City Council / Local Redevelopment Authority Board:

- 1) Review the appointment lists of the Intergovernmental Boards and Committees and the Internal City/LRA Committees,

- 2) Volunteer or recommend a member of the City Council/LRA to serve as the representative,
- 3) By roll call vote, ratify the appointments for the year 2015.

City Council proceeded to address each Board / Committee individually and the results were as follows:

2015 - INTERGOVERNMENTAL	
BOARDS / COMMITTEES	COUNCIL REPRESENTATIVE
<i>League of California Cities Central Valley Division Executive Committee</i>	<i>Councilmember Cal Campbell Mayor Richard D. O'Brien (Alternate)</i>
<i>League of California Cities Annual Conference Voting Delegate(s)</i>	<i>The primary and alternate voting members will be determined in June. (The appointment is typically made in June upon the League's request.)</i>
<i>North County Corridor Transportation Expressway Authority Board</i>	<i>Mayor Richard D. O'Brien Vice Mayor Darlene Barber-Martinez (Alt.)</i>
<i>San Joaquin Valley Air Pollution Control District - Special City Selection Committee</i>	<i>Vice Mayor Darlene Barber-Martinez Councilmember Leanne Jones Cruz (Alt.)</i>
<i>StanCOG – Policy Board</i>	<i>Mayor Richard D. O'Brien Councilmember Cal Campbell (Alternate)</i>
<i>Stanislaus Office of Emergency Services Disaster Council</i>	<i>Councilmember Jeanine Tucker Vice Mayor Darlene Barber-Martinez (Alt.)</i>
<i>Stanislaus Business Alliance board</i>	<i>Councilmember Cal Campbell Mayor Richard D. O'Brien (Alternate)</i>
<i>Lower Stanislaus River Trail Improvement Plan Committee</i>	<i>Councilmember Cal Campbell Vice Mayor Darlene Barber-Martinez (Alt.)</i>

2015 - INTERNAL CITY COMMITTEES	
CITY / LRA COMMITTEES	COUNCIL / LRA REPRESENTATIVE
<i>Budget Advisory Committee</i>	<i>Councilmember Leanne Jones Cruz Councilmember Jeanine Tucker (Alternate)</i>
<i>Friends of Jacob Myer Park</i>	<i>Councilmember Leanne Jones Cruz Vice Mayor Darlene Barber-Martinez (Alt.)</i>
<i>Local Redevelopment Authority (LRA)</i>	<i>Vice Chair Darlene Barber-Martinez Authority Member Jeanine Tucker (Alternate)</i>
<i>Sister City Committee (for Tamazula, Mexico and Fuyang, China)</i>	<i>Councilmember Jeanine Tucker Vice Mayor Darlene Barber-Martinez (Alt.) Councilmember Leanne Jones Cruz (2nd Alt.)</i>
<i>Economic Development Committee</i>	<i>No action was taken by the City Council. Staff will be providing a recommendation on the continued existence of this Committee.</i>
<i>Downtown Revitalization Committee</i>	<i>No action was taken by the City Council. Staff will be providing a recommendation on the continued existence of this Committee.</i>

ACTION: *By motion moved/seconded (Tucker / Barber-Martinez / passed 5-0) to approve the ratification of the Boards and Committees lists as stated.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

Public Comment: *Mr. Ramon Bermudez spoke in regards having a Senior or Old Age Americans Committee to be formed to have Riverbank representation for funding, programs, and services. Mayor O'Brien requested staff look into this request.*

7. COMMENTS (Information only – No action)

Item 7.1: Staff Comments

Sue Fitzpatrick, Director of Parks and Recreation, spoke in regards to the phase II progress of Silva Park and strategizing to raise funds for phase III of a water park.

Michael Riddell, Public Works Superintendent, spoke in regards to the PG&E construction on Roselle Avenue, and provided an update on the 7th Street pipeline emergency stabilization work.

City Manager Anderson thanked former Vice Mayor Campbell for his work, congratulated Vice Mayor Barber-Martinez, and thanked the City Council for leading the City to a good place for the new year and wished everyone a happy and health new year.

Item 7.2: Council/Authority Member Comments

Council/Authority Member Jones Cruz commented on having a great meeting and appreciation of everyone's hard work, looked forward to the accomplishments of the new year, and congratulated Vice Mayor Barber-Martinez as the newly appointed Vice Mayor.

Council/Authority Member Campbell thanked Mayor O'Brien for the opportunity to serve as the Vice Mayor, hoped Vice Mayor Barber-Martinez has the opportunity to have the same learning experiences, and thanked the community and the Council Members for their support.

Council/Authority Member Tucker thanked staff for the great meeting experience, looked forward to a great future, and congratulated Vice Mayor Barber-Martinez on her appointment as Vice Mayor.

Vice Mayor/Chair Barber-Martinez: 1) thanked everyone for the opportunity to serve as the Vice Mayor; will do her best to move the City forward, 2) agreed with the comments of receiving great presentations, 3) is excited to begin the new year, 4) encouraged everyone to drive safely in the fog, and 4) looked forward to seeing everyone at the MOY/COY event.

Item 7.3: Mayor/Chair Comments

Mayor/Chair O'Brien: 1) stated that the evening's meeting was a small example of the work ahead and thanked the Council Members, staff, and the public for their participation and input, and 2) congratulated Vice Mayor Barber-Martinez.

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. CITY COUNCIL AND THE LRA BOARD RECESSED INTO CLOSED SESSION AT 8:25 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

Item 8.2: 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 8.3: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code § 54956.9(a)

Name of Case: Barham Construction, Inc. v. City of Riverbank

Court of Appeals of California, Fifth District

Case No. F058692 and Case No. F059499

Item 8.4: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: 2 potential cases

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 CITY COUNCIL AND LRA MEETINGS AT 9:33 P.M.

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

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

Item 9.2: Report on Closed Session on Item 8.2 **CONFERENCE WITH LABOR NEGOTIATORS**

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

Item 9.3: Report on Closed Session LRA Item 8.3: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

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

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

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

10. INFORMATIONAL ITEMS (Information Only – No Action)

Item 10.1: Warrant Registers for 11/6/2014, 11/12/2014, 11/20/2014, 11/24/2014, 12/4/2014, and 12/11/2014.

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 9:34 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:	February 10, 2015
Subject:	Approval of the January 27, 2015, City Council and Local Redevelopment Authority Minutes
From:	Jill Anderson, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

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 January 27, 2015, regular City Council and the Local Redevelopment Authority Board meetings have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. January 27, 2015, City Council and LRA Minutes



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

MINUTES
TUESDAY, JANUARY 27, 2015

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 and 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, Suite B, Riverbank, California, with Mayor/Chair Richard D. O'Brien presiding.

FLAG SALUTE: Mayor/Chair Richard D. O'Brien asked Cub Scout Mitchell Owens to lead the flag salute.

INVOCATION: Reverend Charles Neal

ROLL CALL:

Present Mayor/Chair Richard D. O'Brien
Vice Mayor/Chair Darlene Barber-Martinez
Council/Authority Members: Cal Campbell, 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.

No one declared a conflict.

1. PRESENTATIONS

Item 1.1: Recognition of Years of Service for Riverbank Police Services, Legal Clerk IV, Martha Perez.

Riverbank Police Services Chief Erin Kiely, Mayor O'Brien, and Stanislaus County Board of Supervisor Bill O'Brien, recognized Ms. Perez for her years of service and dedication to the City of Riverbank.

Item 1.2: Presentation of Focus on Prevention Initiative.

Stanislaus County Board of Supervisor Bill O'Brien and County Chief Executive Officer Stan Risen presented the Initiative.

Item 1.3: Update from Michelle Guzman, Stanislaus Consolidated Fire Protection District Board Member.

Ms. Guzman provided an update on the Board's activities.

Item 1.4: Strategic Plan Update.

City Manager Jill Anderson presented the Strategic Plan update.

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.

Vicky Holt, Riverbank Library Branch Manager, provided an update on the library's activities.

Michael Garcia, Human Relations Chairperson for the American GI Forum, spoke in regards to parliamentary procedures in reference to the scheduling of the District Elections item for discussion on the agenda, and requested an immediate point of order ruling by City Council to consider the item under Unfinished Business.

City Attorney Nubia Goldstein responded that the placement of the item for discussion on the agenda did not affect its legality.

Scott McRitchie agreed with Mr. Garcia.

Ric McGinnis spoke in regards to the successful Man of the Year/Citizen of the Year (MOY/COY) Awards Banquet, and reported on the activities of the Historical Society.

Mayor O'Brien responded to Mr. Garcia's point of order and recommended that the City Council consider the District Elections Item 6.1 as the first item of business to accommodate the public; no one objected.

ACTION: *By motion moved/seconded (Jones Cruz / Campbell / passed 5-0) to approve changing the order of business by considering Item 6.1 as the first item of discussion.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

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: A Resolution No. 2015-002 of the City Council of the City of Riverbank, California, Approving the Continued Emergency Repairs to the 7th Street Storm Drain Outfall Line Embankment Pursuant to Public Contract Code (C)(1).

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 and 3.B, as presented.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

MAYOR O'BRIEN PROCEEDED TO NEW BUSINESS ITEM 6.1.

4. UNFINISHED BUSINESS There are no items to consider.

5. PUBLIC HEARINGS

The Public Hearing Notices were published in the local newspaper of general circulation as follows: Item 5.1 on November 26, 2014, and Items 5.2 and 5.3 on January 14, 2015.

Item 5.1: **A Resolution No. 2015-003 of the City Council of the City of Riverbank, California, Adopting the 2010 Revised Urban Water Management Plan** – It is recommended the City Council adopt the 2010 Public Draft UWMP with the revisions noted by the Department of Water Resources and any revisions to be made as noted at the public hearing.

Michael Riddell, Public Works Superintendent, presented the staff report; City Council and Staff discussed the item.

Mayor O'Brien opened the Public Hearing at 7:47 p.m.

- *No one spoke for or against the item.*

Mayor O'Brien closed the Public Hearing at 7:47 p.m.

ACTION: *By motion moved/seconded (Tucker / Barber-Martinez / passed 5-0) to adopt Resolution No. 2015-003 adopting the 2010 Revised Urban Water Management Plan as presented.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

Item 5.2: **Continuance of the First Reading and Introduction by Title Only of an Ordinance of the City Council of the City of Riverbank Amending Title IX: General Regulations; Chapter 91: Animals and Chapter 94: Park Regulations, of the City of Riverbank Code of Ordinances** - It is recommended that the City Council:

1. Open the Public Hearing,
2. Receive comments,
3. Close the Public Hearing, and
4. By roll call vote, continue the first reading and introduction of the Ordinance to the February 24, 2015, regular City Council meeting.

City Manager Jill Anderson explained that the continuance of this public hearing was to ensure that all staff provided their input to the ordinance prior to City Council consideration.

Mayor O'Brien opened the public hearing 7:50 p.m.

- *No one spoke for or against the item.*

Mayor O'Brien closed the Public Hearing at 7:50 p.m.

ACTION: *By motion moved/seconded (Tucker / Jones Cruz / passed 5-0) to approve the continuance of the Public Hearing and consideration of the Ordinance to the February 24, 2015, regular City Council meeting.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

Item 5.3: **Continuance of the First Reading and Introduction by Title Only of an Ordinance of the City Council of the City of Riverbank Amending Title XI: Business Regulations; Chapter 110: Business License Tax, of the City of Riverbank Code of Ordinances** – It is recommended that the City Council:

1. Open the Public Hearing,
2. Receive comments,
3. Close the Public Hearing, and
4. By roll call vote, continue the first reading and introduction of the Ordinance to the February 24, 2015, regular City Council meeting.

City Manager Anderson explained the continuance of this public hearing was to ensure that all staff provided their input to the ordinance prior to City Council consideration.

Mayor O'Brien opened the public hearing 7:52 p.m.

- *No one spoke for or against the item.*

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

ACTION: *By motion moved/seconded (Campbell / Barber-Martinez / passed 5-0) to approve the continuance of the Public Hearing and consideration of the Ordinance to the February 24, 2015, regular City Council meeting.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

Mayor O'Brien proceeded with New Business Item 6.2.

6. NEW BUSINESS

Item 6.1: **Presentation of Additional Options for Creating City Council Districts in the City of Riverbank Pursuant to the California Voting Rights Act** – It is recommended that the City Council consider the presentation of draft plans and analysis prepared by National Demographic Corporation to evaluate the options for Creating City Council Districts in the City of Riverbank and provide feedback as needed.

Mr. Justin Levitt, Vice President of National Demographics Corporation, reviewed District Boundary Map Draft Plans A, B, B2, C, and D, previously presented on January 13th, and stated they were available on the City's web site for detail viewing, along with their corresponding demographic data. He also presented additional proposed Draft Plans E, F, G, and H, as a result of comments received.

City Council discussed the information and the alignment of the proposed district boundaries in comparison to the School Districts' electoral boundaries, meeting the required criteria.

Public Comment

- *Ms. Maggie Mejia, President of the Latino Community Roundtable, expressed concern with Map Plan D, stating that it divided all the state named streets; suggested not using this plan.*
- *Mr. Scott McRitchie agreed that Map Plans E, F, G, and H divide the school districts and the areas of interest for representation, and spoke in favor of Plan A.*
- *Mr. Ramon Bermudez spoke in regards at the hard copies provided lacking details and warned of any deliberate attempt to divide [neighborhood] blocks.*
- *Ms. Diana Gonzalez requested to receive the individual voting percentages for each school district.*

- *Mr. Michael Garcia, American G. I. Forum, spoke in regards to concerns of the process including favoritism, cronyism, and nepotism by incumbents, and the need to ensure government transparency and representation of different areas.*
- *Evelyn Halbert, downtown resident, spoke in regards to Map Plans G and H being the closest to helping the downtown, which is the historical area; the exception is their division of the downtown area at Second Street.*
- *Mr. Edward Jones apologized for his conduct at the last meeting, and spoke against creating district boundaries within the City.*

City Council and Consultant discussion ensued in reference to considering the School Districts' electoral boundaries and voting data and the potential affects to the city's consideration of the nine (9) map plans presented.

City Manager Jill Anderson informed City Council that the information presented would be available for public viewing at the Mayor's State of the City Address, and proposed scheduling a workshop for the public to provide input on what map plans they favored.

City Council agreed to a town hall meeting on Saturday, March 14th at 10:00 a.m. for public viewing and input of all the proposed map plans. City Council would also receive one more presentation of the District Elections information to include the requested school district data.

Mayor O'Brien proceeded to the Public Hearing Items.

Item 6.2: **A Resolution No. 2015-004 of the City Council of the City of Riverbank, California, Appropriating \$26,500 from the General Fund Reserve for the Purchase of a Backup Generator for the Riverbank Police Services Building** – It is recommended that the City Council adopt the attached resolution authorizing the purchase of an emergency power generator for the Police Services Building.

Sue Fitzpatrick, Director of Parks and Recreation, presented the staff report; City Council and Staff discussed the item.

Public Comment

- *Mr. Edward Jones spoke in regards to the new generator's size, capacity, and service life.*

Michael Riddell, Public Works Superintendent responded to questions.

ACTION: *By motion moved/seconded (Barber-Martinez / Campbell / passed 5-0) to adopt Resolution No. 2015-004 Appropriating \$26,500 from the General Fund Reserve for the Purchase of a Backup Generator for the Riverbank Police Services Building as presented.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

Item 6.3: **Automatic Water Meter Reading Project Update and Authorize Staff to Begin Contract Negotiations, Contingent Upon Financing, with National Meter and Automation, Inc.** – It is recommended that the City Council receive an update regarding the Automatic Water Meter Reading Project and Authorize Staff to begin contract negotiations, contingent upon financing, with National Meter and Automation, Inc.

Marisela Garcia, Director of Finance, and Michael Riddell, Public Works Superintendent, presented the staff report; City Council and Staff discussed the item.

Public Comment

- *Evelyn Halbert spoke in regards her concern of water rate increases to pay for the project, and the lack of transparency of the project information or public input.*
- *Manda Nordis spoke in regards to the project being financially and environmentally responsible, which addressed the conservation of water; the need for the City to be utilizing current technology; and inquired about the City moving to paperless billing.*

City Manager Anderson clarified that this item was a request for authorization to negotiate, and was not an approval of the project, nor was it approval of the financing.

Director Garcia further explained: 1) Phase I of the project was to obtain the request for proposals, 2) that this action was Phase II to begin negotiations to achieve cost savings and revenue increases to offset the cost of implementing the project; otherwise the project could not be recommended, and 3) Phase III would be to return to the City Council with the negotiated contract for consideration.

ACTION: *By motion moved/seconded (Jones Cruz / Campbell / passed 5-0) to approve entering into negotiations with National Meter and Water, Inc., as presented.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: *None*

ABSENT: *None*

ABSTAINED: *None*

7. COMMENTS (Information only – No action)

Item 7.1: Staff Comments

Debbie Olson, Executive Director of the LRA: 1) reported on her trip to Washington D.C. and her meeting with U.S. Army officials, along with Mayor O'Brien and Barry Steinberg, to discuss the delay of the [conveyance] documents, 2) a staff meeting was called to ensure all key members were in sync with moving forward on policy, 3) stated a request for supplemental funding would be submitted to the Office of Economic Adjustment due to the delay, and 4) reported on the unsuccessful attempt to change the Riverbank Industrial Complex from a Modesto address to a Riverbank address.

Marisela Garcia, Director of Finance, announced applications were available to fill vacancies on the Budget Advisory Committee, and the consideration of changing the number of members to a five-member Board from the current seven-member Board.

Michael Riddell, Public Works Superintendent, provided an update on PG&E's construction work on Roselle Avenue.

City Manager Anderson commented on a newsletter delivery error that occurred, which confused utility customers.

Item 7.2: Council/Authority Member Comments

Council/Authority Member Jones Cruz encouraged community members to consider serving on the Budget Advisory Committee, and congratulated the MOY/COY award recipients.

Council/Authority Member Campbell recognized long-time Teachers Toni Munion and Cox Thorton who recently pass away and also Vivian Fauira a long-term volunteer of Riverbank.

Council/Authority Member Tucker congratulated Police Services Martha Perez and wished her well, and encourage the community members to consider serving on the Budget Advisory Committee.

Vice Mayor/Chair Barber-Martinez thanked the MOY/COY Committee for another successful annual event, quoted Martin Luther King Jr. on service, congratulated all the award recipients, and looked forward to accomplishing the strategic goals.

Item 7.3: Mayor/Chair Comments

Mayor/Chair O'Brien: 1) echoed the Vice Mayor/Chair's comments on achieving the goals and haiving an extremely busy year ahead, 2) Thanked Ms. Olson for her participation in the BRAC meeting in Washington D.C.; answers were achieved, awaiting for the results, 3) reported on his attendance of the Mayor's Conference in Washington D.C. and the ability to meet with several Senators, and being addressed by the Vice President, and the President, and 4) requested to begin using all discussions of the District Elections as a public forum, to capture all public comments, to achieve public outreach, and to begin documentation of the City's efforts of public participation.

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. CITY COUNCIL AND THE LRA BOARD RECESSED INTO CLOSED SESSION AT 8:55 P.M.

LRA Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code § 54956.9(a)
Name of Case: Riverbank Local Redevelopment Authority v. Dayton
Superior Corporation; Marten Transport LTD; Robert Young; Marten
Transport Services LTD
Stanislaus County Superior Court Case No. 684358

LRA Item 8.2: **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 8.3: **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Government Code Section 54956.8
Property: Riverbank Industrial Complex, 5300 Claus Road, Ste. 1,
Modesto, CA 95357
Agency Negotiator: Jill Anderson, City Manager and Debbie Olson,
LRA Executive Director
Property Negotiator: (26) Riverbank Industrial Complex Tenants:
Anthony Ortega - A&M Engineering and Maintenance; Scott Hanna -
Acoustic Artistry, LLC; Mic Meeks - Advanced Materials and
Manufacturing Technologies, LLC; Kevin Elkins - Applied Power
Systems; Anthony Brough - AQH LLC A California Limited Liability
Corporation; Anthony Johnson - Atlas Canvas; Mathew Ford - Ayera
Technologies, Inc.; Roger Baker - Castle Pest Control; Clayton
Ludington - Davidson Boats, A California Company; Kevin Dewitt -
Dayton Superior Corporation, a Delaware Corporation; Mike Johnson
- Donaldson Company; Danny Stephens - Environmental &
Lubrication Solutions, Inc., a Nevada Corporation; Eric Wilcox; Juliet
Perry - Green Eyes Manufacturing, a California Company; Ben
Foreman - Intuitive Motion; David Alvarez - Kern Oil; Kevin Valpey;
Dwight Frey - KIVA Energy, Inc.; Ken Iwahashi - KKI Corporation;
Brian Miller - Miller Arms Company, Inc.; Rich Ison - Nx Stage
Security, a California Limited Liability Company; Paul Bennett -
Repsco, Inc., a Colorado Corporation; David Alvarez - Riverbank Oil
Transfer, LLC; Larry Ingold - Sierra Northern Railway, a California
Corporation; Gloria Williams - Sierra Tumbled Glass, a Sole
Proprietorship; and James Molloy - T-Mobile West Corporation, a
Delaware Corporation.

Under Negotiation: Price, terms of payment, or both

Item 8.4: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (2) potential case

Item 8.5: **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

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 CITY COUNCIL AND LRA MEETINGS AT 9:57 P.M.

LRA Item 9.1: Report on Closed Session LRA Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

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

LRA Item 9.2: Report on Closed Session LRA Item 8.2: **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

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

LRA Item 9.3 Report on Closed Session LRA Item 8.3: **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

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

Item 9.4: Report on Closed Session Item 8.4: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION; (2) POTENTIAL CASES**

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

Item 9.5: Report on Closed Session on Item 8.5: **CONFERENCE WITH LABOR NEGOTIATORS**

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

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 9:57 p.m.

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor / Chair

DRAFT

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONSENT CALENDAR

Meeting Date:	February 10, 2015
Subject:	Consideration of continuing the Declared Emergency for the 7 th Street Storm Drain Outfall Line Destabilized Embankment
From:	Jill Anderson, City Manager
Submitted by:	Michael Riddell, Public Works Superintendent

RECOMMENDATION

It is recommended that the City Council consider continuing the emergency pertaining to the 7th Street Storm Drain Outfall Line. Per **City Council Resolution No. 2015-002** that hereby declares and approves the continuance of action for emergency repair work on the 7th Street Storm Drain outfall until such time as, the emergency action no longer exists: therefore terminated. Public Contract Code 220050 (c) (1) states we will review the emergency action at every scheduled City Council meeting until the emergency no longer exist.

SUMMARY

At this time, staff has put together a work plan to address the 7th Street storm drain outfall line destabilizes embankment.

This project will consist of preparing plans for the remediation of the earth slide. The slide is approximately 30 feet wide by 60 feet long and runs from top to bottom. The slide is deteriorating the asphalt roadway, roadway shoulder and causing a concrete retaining wall to fail.

We anticipate the work to design a stabilized wall to protect the slide area will consist of the use of drilled soldier beams and lagging or the use of a continuous soldier beams placed close enough together in order to bridge the active material.

The first step of the work plan will be to do geotechnical boring, investigation of the soil in the area and prepare a report Estimated Cost \$6000.

Second step of the plan will be to survey the area of the repair Estimated Cost \$2,500.

Third step of the work plan would be to design plans for repair Estimated Cost \$7,500.

The last step would be to complete the repairs per design, estimated cost will follow after design.

Time line three (3) to four (4) weeks to complete the work plan.

BACKGROUND

During a site visit of the storm drain outfall lines to the river with one of the city's consultants, the Street Supervisor noticed that the embankment above the 7th Street storm drain outfall line had collapsed. Upon closer investigation it was noted that a good portion of the embankment above the river was destabilized.

In December, staff requested \$35,000 for emergency temporary repairs. This repair was necessary due to the failure of the embankment above the 7th Street storm drain line outfall to the river, along with the impending storm due to hit the central valley later that week.

The funding request was presented to City Council at the December 9th, 2014 Council meeting. City Council approved the funding and appropriated \$35,000 from the General Fund to complete the emergency temporary repairs to the embankment.

On December 10th, 2014 staff contracted with Cunningham & Sons, Inc. and authorized the temporary repairs. Work began that day and temporary repairs were completed by December 13th, 2014. Total cost for the repair work, completed by the contractor on an emergency basis, was \$14,810.54. I would like to add that Cunningham & Sons, Inc. was very responsive to the City's needs and accomplished an excellent and timely job for the City.

Continuing the emergency declaration will allow the City to be more responsive in addressing this issue. This step will allow the City to take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts, pursuant to Public Contract Code §22050 (a)(1).

FINANCIAL IMPACT

\$35,000 has been appropriated from the General Fund Reserves for emergency repairs.

STRATEGIC PLAN

This report has been prepared to achieve the City of Riverbank's Three-Year Goal to Improve and Maintain Infrastructure and Facilities.

ATTACHMENT

None

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

SECTION 3: CONSENT CALENDAR

Meeting Date: February 10, 2015

Subject: A **Resolution** of the City Council of the City of Riverbank, California, Approving The Memorandum of Understanding Between the Stanislaus Business Alliance and the City of Riverbank Regarding the Joint Implementation of the Countywide Economic Development Plan and Marketing Strategy for Fiscal Year 2014-2015

From: Jill Anderson, City Manager

Submitted by: Norma Torres-Manriquez, Administrative Analyst II/ Human Services Specialist

RECOMMENDATION

It is recommended that the City Council adopt the resolution to authorize the City Manager to execute the agreement with the Stanislaus Business Alliance for the implementation of the Countywide Economic Development Plan and Marketing Strategy in the amount of \$10,000 and make the necessary adjustments to the Fiscal Year 2014-2015 Adopted City Budget.

INTRODUCTION

At the City Council meeting on December 9, 2014, the Chief Executive Officer of the Alliance, Dave White, provided a report regarding new initiatives, as well as the current and future plans for economic development services for our entire Stanislaus County. Mr. White shared various economic development efforts in which Riverbank and the Alliance can partner on. These partnering efforts have been outlined in a Memorandum of Understanding (MOU).

SUMMARY OF THE PROPOSED MOU

The intent of the proposed Memorandum is to document the Stanislaus Business Alliance and the City of Riverbank's desire to effectively communicate strategies and information with local and regional partners that will maximize their contribution toward the achievement of Riverbank's economic development goals as well as those in the County.

The MOU establishes the basic elements of a collaborative working relationship between the City of Riverbank and the Stanislaus Business Alliance, most of which are already happening. It is important to note that the MOU does not impose a legal obligation on either party but rather serves as a guideline for the implementation of the Countywide Economic Development Plan and Marketing Strategy. The attached document is a general outline of how the Alliance works on behalf of Stanislaus County, including Riverbank. Within that context, the City and the Alliance also have an opportunity to focus energy on the areas of most significance to Riverbank. A critical element of this MOU is the ability for each party to engage in a level of flexibility in the full implementation of the referenced plans, as well as components of the referenced plans that can be tailored to the diverse needs of members.

Many of the components of the proposed MOU could benefit in a general way and the City is supportive of the work of the Alliance bringing economic development to Stanislaus County, and Riverbank in particular. However, some of the work done by the Alliance does not specifically apply to Riverbank at this time, so the City will be less engaged in some of the areas mentioned below and more engaged in others. Working together to make the most of opportunities well suited for Riverbank now is likely to pave the way for additional opportunities in the future.

The following outlines the general components of the work that is currently being done, which are documented in the MOU.

Together, the City of Riverbank and the Alliance will:

1. Work together to identify target sectors for joint initiatives including, but not limited to biotechnology, agribusiness, manufacturing, clean energy, environmental sciences, and information and communication technologies;
2. Work together to identify opportunities for strategic partnerships and alliances between private sector companies in Riverbank and the Stanislaus County Region;
3. Explore opportunities for joint trade promotion and joint promotional activities related to the tourism, cultural and sports sectors;
4. Exchange best practices/lessons learned in assisting the private sector with inland port development;
5. Examine options for co-operative activity to facilitate development of strategic partnerships/ collaborations between the jurisdictions' respective inland ports, particularly as they relate to value-added and complementary services supporting their respective business communities; and
6. Examine options for co-operative activity in existing and emerging knowledge/innovation economy partnerships in the Midwest; and

7. Leverage collaborative efforts amongst members throughout Stanislaus County and the Region with a particular focus on trade and business development, knowledge/innovation economy development, life sciences, biotechnology, and information technology development.

Specifically, the Stanislaus Business Alliance:

1. Will conduct economic development activities (such as a Coffee Club concept in Downtown Riverbank) to encourage the development of new business opportunities, the attraction of new businesses and the retention and expansion of existing business within the City of Riverbank.
2. Will continue with the Local Industry Program for the business in Riverbank and will include representatives of the City on those interactive visits.
3. Will provide the City of Riverbank with on-going market and economic analyses through the Alliance Resource Center on a variety of important business sector topics based on the City of Riverbank's priorities and goals. Information will be used at the City's discretion (annual budget document, Comprehensive Economic Development Strategy, as well as other reports).
4. Will coordinate collaborative visits, recruitment trips and trade show participation for such events as the Processors Convention, ICSC events, other retail trade shows.
5. Will support and coordinate with the City of Riverbank on workforce support efforts such as in partnering on hiring events, holding workforce related events to support local employers as well as other types of training for local businesses.
6. Will partner with Riverbank on Prospect visits by continuing to involve City of Riverbank in prospect meetings Trade show participation - recruitment trips Retail trade show - support and partnership with ICSC Partner with the Business Alliance on providing support on direct leads to the City of Riverbank
7. Will support the City of Riverbank in its applications for EDA grant funds as well as actively participate on the Economic Development Action Committee (EDAC) and assigned responsibilities and coordination (Comprehensive Economic Development Strategy, San Joaquin Valley Economic Development District, Economic Development Administration, etc.);
8. Will facilitate, in a transparent manner all potential development and prospect leads as well as provide an update or status on previous leads that were circulated and responded to by the City of Riverbank.
9. Will investigate Investigating the opportunity and possibility of developing a co-working space in Downtown Riverbank to encourage entrepreneurial efforts for fledgling businesses, microenterprises and other job creation opportunities.
10. Will advocate for the establishment of an effective Entrepreneurial Program at CSU Stanislaus. Will actively explore the feasibility of having a full time Small Business

Development Center (SBDC) staffer located in Riverbank to serve the Riverbank business community.

11. Will facilitate a Riverbank Community Branding Project effort; including the facilitation of strategic sessions to help determine and establish a fresh and current brand that effectively represents the City of Riverbank.
12. Will involve Riverbank Staff on Alliance collateral pieces, website and video.
13. Alliance quarterly progress reports shall be submitted on a four times a year basis describing activities in business attraction, business assistance/expansion and business advocacy efforts provided by the Alliance Research Office, the Business Services Unit and the Small Business Development Center. These Quarterly Reports will be submitted on or before the following due dates during this performance cycle:

These reports will provide ongoing, updated information to the City of Riverbank relative to the progress of the aforementioned Marketing Strategy as well as the adopted Alliance Program of Work for Fiscal Year 2014-2015. These reports will include the current focus of the campaign as well as the number and type of responses received.

Specifically, the City of Riverbank:

1. Will assist in providing the required and timely staff support based on the availability of staff resources and the City of Riverbank's specific priorities in response to stated business needs as they pertain to existing companies or new firms interested in relocation or expansion to the area.
2. Will facilitate ease of access and assistance to all businesses with regards to zoning and permitting in compliance with City of Riverbank adopted land use regulations and building codes and consistent with Riverbank's adopted growth and land use policies and objectives.
3. Will provide current data as it relates to changes in land use issues, infrastructure upgrades, zoning, fee structure or any other jurisdictional actions which assist in meeting the stated objectives of this Memorandum of Understanding and that impact the ability to respond to stated business issues and concerns.
4. Will commit to interact with the Alliance Marketing Team to the level of capability based on staffing, time and monetary constraints. Participation will be at a level deemed appropriate based on any restraints as defined.
5. Will encourage elected officials to engage in an active support of business park creation, job creation opportunities, job retention and new business development.

FINANCIAL IMPACT

In 2013/2014, the City committed \$3,171. The Stanislaus Business Alliance is requesting that the City increase its investment to \$10,000 for the fiscal year 2014/2015. Therefore, an additional appropriation of \$6,829.

ATTACHMENTS

The following items are attached to this report:

1. Copy of proposed Memorandum of Understanding between the Stanislaus Business Alliance and the City of Riverbank regarding the Joint Implementation of the Countywide Economic Development Plan and Marketing Strategy.
2. Jumpstart Stanislaus City/ County Funding Amounts. This report provides a comparison of the proposed cost to the other Cities and the County for the joint implementation of the Countywide Economic Development Plan and Marketing Strategy for fiscal year 2014/2015.
3. Resolution



**MEMORANDUM OF UNDERSTANDING
BETWEEN THE STANISLAUS BUSINESS ALLIANCE AND THE CITY OF RIVERBANK
REGARDING
THE JOINT IMPLEMENTATION OF THE COUNTYWIDE
ECONOMIC DEVELOPMENT PLAN AND MARKETING STRATEGY**

The Stanislaus Business Alliance (Alliance) and the City of Riverbank, (CITY) intend to work together through the implementation of the Countywide Economic Development Plan and Marketing Strategy focused on business development activities throughout Stanislaus County. This Memorandum of Understanding (MOU) serves as a guideline to describe the actions that both parties should take in order for the Economic Development Plan and Marketing Strategy to be successful.

The purpose of this Memorandum is to facilitate the Alliance and the City of Riverbank desire to effectively communicate strategies and information with local and regional partners that will maximize their contribution toward the achievement of Riverbank economic development goals. Further, this Memorandum of Understanding establishes the parameters for a successful partnership between the Alliance and the City of Riverbank and outlines the general responsibilities to be carried out by both parties.

This Memorandum of Understanding is a non-binding contract. However this agreement establishes the basic tenements of a collaborative working relationship between the City of Riverbank and the Alliance to create more jobs for Riverbank and the region, but does not impose a legal obligation on either party. The City of Riverbank will support the efforts of the Alliance:

1. Work together to identify target sectors for joint initiatives including, but not limited to biotechnology, agribusiness, manufacturing, clean energy, environmental sciences, and information and communication technologies;
2. Work together to identify opportunities for strategic partnerships and alliances between private sector companies in Riverbank and the Stanislaus County Region;
3. Explore opportunities for joint trade promotion and joint promotional activities related to the tourism, cultural and sports sectors;
4. Exchange best practices/lessons learned in assisting the private sector with inland port development;
5. Examine options for co-operative activity to facilitate development of strategic partnerships/ collaborations between the jurisdictions' respective inland ports, particularly as they relate to value-added and complementary services supporting their respective business communities; and

6. Examine options for co-operative activity in existing and emerging knowledge/innovation economy partnerships in the Midwest; and
7. Leverage collaborative efforts amongst members throughout Stanislaus County and the Region with a particular focus on trade and business development, knowledge/innovation economy development, life sciences, biotechnology, and information technology development.

The City of Riverbank and the Alliance recognize the benefits of ongoing, regular contact between their respective organizations to promote economic development and job creation and identify areas in which there are opportunities for joint co-operation.

The following are general actions and activities to be undertaken by the Alliance and by the City of Riverbank in the implementation of the Countywide Economic Development Plan and Marketing Strategy first adopted on August 12, 2003 and the Alliance 2008-2013 Strategic Plan approved on November 19, 2007. The Alliance in conjunction with Stanislaus County and all of the cities will begin work on developing a 2016-2020 Strategic Plan that includes updating the Countywide Economic Development Plan and Marketing Strategy, which is anticipated to be completed within the current budget cycle.

Specifically, the Stanislaus Business Alliance:

1. Will conduct economic development activities (such as a Coffee Club concept in Downtown Riverbank) to encourage the development of new business opportunities, the attraction of new businesses and the retention and expansion of existing business within the City of Riverbank;
2. Will continue with the Local Industry Program for the business in Riverbank and will include representative of the City on those interactive visits.
3. Will provide the City of Riverbank with on-going market and economic analyses through the Alliance Resource Center on a variety of important business sector topics based on the City of Riverbank's priorities and goals. Information will be used at the City's discretion (annual budget document, Comprehensive Economic Development Strategy, as well as other reports).
4. Will coordinate collaborative visits, recruitment trips and trade show participation for such events as the Processors Convention, ICSC events, other retail trade shows.
5. Will support and coordinate with the City of Riverbank on workforce support efforts such as in partnering on hiring events, holding workforce related events to support local employers as well as other types of training for local businesses.
6. Will partner with Riverbank on Prospect visits by continuing to involve City of Riverbank in prospect meetings Trade show participation - recruitment trips Retail trade show - support and partnership with ICSC Partner with the Business Alliance on providing support on direct leads to the City of Riverbank
7. Will support the City of Riverbank in its applications for EDA grant funds as well as actively participate on the Economic Development Action Committee (EDAC) and assigned

responsibilities and coordination (Comprehensive Economic Development Strategy, San Joaquin Valley Economic Development District, Economic Development Administration, etc.);

8. Will facilitate, in a transparent manner all potential development and prospect leads as well as provide an update or status on previous leads that were circulated and responded to by the City of Riverbank.
9. Will investigate Investigating the opportunity and possibility of developing a co-working space in Downtown Riverbank to encourage entrepreneurial efforts for fledgling businesses, microenterprises and other job creation opportunities.
10. Will advocate for the establishment of an effective Entrepreneurial Program at CSU Stanislaus. Will actively explore the feasibility of having a full time Small Business Development Center (SBDC) staffer located in Riverbank to serve the Riverbank business community.
11. Will facilitate a Riverbank Community Branding Project effort; including the facilitation of strategic sessions to help determine and establish a fresh and current brand that effectively represents the City of Riverbank.
12. Will involve Riverbank Staff on Alliance collateral pieces, website and video.
13. Alliance quarterly progress reports shall be submitted on a four times a year basis describing activities in business attraction, business assistance/expansion and business advocacy efforts provided by the Alliance Research Office, the Business Services Unit and the Small Business Development Center. These Quarterly Reports will be submitted on or before the following due dates during this performance cycle:
 - o Quarter #1: September 30, 2014;
 - o Quarter #2: January 5, 2015;
 - o Quarter #3: March 30, 2015; and
 - o Quarter #4: June 30, 2015.

These reports will provide ongoing, updated information to the City of Riverbank relative to the progress of the aforementioned Marketing Strategy as well as the adopted Alliance Program of Work for Fiscal Year 2014-2015. These reports will include the current focus of the campaign as well as the number and type of responses received.

Specifically, the City of Riverbank:

1. Will assist in providing the required and timely staff support based on the availability of staff resources and the City of Riverbank's specific priorities in response to stated business needs as they pertain to existing companies or new firms interested in relocation or expansion to the area.
2. Will facilitate ease of access and assistance to all businesses with regards to zoning and permitting in compliance with City of Riverbank adopted land use regulations and building codes and consistent with Riverbank's adopted growth and land use policies and objectives.
3. Will provide current data as it relates to changes in land use issues, infrastructure upgrades, zoning, fee structure or any other jurisdictional actions which assist in meeting the stated

objectives of this Memorandum of Understanding and that impact the ability to respond to stated business issues and concerns.

4. Will commit to interact with the Alliance Marketing Team to the level of capability based on staffing, time and monetary constraints. Participation will be at a level deemed appropriate based on any restraints as defined.
5. Will encourage elected officials to engage in an active support of business park creation, job creation opportunities, job retention and new business development.

This MOU sets forth the current intentions of the Alliance and the City of Riverbank with respect to the Fiscal Year 2014-2015 operations of the Alliance. The further intent is to provide a general understanding of the levels of responsibility and interaction for each party to this agreement. The MOU is not a binding contract but rather a document to serve as a guideline for the implementation of the Countywide Economic Development Plan and Marketing Strategy. A critical element of this document is the ability for each party to engage in a level of flexibility in the full implementation of the referenced plans.

In compensation for providing this Fiscal Year 2014-2015 level of activity as outlined in the MOU, the City of Riverbank will increase its annual investment in the Alliance to be commensurate with the level of service. Specifically, the City of Riverbank will disperse funds to the Alliance in the amount of \$10,000 for the period of Fiscal Year 2014-2015.

Annual Investment 2013/2014	Proposed Investment 2014/2015
\$ 3,171	\$ 10,000

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers' thereunto duly authorized. Further, this MOU is consistent with the original intent of the Countywide Economic Development Plan and Marketing Strategy and the responsibilities as outlined, meets with the approval of both parties to this Memorandum of Understanding.

Alliance

Signature: _____

David White, Chief Executive Officer

Date_____

City of Riverbank

Signature: _____

Jill Anderson, City Manager

Date_____

Jumpstart Stanislaus

City/County Investments

City/County	Population	Annual Investment 2013/2014	Proposed Investment 2014/2015
Stanislaus County	521,726	\$94,320	\$100,000
City of Modesto	203,547	66,243	75,000
City of Turlock	69,733	20,190	30,000
City of Ceres	45,719	11,840	20,000
City of Riverbank	23,298	3,171	10,000
City of Oakdale	21,194	7,478	10,000
City of Patterson	20,659	3,489	10,000
City of Newman	10,576	2,493	7,500
City of Waterford	8,559	1,620	5,000
City of Hughson	6,836	1,246	5,000
Total		\$212,090	\$272,500

Population	Suggested Investment Amount
Over 500,000	\$100,000
Over 100,000 and under 499,999	\$75,000
Over 60,000 and under 99,999	\$30,000
Over 40,000 and under 59,999	\$20,000
Over 20,000 and under 39,999	\$10,000
Over 10,000 and under 19,999	\$7,500
Under 9,999	\$5,000

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA,
APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE STANISLAUS
BUSINESS ALLIANCE AND THE CITY OF RIVERBANK REGARDING THE JOINT
IMPLEMENTATION OF THE COUNTYWIDE ECONOMIC DEVELOPMENT PLAN AND
MARKETING STRATEGY FOR FISCAL YEAR 2014-2015**

WHEREAS, Stanislaus Business Alliance and the City of Riverbank have, participated in a partnership since 2002,

WHEREAS, the purpose of this Memorandum is to facilitate the Alliance and the City of Riverbank desire to effectively communicate strategies and information with local and regional partners that will maximize their contribution toward the achievement of Riverbank economic development goals. Further, this Memorandum of Understanding establishes the parameters for a successful partnership between the Alliance and the City of Riverbank and outlines the general responsibilities to be carried out by both parties; and,

WHEREAS, the Memorandum is not a binding contract but rather a document to serve as a guideline for the implementation of the Countywide Economic Development Plan and Marketing Strategy. A critical element of this document is the ability for each party to engage in a level of flexibility in the full implementation of the referenced plans; and,

WHEREAS, the Alliance in conjunction with Stanislaus County and all of the nine cities in the County will begin work on developing a 2016-2020 Strategic Plan that includes updating the Countywide Economic Development Plan and Marketing Strategy, which is anticipated to be completed within the current budget cycle; and

WHEREAS, In compensation for providing this Fiscal Year 2014-2015 level of activity as outlined in the Memorandum, the City of Riverbank will increase its annual investment to the Alliance to be commensurate with the level of service. Specifically, the City of Riverbank will disperse funds to the Alliance for a total amount of \$10,000 for the period of Fiscal Year 2014-2015.; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the City Manager to enter into an agreement with the Stanislaus Business Alliance supporting the joint implementation of the countywide Economic development plan and marketing strategy for fiscal year 2014-2015

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 10th day of February, 2015; 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

PROPOSED

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.E

SECTION 3: CONSENT CALENDAR

Meeting Date:	February 10, 2015
Subject/ Title:	A Resolution of the City Council of the City of Riverbank Approving The First Amendment to the Agreement for City Attorney Services and Authorizing the City Manager for the City to Execute the First Amendment
From:	Jill Anderson, City Manager
Submitted by:	Douglas L. White, Deputy City Attorney

RECOMMENDATION

It is recommended that the City Council adopt the proposed resolution approving the First Amendment to Agreement for City Attorney Services ("First Amendment") between the City of Riverbank ("City") and Churchwell White LLP ("Firm") and authorizing the city manager for the City ("City Manager") to execute the First Amendment.

SUMMARY

The proposed changes to the Agreement in the First Amendment reflect internal technical changes to the scope of the Firm's representation of the City and simplify the Firm's rates and billing method.

The First Amendment authorizes the City Attorney to appoint any Deputy City Attorney following the execution of the First Amendment and memorializes the appointment of Douglas White, managing partner of the Firm and Robin Baral, an attorney with the Firm, as Deputy City Attorney for the City. The First Amendment provides the City Attorney more flexibility in assigning alternate attorneys employed by the Firm to perform legal services for the City as needed.

The First Amendment also authorizes the Firm to provide the City with legislative and governmental relation services and specifically authorizes the Firm to become the City's registered lobbyist in the State of California. This amendment to the Agreement will not result in added costs or charges to the City.

Finally, the First Amendment streamlines the Firm's billing structure for the legal services performed for the City. Currently, the Agreement requires payment of a monthly retainer by the City, which entitles the City to a certain number of billable hours of legal services. The compensation schedule set forth in the Agreement for any additional work reflects different rates depending on whether the work is performed by partners, of counsels, associates or paralegals/law clerks. The First Amendment simplifies the compensation schedule through blended rates for all legal professionals but does not affect the monthly retainer amount or billable hours under the Agreement.

BACKGROUND

On April 1, 2013, the City entered into the Agreement for the Firm to provide legal services to the City and for Tom Hallinan to continue to serve as City Attorney. That agreement was the continuation of an ongoing successful and productive relationship with Tom Hallinan and other attorneys at the Firm. The Agreement provided for amendments to it through a written agreement between the City and the Firm. The City Council's authorization through the attached resolution will allow the City to amend the Agreement.

FINANCIAL IMPACT

The amendments to the Agreement will adjust the Firm's billing structure for legal services performed for the City through a new blended rate structure. These adjustments may slightly increase the City's monthly legal charges in some situations. It will also streamline the City's process in reviewing legal bills, which will save administrative time.

ATTACHMENTS

The following items are attached to this report:

1. Proposed Resolution
2. First Amendment to Agreement for City Attorney Services
3. City Attorney Agreement - Riverbank

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK APPROVING THE FIRST AMENDMENT TO THE AGREEMENT FOR CITY ATTORNEY SERVICES AND AUTHORIZING THE CITY MANAGER FOR THE CITY TO EXECUTE THE FIRST AMENDMENT

WHEREAS, at a special city council meeting held on February 20, 2013, the City Council for the City of Riverbank ("City Council") confirmed Churchwell White LLP ("Firm") as its choice to provide legal services to the City and a partner of the Firm, Tom Hallinan, to service the role as the City's designated city attorney ("City Attorney"); and

WHEREAS, On or about February 20, 2013, the City of Riverbank ("City") executed an engagement letter with the Firm to provide legal services to City; and

WHEREAS, On or about April 1, 2013, the City approved and entered into an Agreement for City Attorney Services with Firm (the "Agreement"); and

WHEREAS, The Firm seeks to simplify and streamline certain terms in the Agreement including the reformulation of fees for its legal services to City, the authorization of the City Attorney to appoint Deputy City Attorney(s), and authorization for the Firm to provide City with legislative and governmental relations as the City's registered lobbyist; and

WHEREAS, The City Council agrees to the amendments set forth in the First Amendment; and

WHEREAS, the City Council wishes to authorize the city manager for the City ("City Manager") to execute the First Amendment on behalf of the city.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby by this Resolution approves the First Amendment and authorizes the City Manager to execute the First Amendment amending the Agreement.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 10th day of February, 2015; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard O'Brien
Mayor

Attachments: 1. First Amendment to Agreement for City Attorney Services.
2. Agreement for City Attorney Services.

FIRST AMENDMENT TO AGREEMENT FOR CITY ATTORNEY SERVICES

THIS FIRST AMENDMENT TO AGREEMENT FOR CITY ATTORNEY SERVICES (“First Amendment”) is made and entered into this _____ day of January, 2015 (the “Effective Date”), by and between the City of Riverbank, a California municipal corporation of the State of California (“City”), and Churchwell White LLP, a California limited liability partnership (“Firm”). City and Firm may be referred to herein individually as a “Party” or collectively as the “Parties”. There are no other parties to this First Amendment.

RECITALS

A. At a special city council meeting held on February 20, 2013, the City Council for the City (“City Council”) selected the Firm as its choice to provide legal services to the City and a partner of the Firm, Thomas Hallinan, to service the role as the City’s designated city attorney (“City Attorney”).

B. On or about February 20, 2013, City engaged with Firm to provide legal services to City by executing an engagement letter.

C. On or about April 1, 2013, City approved and entered into an Agreement for City Attorney Services with Firm (the “Agreement”), attached hereto as **Exhibit A**.

D. The Firm seeks to simplify and streamline certain terms in the Agreement including the reformulation of fees for its legal services to City, the authorization of the City Attorney to appoint Deputy City Attorney(s), and authorization for the Firm to provide City with legislative and governmental relations as the City’s registered lobbyist.

E. Parties seek to execute this First Amendment memorializing the agreed upon changes to the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants entered into between the Parties, and in consideration of the benefits that accrue to each, it is agreed as follows:

AGREEMENT

Section 1. Appointment of Deputy City Attorney. Firm will provide all legal services required by City (including such other public agencies or entities selected or appointed by City), and Firm hereby agrees to perform such legal services (“Legal Services”). The City Manager for City (“City Manager”) is authorized and charged with executing this First Amendment. Thomas Hallinan, a partner of Firm, is the appointed City Attorney for City under the Agreement. Douglas L. White and Robin R. Baral are hereby appointed Deputy City Attorney for City. City Attorney shall be solely responsible for appointing any Deputy City Attorney following execution of this First Amendment. City Attorney may from time to time assign alternate attorneys employed by Firm to perform the Legal Services set forth in this First Amendment.

Section 2. Legislative/lobbying Services. City authorizes Firm to provide legislative and governmental relation services to the City as its registered lobbyist in the State of California. Firm shall not charge or invoice City for legislative services under the compensation structure set forth in this First Amendment.

Section 3. Definition of Agreement. This First Amendment and the Agreement shall collectively make and be defined together as the “Agreement”.

Section 4. Integrated Agreement. The Agreement, as modified by this First Amendment, contains all of the agreements of the Parties and all previous understandings, negotiations and agreements are integrated into the Agreement.

Section 5. Amendment. The Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing signed by both Parties. Any non-material change to the Agreement may become effective thirty (30) days following approval of such change in writing by the City Manager and the Firm and shall not require the approval of the City Council.

Section 6. Compensation.

6.1. Hourly Rate for Legal Services. All Legal Services provided by Firm for City shall be billed at a blended hourly rate for all legal professionals (partners, associates, paralegals and law clerks) at One Hundred Fifty Dollars (\$150) per hour for general municipal legal services, Two Hundred Dollars (\$200) for special counsel legal services (including but not limited to litigation, water, complex real estate transactions, enterprise funds, complex environmental, and labor and employment services), and Three Hundred Fifty Dollars (\$350) for reimbursable legal services. Firm shall bill City for all hours of Legal Services set forth in the Agreement at the rates contained in this First Amendment. Firm will also charge and invoice City for all postage, photocopying, expenses and other administrative costs to provide Legal Services to City. All rates will be adjusted annually according to the Consumer Price Index (“CPI”). Any changes in the Firm’s rates shall become effective following a thirty (30) day notice to the City.

6.2. Outside Counsel. If Firm requires assistance from attorneys not associated or affiliated with Firm who specialize in a specific field, such as tax or bankruptcy, Firm will charge and City agrees to pay the billing rates for those attorneys. Firm shall obtain the consent of the City Manager prior to engaging any attorney not affiliated or associated with Firm to provide Legal Services to City.

Section 7. Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this First Amendment are declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this First Amendment which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties herein.

Section 8. Counterparts. This First Amendment may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall be deemed one and the same instrument.

Section 9. Notices. Any notice or communication required hereunder between City and Firm 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 (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) 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:

If to City:

City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: Jill Anderson, City Manager
Tel: (209) 863-7122

If to Firm:

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

Section 10. Governing Law. The validity, interpretation and performance of this First Amendment shall be controlled by and construed pursuant to the laws of the State of California.

Section 11. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Stanislaus.

Section 12. Entire Agreement. This First Amendment, together with its specific references, attachments and exhibits, constitute all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the Parties hereto with respect to the subject matter of this First Amendment. Unless set forth herein, neither Party shall be liable for any representations made express or implied not specifically set forth herein.

Section 13. Authority. All Parties to this First Amendment warrant and represent that they have the power and authority to enter into this First Amendment 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 this First Amendment had been fully complied with.

Section 14. Document Preparation. This First Amendment will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

Section 15. Advice of Legal Counsel. Each Party acknowledges that it has reviewed this First Amendment with its own legal counsel, and based upon the advice of that counsel, freely entered into this First Amendment.

Section 16. 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 First Amendment, 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.

SIGNATURE PAGE TO IMMEDIATELY FOLLOW

IN WITNESS WHEREOF, this First Amendment has been entered into by and between City and Firm as of the date of execution by the City.

CITY OF RIVERBANK,
a California Municipal Corporation

By: _____
Jill Anderson, City Manager

Date Signed: _____

Attest:

By: _____
City Clerk, Annabelle Aguilar

Date Signed: _____

CHURCHWELL WHITE, LLP
a California Limited Liability Partnership

By: _____
Douglas L. White, Managing Partner

Date Signed: _____

Exhibit A

Agreement for City Attorney Services with Firm

PROPOSED

AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES

THIS AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES ("Agreement") is made and entered into this first day of April, 2013 (the "Effective Date"), by and between the City of Riverbank, a municipal corporation of the State of California ("City"), and the law firm of Churchwell White LLP, a California limited liability partnership ("Firm"). City and Firm may be referred to herein individually as a "Party" or collectively as the "Parties". There are no other parties to this Agreement.

Section 1. Appointment. City hereby retains Firm to provide all legal services required by City (including such other public agencies or entities selected or appointed by City), and Firm hereby agrees to perform such legal services. Thomas Hallinan, Of Counsel with Firm, is hereby appointed City Attorney for City.

Section 2. Legal Services. Legal Services under this Agreement shall include Basic Services, Specialized Services and Cost Recovery Services, detailed as follows:

Section 2.1. Basic Services. Basic Services include the following items:

- (a) Attendance at all meetings of the City Council (including regular, closed and special sessions) as needed.
- (b) Attendance at other public meetings involving City legal issues (i.e., Planning Commission) at the request of the City Council or City Manager.
- (c) Preparation or review of staff reports, resolutions, ordinances, agreements, notices, declarations, certificates, deeds, ordinary leases and other legal documents as required by City.
- (d) Consultation with City staff or City Councilmembers by phone, e-mail, or in person as needed, including the rendering of legal advice and opinions concerning legal matters that affect the City, including new legislation and court decisions.
- (e) Consultation with City staff and City Councilmembers regarding municipal code violations and code compliance issues.
- (f) Consultation with City management staff regarding personnel questions and issues that are not included in the Specialized City Attorney Services detailed in Section 2.2.
- (g) Office hours at City Hall.
- (h) Oversight of outside legal counsel services, if any.

Basic Services may be requested by the City Council or any of its members, the City Manager, a City department head or upper management employee.

Section 2.2. Specialized Services. Specialized Services include the following items:

- (a) Perform legal work pertaining to property acquisition and disposal, public improvements, utilities, rights of way and easements.
- (b) Prosecution of municipal code violations and formal administrative hearings and litigation regarding code compliance.
- (c) All litigation, including both defense of claims against City and pursuit of legal and judicial remedies to collect damages due to City.
- (d) Advice regarding specialized employment law issues, personnel disciplinary matters, attendance at Skelly hearings, as necessary, and Personnel Commission disciplinary hearings, as appropriate.
- (e) Construction disputes, such as pursuing performance bonds.
- (f) Advice regarding Affordable Housing issues, including by way of example housing financing transactions.
- (g) Advice regarding non-routine or specialized matters such as updates to the City's general plan, annexations, and Williamson Act issues.

Specialized Services and non-routine matters not specifically listed above may be requested by the City Council or any of its members, the City Manager, a City department head or upper management employee.

Section 2.3. Cost Recovery Services. Cost Recovery Services include the following items:

- (a) Matters paid for by City out of a special fund (rather than the General Fund) or reimbursed by a third party (i.e., developer reimbursable legal fees).
- (b) Matters that the City is authorized to impose and collect fees for the legal services rendered.

Cost Recovery Services may be requested by the City Council or any of its members, the City Manager, a City department head or upper management employee.

Section 3. Compensation.

Section 3.1. Compensation for Basic Services. Basic Services shall be billed at a flat rate of \$150 per hour for attorneys, \$100 per hour for paralegals, and \$35 per hour for legal assistants, which is Firm's effective billing rate for Basic Services for public clients. Firm will also charge and invoice City for all postage, photocopying and other administrative costs incurred to provide Basic Service to City. Firm may change the standard hourly billable rates for Basic Services from time to time upon thirty (30) days advance notice to City. Such changes shall be effective and not require any amendment to this Agreement.

Section 3.2. Compensation for Specialized Services. Specialized Services shall be billed to City at Firm's public client Specialized Services billing rates, along with any associated expenses (e.g., postage, copy charges, court fees). Firm's Specialized Services billing rates may be changed from time to time upon thirty (30) days advance notice to City. Such changes shall be effective without and not require any amendment to this Agreement. As of the date of this Agreement, Firm's Specialized Services hourly billing rate for attorneys, paralegals and legal staff is as follows:

Douglas L. White	\$250
Steven G. Churchwell	\$295
Barbara A. Brenner	\$250
Randy Pollack	\$250
Thomas P. Hallinan	\$250
Steven P. Belzer	\$295
S. Craig Hunter	\$295
Elisabeth White	\$215
Nubia Goldstein	\$205
Jamie Garrett	\$200
Paralegals	\$100
Legal Assistant	\$50

Section 3.3. Compensation for Cost Recovery Services. Cost Recovery Services shall be billed to City at Firm's public client Cost Recovery Services billing rates, along with any associated expenses (e.g., postage, copy charges, court fees). Firm's Cost Recovery Services billing rates may be changed from time to time upon thirty (30) days advance notice to City. Such changes shall be effective without and not require any amendment to this Agreement. As of the date of this Agreement, Firm's Cost Recovery Services hourly billing rate for attorneys, paralegals and legal staff is as follows:

Douglas L. White	\$350
Steven G. Churchwell	\$450
Barbara A. Brenner	\$350
Randy Pollack	\$350

Thomas P. Hallinan	\$350
Steven P. Belzer	\$450
S. Craig Hunter	\$450
Elisabeth White	\$285
Nubia Goldstein	\$265
Jamie Garrett	\$250
Paralegals	\$150
Legal Assistant	\$85

Section 3.4. Outside Counsel. If Firm requires assistance from attorneys not associated or affiliated with Firm who specialize in a specific field, such as tax or bankruptcy, even with regard to services within the scope of the Basic Services listed above, Firm will charge and City agrees to pay the billing rates for those attorneys. Firm shall get the consent of the City Council or City Manager prior to engaging any attorney not affiliated or associated with Firm to provide legal services to City.

Section 3.5. Monthly Payment Cap. Unless otherwise agreed, City is not required to pay Firm more than twenty thousand dollars (\$20,000) per month for Basic Services and Specialized Services (the “Monthly Payment Cap”). Basic Services and Specialized Services exceeding twenty thousand dollars (\$20,000) in any month shall be an outstanding balance owed to Firm and be paid by City to Firm during any month where Basic Services and Specialized Services rendered to City are less than twenty thousand dollars (\$20,000) per month. For instance, if City has a balance of fifteen thousand dollars (\$15,000) and Firm renders only ten thousand dollars (\$10,000) of Basic Services and Specialized Services to City in a month, City will pay Firm twenty thousand dollars (\$20,000) and City will continue to owe Firm five thousand dollar (\$5,000). Any outstanding balance owed pursuant to this Section shall be assessed interest at a rate of three percent (3%) per annum. City and Firm shall make reasonable arrangements to increase the Monthly Payment Cap if the outstanding balance for Basic Services and Specialized Services exceeds eighty thousand dollars (\$80,000) at any time.

Notwithstanding the preceding paragraph, the Monthly Payment Cap shall only apply to Basic Services and Specialized Services provided by Firm to City. The Monthly Payment Cap does not include reasonable costs, fees or expenses incurred by City, Cost Recovery Services or services provided by attorneys, experts or consultants that are not a part of Firm.

Section 3.5. Costs, Fees and Expenses. Firm shall not be entitled to compensation for travel between Firm’s office and City for purposes of attendance at regularly scheduled City Council meetings or regularly scheduled staff meetings. Firm shall, however, receive reimbursement for mileage charges, at the then current federal Internal Revenue Services mileage rate, for such meeting related travel. Firm shall be entitled to receive compensation at its regular hourly rate for: (a) all other travel required pursuant to this Agreement (including attendance at special city council meetings, planning commission meetings, and staff meetings other than those regularly scheduled); and (b) travel undertaken to provide services to City when City has the ability to recover reimbursement for such compensation from third parties (e.g., Cost Recovery Services). When Firm is entitled to receive compensation for travel, it shall also, when applicable, be reimbursed by City for reasonable travel expenses, including mileage, meals and lodging.

Section 3.6. Statements and Invoices. Firm shall provide City with an itemized statement or invoice for fees, costs and expenses incurred on a periodic basis (generally monthly). All statements and invoices shall indicate the basis for all charges, including the hours worked or cost incurred, the hourly rate, and a brief description of the work performed. Firm will establish separate billing categories for specific matters and funding categories as City may direct. Reimbursable costs and fees will be separately itemized.

Payments shall be made by City to Firm within thirty (30) days of receipt of any statement or invoice, except for those specific items on an invoice that are contested or questioned and are returned by City with a written explanation of the question or contest, within thirty (30) days or receipt of the

statement or invoice. Except as otherwise set forth in Section 3.5 of this Agreement, payments made to Firm more than thirty (30) days after the due date shall draw interest at ten percent (10%) per annum.

Section 4. Term and Termination. This Agreement shall continue until terminated by City or Firm upon thirty (30) days advance written notice to the non-terminating party. Upon termination Firm shall be entitled to and City shall immediately pay all amounts owed to Firm.

Section 5. Independent Contractor. The Firm shall perform all legal services required under this Agreement as an independent contractor of the City, and shall remain, at all times as to the City, a wholly independent contractor with only such obligations as are required under this Agreement. Neither the City, nor any of its employees, shall have any control over the manner, mode, or means by which the Firm, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. City shall have no voice in the selection, discharge, supervision or control of the law firm employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service.

Section 6. Conflicts. The Firm has no present or contemplated employment that is adverse to the City. The Firm agrees that it shall not represent clients in matters, either litigation or non-litigation, against the City. However, the Firm may have past and present clients or may have future clients, who, from time to time, may have interests adverse to City, and the Law Firm reserves the right to represent such clients in matters not connected with its representation of the City.

If a potential conflict of interest arises in the Firm representation of two clients, if such conflict is only speculative or minor, the Firm shall seek waivers from each client with regards to such representation. However, if real conflicts exist, the Firm would withdraw from representing either client in the matter, and assist them in obtaining special counsel.

Section 7. Professional Liability Coverage. During the term of this Agreement, the Firm shall at all times maintain insurance coverage for professional liability. Evidence of Insurance shall be provided to the City upon the City's request.

Section 8. Amendment. This Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing signed by both Parties. Any non-material changes to the Agreement may be approved in writing by the City Manager and Firm and shall not require the approval of City Council.

Section 9. Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement are declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties herein.

Section 10. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall be deemed one and the same instrument.

Section 11. Venue. In the event any Party brings an action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Stanislaus or in the United States District Court for the Northern District of California.

Section 12. Notices.

Any written notice to Firm shall be sent to:

Churchwell White LLP
ATTN: Managing Partner
1201 K Street, Suite 710
Sacramento, California 95814

Any written notice to City shall be sent to:

City of Riverbank
ATTN: City Manager
6707 Third Street
Riverbank, California 95367

Section 13. Authorized Signatures. Each Party signing this Agreement warrants that he or she has the authority to execute this Agreement on behalf of the principal and that the Party will be bound by such signature.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date of execution by the City.

CITY OF RIVERBANK

By: _____
Jill Anderson
City Manager

ATTEST:

By: _____
Annabelle Aguilar
City Clerk

CHURCHWELL WHITE LLP

By: _____
Douglas L. White
Managing Partner

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.F

SECTION 3: CONSENT CALENDAR

Meeting Date:	February 10, 2015
Subject/ Title:	A Resolution of the City Council of the City of Riverbank, California, Appointing Arlene Figueroa to the Budget Advisory Committee
From:	Jill Anderson, City Manager
Submitted by:	Marisela H. Garcia, Director of Finance

RECOMMENDATION

It is recommended that the City Council approve by Resolution the appointment of Arlene Figueroa as a member of the City of Riverbank Budget Advisory Committee, based on the recommendation of Mayor O'Brien.

SUMMARY

At the June 28, 2010 City Council Meeting, Council authorized staff to form a Budget Advisory Committee. This committee will serve to make recommendations, in an advisory role, to City Council on projects, programs and policies related to the City's operating budget and annual audits. The committee is comprised of seven (7) voting members, one (1) non-voting Councilmember, and one (1) non-voting Councilmember alternate. Currently, there are four vacancies on the Committee. One seat expires June 2015, and three seats expire June 2016.

An application for appointment was received from Mrs. Arlene Figueroa. Mrs. Figueroa was a previous member of the Budget Advisory Committee. Her interest in continuing to be a member of the Committee, as well as her finance background, makes her an excellent candidate to fill one of the three vacancies.

By recommendation of Mayor O'Brien, it is recommended that the City Council appoint the following candidate to the Budget Advisory Committee:

- Chair 3: Mrs. Arlene Figueroa - Term Expiration 07/26/2016

FINANCIAL IMPACT

There is no financial impact associated with the appointment of this member to the Budget Advisory Committee.

ATTACHMENTS

The following items are attached to this report:

1. Resolution
2. Application for Appointment: Budget Advisory Committee

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPOINTING ARLENE FIGUEROA TO THE BUDGET ADVISORY
COMMITTEE**

WHEREAS, On June 28, 2010, the City Council formed the Budget Advisory Committee to provide recommendations, in an advisory role, to City Council on projects, programs and policies related to the City's operating budget and annual audits; and,

WHEREAS, There has been continuous recruitment for a voting member from the residents of the City of Riverbank; and,

WHEREAS, Mrs. Arlene Figueroa, resident of the City of Riverbank has expressed interest in becoming a member of the Budget Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby appoints the following resident to the City of Riverbank Budget Advisory Committee:

- **Chair 3: Arlene Figueroa. Term to expire 07/26/2016.**

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 10th day of February, 2015; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachments: Application for Appointment: Budget Advisory Committee

APPLICATION FOR APPOINTMENT BUDGET
ADVISORY COMMITTEEName: Arlene Figueroa Date: 1/21/2015Home Address:
(Number/Street) (City/Zip) (Telephone)Business Address:
(Number/Street) (City/Zip) (Telephone)Email Address: Cell:

Eligible applicants must reside within the Riverbank city limits and should possess a basic knowledge of accounting procedures and protocols.

Are you a legal citizen of the United States? YesHow long have you been a resident of Riverbank? 2004

Please describe your education, employment and civic activities:

I currently hold a Bachelor's degree in Business Administration from the University of Phoenix with a concentration in Accounting and Finance.
In addition I have certifications in Non-Profit Management and Grant Writing from the University of California, Stanislaus. I am currently pursuing
my second year of a Master's Degree in Forensic Accounting. I am currently employed as an Administrative Assistant/ Financial Analyst for a
private non-profit organization. My role in takes an in-depth analysis of federal and nonfederal funding as well as grant allocations. I maintain
accurate records, provide financial statements and make recommendations to improve the overall budget process. I am currently serving
on a non-profit board of directors as the Chief Financial Officer in which my role is to create the budget and analyze the overall process of
generating revenues and controlling expenses.

What qualifies you best to advise the Riverbank City Council on budgetary issues?

I recently served on the City of Riverbank's Budget Advisory Committee April 22, 2013 - July 26, 2014 and would like the opportunity to continue
providing insight in the budgetary process. It is my intention to make appropriate recommendations that provide support to the residents
of our community. In addition to providing a positive impact to the city's budget, I will analyze and suggest ways to generate revenue and suggest
adequate expenditures to minimize wastefulness of the city's finances. I have knowledge of laws & regulations including but not limited to
the California Corporation Code (CCC), Generally Accepted Government Audit Standards (GAGAS), Office of Management and Budget (OMB),
Circular A-133 Auditing Standards and OMB A-122 Cost Principles.

I hereby certify that this form is true and accurate to the best of my knowledge. I understand that I may be contacted for more information if needed. I am available for monthly/bi-monthly/quarterly evening meetings and can commit to serving until July 26, 2016 on the Committee should I be appointed.

Arlene Figueroa

(Signature)

1/21/2015

(Date)

Please return: In person to the Finance Department - 6617 Third Street or via e-mail at mhgarcia@riverbank.org. Application period open until all vacancies are filled.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 4.1

SECTION 4: UNFINISHED BUSINESS

Meeting Date:	February 10, 2015
Subject:	Presentation of Additional Options for Creating City Council Districts in the City of Riverbank Pursuant to the California Voting Rights Act
From:	Jill Anderson, City Manager
Submitted by:	Tom Hallinan, City Attorney

RECOMMENDATION

It is recommended that the City Council consider the presentation of draft plans and analysis prepared by National Demographic Corporation (NDC) to evaluate the options for Creating City Council Districts in the City of Riverbank and provide feedback as needed.

INTRODUCTION

On January 13, 2015 and January 27, 2015 NDC presented draft plans to the City Council to identify options for creating districts in the City of Riverbank. Feedback provided at the meeting has been used to develop additional draft plans for consideration by the City Council at the January 27 meeting.

SUMMARY

Since 2013, the City has taken steps to analyze the City's current at-large electoral system in connection with the California Voting Rights Act ("CVRA"). In February 2014, the City authorized National Demographic Corporation ("NDC") to prepare the demographic study and recommend steps necessary to ensure the City is in full compliance with all state and federal voting rights laws.

NDC is in the process of developing options for the designation of districts in the City. Presentations of draft plans were made at the January 13th and January 27th City Council meetings. Feedback provided by the City Council and the public at the two meetings has been used to prepare additional informational maps that can be considered by the City Council and the public.

The purpose of this information item is for NDC to present draft district maps for comment, discussion and optional direction by the City Council and residents.

NEXT STEPS

A public workshop has been scheduled for Saturday, March 14, 2015 at 10:00 a.m. In order to minimize the confusion associated with a public discussion of nine maps, it is recommended that the City Council identify the maps that they think have the most promise based on the feedback received to date.

LEGAL CONTEXT

The CVRA as codified in Election Code section 14025 et seq. was passed in 2002 and provides a cause of action to members of any racial or ethnic group that can establish that its members' votes are diluted through the combination of racially polarized voting and an at-large election system. (*Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660.)

Similar to the CVRA, the FVRA creates liability for vote dilution. A violation of the FVRA is established if "the political processes leading to nomination or election in a State or political subdivision are not equally open to participation by members of a protected class...in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. (42 U.S.C. § 1973(b).)

An individual seeking to prove an at-large system violates the CVRA must therefore demonstrate that racially polarized voting patterns have prevented a protected class from electing representatives from the same protected class. Election Code section 14028 provides that racially polarized voting can be determined by examining results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class. Courts have approved specific methodologies to determine the existence of racially polarized voting.

Due to the statistical nature of evaluating voting patterns within a particular population segment, the City must evaluate its present at-large electoral system in relation to the ethnic and protected class subgroups within the City. This analysis will not only provide the City with a clearer picture of voting patterns within the City, it will assist the City in determining whether a transition to a district electoral system is necessary or justified in compliance with the CVRA and FVRA.

FINANCIAL IMPACT

The City has allocated a budget of Twenty-Five Thousand Dollars (\$25,000) from the City's General Fund for this activity. Additional funding is not being requested at this time.

ATTACHMENTS

There are no attachments to this report.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARINGS

Meeting Date: February 10, 2015

Subject/ Title: First Reading and Introduction by Title Only of an **Ordinance** of the City Council of the City of Riverbank, California, Adding Chapter 125: Tattoo and Body Art Establishments to Title XI: Business Regulations and Amending Title XV: Zoning, Amending 1) Section 153.076: Uses Permitted in the Neighborhood Commercial District C-1 Zone, 2) Section 153.092: Uses Permitted in the General Commercial District C-2 Zone and 3) Section 153.106: Uses Permitted in the Commercial-Industrial C-M Zone of the City's Municipal Code

From: Jill Anderson, City Manager

Submitted by: John B. Anderson, Contract Community Development Director

RECOMMENDATION

It is recommended that the City Council conduct the first reading and introduction by title only of the proposed ordinance adding Chapter 125, Tattoo and Body Art Establishments to Title XI, Business Regulations, and amending Chapter 153, Zoning of the municipal code as originally drafted (Attachment 1) or as modified by the Planning Commission's action (Attachment 2), adding language related to Site Location and selling alcohol for on premise or off premise consumption.

SUMMARY

The City of Riverbank ("City") does not currently regulate the operation or location of tattoo establishments. This is in part because the health impacts that are often associated with tattoo and body art establishments are largely regulated at a county level through the Stanislaus County Department of Environmental Health's Safe Body Art Program that is instituted under the Assembly Bill 300¹, known as the Safe Body Art Act. Therefore, the proposed ordinance ("Ordinance") does not focus on the health impacts associated with tattoo establishments.

¹ Commencing with Health & Safety Code § 119300.

Instead, the Ordinance seeks to address negative secondary effects that are sometimes associated with tattoo and body art establishments. The Ordinance establishes an application and license procedure that allows the City to review the individuals seeking to establish or operate a tattoo or body art establishment in the City to ensure that the business operates in the interest of the general welfare of the City. The application is reviewed by the planning, building, fire, and police departments before a permit is issued. The permit is valid for one (1) year and must be renewed when the tattoo establishment's business license with the City must be renewed. Thus, the City remains informed of the staff at the tattoo establishment on an annual basis.

The Ordinance establishes a number of requirements regarding the location of tattoo establishments in relation to one another and in relation to particular types of uses such as residential areas and schools or parks. Tattoo and body art activities are an adult only use. Locating tattoo and body art establishments away from areas where children are more frequently present ensures that children are not influenced to participate in these activities illegally.

The second part of the Ordinance establishes the zoning for tattoo and body art establishments. Tattoo and body art establishments are not currently explicitly included in the City's zoning code. The Ordinance will allow tattoo and body art establishments as a permitted use in all commercial zones in the City, subject to the requirements of the tattoo establishment or body art establishment permit requirements. The zones where tattoo establishments will be a permitted use subject to the requirements of the tattoo establishment permit include Neighborhood Commercial C-1 zone, General Commercial C-2 zone, and the Commercial-Industrial C-M zone. The provisions of the zoning code allow all commercial uses in the industrial and manufacturing zones of the City as well. Therefore tattoo and body art establishments would also be allowed to locate in those zones subject to the tattoo or body art establishment license requirements.

BACKGROUND

The City passed Ordinance No. 2014-008 on September 23, 2014 establishing a forty-five (45) day moratorium on the establishment or expansion of new tattoo establishments in the City. That moratorium was extended for an additional six (6) months on October 28, 2014 through Ordinance No. 2014-009. The City established the moratorium after it became clear that the City lacked any regulation of that type of use in the R.M.C. when the City received two (2) business license applications from tattoo establishment owners.

During the time the moratorium was in place, City staff has been in discussion with the individuals who currently operate tattoo establishments in the City as well as individuals who are interested in establishing a tattoo establishment in the City. Through these discussions, the City has created a regulatory system that addresses the City's concerns about the often related negative secondary effects of tattoo establishments

while allowing tattoo establishment to be productive participants in the City's business community.

ANALYSIS

The following is summary of the provisions included in the proposed ordinance, unmodified by Planning Commission action:

Site Location and Development Standards

As noted above, the Ordinance establishes a number of requirements regarding the location of tattoo establishments. These requirements are as follows:

- The tattoo establishment or body art establishment shall not be located within **1,000 feet** of any other tattoo establishment or body art establishment.
- The tattoo establishment or body art establishment shall not be located within **500 feet** of any adult entertainment business.
- The tattoo establishment or body art establishment shall not be located within **500 feet** of any business selling alcoholic beverages.
- The tattoo establishment or body art establishment shall not be located within **100 feet** of any existing residential zone
- The tattoo establishment or body art establishment shall not be located within **500 feet** of a school, park, day care center or family day care home.
- All business activities of the tattoo establishment or body art establishment shall take place entirely within the building and in compliance with the requirements under the Stanislaus County Body Art Program established under the requirements of Health and Safety Code.

Hours of Operation

The Community Development Director shall annually establish hours of operation for all tattoo establishments or body art establishments that operated in the City.

The hours for tattoo and body art establishments are established each year by the Community Development Director to ensure that the sometimes related negative secondary effects of tattoo and body art establishments such as illegal drug activity and excessive loitering are mitigated.

Prohibited Conduct

In addition to establishing site location and development standards, the Ordinance establishes prohibited conduct, where a license issued under the added Chapter can be revoked if any of the provisions or requirements is violated:

- All offering of services and merchandise shall take place only within the building.
- All tattooing and other body art activities shall take place in a room or space that conceals the activity from the view of individuals outside the business.

- The tattoo establishment or body art establishment must not jeopardize or endanger the public health and safety of persons residing or working in the surrounding area.
 - The tattoo establishment or body art establishment shall not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbing the peace, gambling, prostitution, sale of stolen goods, public urination, theft, assault, battery, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially late at night or in the early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
 - The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall be in full compliance with the provision of AB 300, the Safe Body Act.
 - The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall meet all the requirements, health and safety standards, and proper handling and disposal of medical waste as required by the Stanislaus County Environmental Health Division under the Safe Body Art Program.
 - The tattoo establishment or body art establishment shall not violate any other applicable local, state, or federal regulation.
 - The tattoo establishment or body art establishment shall not allow the sale of drug paraphernalia at the tattoo establishment.
-

Survey of 14 Surrounding Cities

A. Survey Surrounding Jurisdictions

As part of the research done to develop the Ordinance, a survey was conducted to determine how other jurisdictions regulate tattoo and body art establishments. The results of the survey are attached to this Staff Report as Attachment 2. The following summarizes the findings of the survey:

B. Site Location and Development Regulations

Of the fourteen (14) Cities surveyed, two (2) have established restrictions pertaining to the location of the tattoo establishment or body art establishment in relation to other uses.

The city of Menifee, for example, establishes that tattoo establishments cannot be located within:

- **500 feet** of any other tattoo establishment or within the same center;
- **500 feet** of any business selling alcohol; and
- **500 feet** of any school, church, or playground.

The city of Banning establishes that tattoo establishments cannot be located within:

- **1,000 feet** of another tattoo establishment;

- **500 feet** of an adult-oriented business;
- **500 feet** of any business selling alcoholic beverages;
- **100 feet** of residential properties; and
- **600 feet** of a school, park, or daycare center.

C. Hours of Operation

Of the fourteen (14) Cities surveyed, two (2) establish hours of operations for tattoo establishments. The City of Menifee, for example, establishes that tattoo establishments may operation between **7:00 am and 9:00 pm**. The City of Banning establishes that tattoo establishments may operate between **7:00 am and 10:00 am**.

D. Prohibited Conduct

In summary, most of the Cities reviewed in the survey require a Conditional Use Permit in order for a tattoo establishment to open and operate in the City. Through this Conditional Use Permit process, the City will set restrictions and requirements that may include prohibited conduct. The following is a summary of what was found as a result of the survey:

- **Merced.** Requires a CUP for a tattoo establishment to open and operate in the City. In a recent CUP (May 23, 2012), the City's Planning Commission conditionally approved the application with requirements such as no exterior graphics and a periodic review of the business operation.
- **Hayward.** Requires a CUP for a tattoo establishment to open and operate in the City. In a recent CUP (July 25, 2013), the City's Planning Commission conditionally approved the application with requirements such as the proposed use will not be detrimental to the public health, safety, or general welfare, a limitation on the hours of operation and restrictions on loitering.
- **Huntington Beach.** Requires a CUP for a tattoo establishment to open and operate in the City. In a recent CUP (June 12, 2012), the City's Planning Commission conditionally approved the application with requirements such as requiring the operation of the tattoo use wholly within the interior of the business and the business shall not prove hazardous to the general welfare of the residents in the City.
- **Chula Vista.** Requires applicants wishing to open a tattoo establishment to obtain a police regulated business license, which includes a background check.
- **Culver City.** Has s special permit for certain types of businesses, including tattoo parlors, which requires a background check.

PLANNING COMMISSION ACTION

On December 16, 2014, the Planning Commission held a public hearing to consider the proposed Tattoo and Body Art Establishment Ordinance adding provisions regarding

tattoo and body art establishments to the Riverbank Municipal Code and amending the zoning code to include tattoo and body art establishments. Four (4) Planning Commissioners were present at this meeting: Vice Chair Hughes, Commissioner Villapudua, Commissioner Degele and Commissioner McKinney.

The Planning Commission was presented with three options regarding Resolution 2014-018:

1. Motion to adopt Resolution No. 2014-018, recommending the City Council of the City of Riverbank adopt the proposed Ordinance establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments;
2. Motion to adopt Resolution No. 2014-018 as amended by the Commission, recommending the City Council of the City of Riverbank to adopt the proposed Ordinance establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments.;
3. Reject the Resolution No. 2014-018, not recommending the City Council of the City of Riverbank adopt the proposed Ordinance establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments.

During their deliberation, the Planning Commission raised some questions regarding the distance a Tattoo Establishment or Body Art Establishment should be from a business selling alcoholic beverages. The ordinance is drafted to require a tattoo or body art establishment to not be located within 500 feet of any business selling alcoholic beverages. The Planning Commission deliberated on the differences between “selling” and “consuming” and ultimately decided that it would best to make that distinction. The Planning Commission recommendation, attached to Resolution 2014-018 as Exhibit A and included in this Staff Report as Attachment 2, adding that a tattoo or body art establishment shall not be located within a business selling alcoholic beverages *for on premise consumption* within 500 feet and not located within 100 feet a business selling alcoholic beverages for *off premise consumption*. This provides the difference between an establishment such as a bar and a grocery store.

Commissioner McKinney raised some questions as to the approval process for Tattoo Establishment and Body Art Establishments. He is of the opinion that, due to the nature of the business, that a Conditional Use Permit should be required. This allows for the public to be noticed, per the requirements of the Government Code and ensures that the public and surrounding properties know exactly where a Tattoo or Body Art Establishment will be located. He cited the Survey, which shows that most of the Cities surveyed require a CUP.

During the public comment period, Daniel Friedman spoke in favor of the Ordinance, stating that that proposed provisions provide the ability for the City to act if any issues

arise such any public nuisance or complaints in the future. He also spoke in favor of the Hours of Operation portion of the Ordinance, which allows for flexibility and accommodates the business nature of Tattoo and Body Art Establishments, where the business is open to the public during normal business hours but due to appointments to accommodate client needs and schedules, the tattoo establishment may not be open to public but the tattoo artist is working with a client at a predetermined time. Additionally, Mr. Friedman stated that instances such as this would be behind closed doors and shielded from the public.

Two motions were proposed during Planning Commission deliberations

1. Commissioner McKinney made a motion to adopt Resolution No. 2014-018 as amended by Commission, recommending to the City Council to require a Conditional Use Permit and modify the language in regards to the location of tattoo and body art establishments in relation to businesses selling alcohol. Mr. McKinney's motion failed for the lack of a second to his motion.
2. Commissioner Villapudua made the motion to adopt Resolution No. 2014-018 as amended by Commission, recommending to the City Council to adopt the proposed Ordinance establishing provisions for tattoo establishments and amending the zoning code to include tattoo and body art establishments. With a three (3) to one (1) vote (McKinney descending), the Planning Commission adopted Resolution No. 2014-018 recommending the City Council of the City of Riverbank adopt the proposed Ordinance establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments.

As noted above, the Planning Commission ultimately chose to adopt Resolution No. 2014-018 as amended by the Commission. As adopted by the Planning Commission, Resolution 2014-018 recommends the City Council adopt an amended version of the proposed Tattoo and Body Art Establishment Ordinance, establishing provisions for tattoo establishments and amending the zoning code to include tattoo and body art establishments.

By adopting Resolution 2014-018, the Planning Commission recommends that Section 125.05: Site Location and Development Standards read as follows:

Section 125.05 Site Location and Development Standards.

[...]

C. The tattoo establishment or body art establishment shall not be located within 500 feet of any business selling alcoholic beverages for on premise consumption as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing business selling alcoholic beverages.

D. The tattoo establishment or body art establishment shall not be located within 100 feet of any business selling alcoholic beverages for off premise consumption as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing business selling alcoholic beverages

[...]

Planning Commission Resolution 2014-018, as amended by the vote of the Commissioners present at the regularly scheduled Planning Commission meeting of December 16, 2014 is attached to this Staff Report as Attachment 2.

ENVIRONMENTAL DETERMINATION

The Ordinance regarding tattoo and body art 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 Ordinance is required.

FINANCIAL IMPACT

The tattoo establishment or body art establishment application process will require additional staff time to review and grant these licenses. However, the City is authorized to charge a fee associated with this application that can help offset these costs.

STRATEGIC PLAN

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three years. The above action to add provisions regarding tattoo and body art establishments to the Riverbank Municipal Code and amending the zoning code to include tattoo and body art establishments is part of these goals under the *Enhance Public Safety* and *Retain and Attract Businesses* sections.

POSSIBLE CITY COUNCIL ACTIONS

The City Council's options regarding the proposed Ordinance include:

1. Motion to accept Planning Commission Resolution 2011-018 and adopt the proposed Ordinance, as amended by Planning Commission recommendation established in **Attachment 2** of this Staff Report, adding provisions regarding tattoo and body art establishments to the Riverbank Municipal Code and amending the zoning code to include tattoo and body art establishments. The amended proposed Ordinance amends Section 125.05: Site Location and

Development Standards, adding *on premise consumption and off premise consumption* to provide distinction between those types of uses; and

2. Motion to reject Planning Commission Resolution 2014-018 and reject the proposed Ordinance, not adding provisions regarding tattoo and body art establishments to the Riverbank Municipal Code and amending the zoning code to include tattoo and body art establishments.

ATTACHMENTS

1. The proposed City Council Ordinance, unmodified by Planning Commission action
2. The proposed City Council Ordinance, amended by Planning Commission action
3. Planning Commission Resolution 2014-018
4. Survey of Fourteen (14) Surrounding Cities Tattoo Regulations
5. City of Riverbank Zoning Map

ATTACHMENT 1

CITY OF RIVERBANK ORDINANCE NO. 2015-XX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RIVERBANK, CALIFORNIA, ADDING CHAPTER 125:
TATTOO AND BODY ART ESTABLISHMENTS TO TITLE XI:
BUSINESS REGULATIONS AND AMENDING TITLE XV:
ZONING, AMENDING 1) SECTION 153.076: USES
PERMITTED IN THE NEIGHBORHOOD COMMERCIAL
DISTRICT C-1 ZONE, 2) SECTION 153.092: USES
PERMITTED IN THE GENERAL COMMERCIAL DISTRICT C-2
ZONE AND 3) SECTION 153.106: USES PERMITTED IN THE
COMMERCIAL-INDUSTRIAL C-M ZONE OF THE CITY'S
MUNICIPAL CODE**

WHEREAS, Assembly Bill 300, the Safe Body Art Act, Health and Safety Code section 119300 *et seq.* ("Safe Body Art Act") was enacted in 2012 to govern the public health impacts of tattooing and other related body art activities, largely empowering counties to regulate those impacts; and

WHEREAS, the Safe Body Art Act allows a city to adopt regulations that are more stringent than the regulations contained in the Safe Body Art Act so long as those regulations do not conflict with the Safe Body Art Act; and

WHEREAS, unregulated tattoo establishments and body art establishments may have related negative secondary effects on the community such as gang related activity where tattoo establishments and body art establishments are not properly regulated; and

WHEREAS, the City of Riverbank ("City") seeks to provide regulations that will ensure tattoo establishments and body art establishments are productive participants in the City's business community; and

WHEREAS, the City Council finds it is in the interest of the public health, safety and welfare to establish guidelines and regulations that ensure the often related secondary effects of tattoo establishments and body art establishments are adequately addressed in the City.

WHEREAS, the City Council for the City of Riverbank has the made the following findings for adoption.

1. There is a threat to the general welfare of the community if tattoo and body art establishments locate in the City without proper regulations and planning in place; and

2. Tattooing and related body modification techniques are activities that can result in secondary negative impacts, such as an increase in crime and the sale of illegal drugs immediately surrounding tattoo establishments and the impairment of the market values and aesthetic and visual qualities of the properties adjacent to tattoo establishments; and
3. The proliferation of tattoo establishments may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality.
4. Pursuant to California Government Code Section 65355, the relationship between the proposed Zoning Code Amendments and the General Plan are as follows:
 - a. The proposed Ordinance is consistent with the General Plan and each of its elements and all components therein because the proposed Ordinance is consistent with the Goals and Policies of the Land Use and Economic Development Elements of the City of Riverbank General Plan:
 - 1) Policy LAND-4.3 – The City will encourage and assist small, locally-owned businesses that wish to locate, expand, or simply continue to do business in Riverbank through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement process, public-private partnerships, and other means.
 - 2) Policy ED-5.1 – The City will work with the business community to continually identify areas for improvement and/or streaming in the building and development permit approval process, City operations, public input, and other processes.
 - 3) Policy ED-5.2 – The City will proactively maintain responsiveness to addressing any business climate shortcomings identified through outreach and communication through local businesses.
 - b. The proposed Ordinance is compatible with the uses authorized in and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district.

WHEREAS, The Planning Commission has considered this Zoning Code Amendment at a duly advertised public hearing on December 16, 2014 and adopted Resolution 2014-018 recommending that the City Council approve the Ordinance; and

WHEREAS, notice of the public hearing on the Proposed Ordinance was published in the *Riverbank News*, a newspaper of general circulation on January 28, 2015; and

WHEREAS, a public hearing was held on February 10, 2015, and all comments were heard and considered by the City Council.

NOW, THEREFORE THE CITY OF RIVERBANK CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1: Title XI of Riverbank's Municipal Code shall be amended to read as follows:

Title XI, Business Regulations, is amended to add Chapter 125, Tattoo and Body Art Establishments which shall read:

TATTOO AND BODY ART ESTABLISHMENTS

Section 125.01 Definitions.

For the purposes of this chapter, the following terms have the following meanings:

A. "Tattoo establishment" or "body art establishment" shall mean any premises 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" or "body art establishment" shall include any premises 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" or "body art establishment" shall not include a permanent cosmetic facility.

B. "Body art" shall mean any act of body piercing, tattooing, branding or scarification.

C. "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.

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

E. "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.

F. "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.

G. "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.

H. "Tattoo" and "tattooing" shall mean the process of marking or coloring skin using 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.

Section 125.02 License Application.

A. Any person, firm, corporation or partnership desiring to obtain a license to operate a tattoo establishment or body art establishment shall file a complete application with all required documentation under penalty of perjury of the laws of the state. The application shall be in a form prescribed by the city and shall be accompanied by a copy of the current and complete health permit issued by the local enforcement agency and a copy of the certificate of registration for all practitioners performing tattooing or other body art.

B. The tattoo establishment or body art establishment license shall be renewed each year at the same time that the tattoo establishment or body art establishment renews its business license with the city.

C. The license is valid only for the location of the facility and the time period indicated on the license and may not be transferred to another owner or facility.

D. The city shall promptly reject as incomplete any application which does not meet all the requirements of this chapter. Upon written request of the applicant, the city shall notify the applicant in writing, by first class mail, postage prepaid, to the address supplied to the city by the application, of the deficiencies in the application.

Section 125.03 Investigation by the City.

A. Upon receipt of a complete application, all supplemental required information, and payment of all required fees, the city's community development director shall refer the application to all appropriate city agencies including building, planning, police and fire departments. The departments shall review the application, and where necessary, the proposed location of the tattoo establishment or body art establishment may be

inspected. The community development director may request any further information which is reasonably related to the licensing requirement of this chapter. Based on this review, the community development director shall grant or deny the tattoo establishment or body art establishment license.

B. The community development director shall grant a tattoo establishment or body art establishment license where it finds that the establishment, maintenance or operation of the tattoo establishment or body art establishment, under the circumstances of the particular case, will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or area of the tattoo establishment or body art establishment or will not be detrimental or injurious to property and improvements in the neighborhood or area or to the general welfare of the city.

C. If the community development director, following investigation of the applicant, determines that the applicant does not fulfill the requirements set forth in this chapter, the community development director shall deny the application by written notice sent via U.S. mail. Following the denial or revocation of a tattoo establishment or body art establishment license, no application for a tattoo establishment or body art establishment may be filed by such applicant, at the same or substantially the same location for at least one year following the date of such denial or revocation.

Section 125.04 License Procedures.

A. Upon payment of all fees and successful verification of all requirements of this chapter, a tattoo establishment or body art establishment shall be issued a tattoo establishment or body art establishment license by the city.

B. Any person, firm, corporation or partnership denied a license pursuant to this Chapter may appeal the denial in writing pursuant to the procedures specified in Section 153.218: Appeal.

Section 125.05 Site Location and Development Standards.

A. Tattoo establishments and body art establishments shall not be located within 1,000 feet of any other tattoo establishment or body art establishment as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing tattoo establishment or body art establishment.

B. The tattoo establishment or body art establishment shall not be located within 500 feet of any adult entertainment business, as defined in Riverbank Municipal Code Section 118, as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing adult entertainment business.

C. The tattoo establishment or body art establishment shall not be located within 500 feet of any business selling alcoholic beverages as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing business selling alcoholic beverages.

D. The tattoo establishment or body art establishment shall not be located within 100 feet of any existing residential zone as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of a residentially zoned property.

E. The tattoo establishment or body art establishment shall not be located within 500 feet of a school, park, day care center or family day care home as measured from any point between the outer boundaries of the lease space containing the tattoo establishment or body art establishment to the nearest property line of the school, park, day care center, or family day care home.

F. All business activities of the tattoo establishment or body art establishment shall take place entirely within the building and in compliance with the requirements under the Stanislaus County Body Art Program established under the requirements of Health and Safety Code, Chapter 7, commencing with Section 119300.

Section 125.06 Hours of Operation.

The Community Development Director shall annually establish hours of operation for all tattoo establishments or body art establishments that operated in the City.

Section 125.07 Prohibited Conduct.

In addition to any other procedures regarding the enforcement of this code, or other local, state or federal law, a license issued under this chapter may be revoked if any of the following provisions or requirements is violated:

A. All offering of services and merchandise shall take place only within the building. Should other retailers within a commercial center in which the tattoo establishment or body art establishment is located complain about harassment of customers, this is prima facie evidence of non-compliance with this requirement to contain body art business activities.

B. All tattooing and other body art activities shall take place in a room or space that conceals the activity from the view of individuals outside the business.

C. The tattoo establishment or body art establishment must not jeopardize or endanger the public health and safety of persons residing or working in the surrounding area.

D. The tattoo establishment or body art establishment shall not result in repeated nuisance activities within the premises or in close proximity of the premises. Nuisance activities include but are not limited to disturbing the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assault, battery, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially late at night or in the early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

E. The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall be in full compliance with the provision of AB 300, the Safe Body Art Act, Health and Safety Code §§ 119300 *et seq.*

F. The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall meet all the requirements, health and safety standards, and proper handling and disposal of medical waste as required by the Stanislaus County Environmental Health Division under the Safe Body Art Program.

F. The tattoo establishment or body art establishment shall not violate any other applicable local, state, or federal regulation.

G. The tattoo establishment or body art establishment shall not allow the sale of drug paraphernalia at the tattoo establishment.

SECTION 2: Chapter 153: Zoning of Riverbank's Municipal Code shall be amended as follows:

Subsections (21) through (23) of Chapter 153: Zoning, Section 153.076: Uses Permitted of Riverbank's Municipal Code shall be amended and a subsection (24) shall be added to include Tattoo Establishments or Body Art Establishments in the Neighborhood Commercial District C-1 Zone and as follows:

[...]

(21) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125;

(22)(21) Television (sales and service);

(23)(22) Variety; and

(24)(23) Other uses which are determined by the Community Development Director to be similar.

Section 153.092 of Chapter 153: Zoning, Section 153.092: Uses Permitted, Commercial shall be amended to add a subsection (R) to include Tattoo

Establishments or Body Art Establishments in the General Commercial District C-2 Zone as follows:

[...]

(R) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125.

Subsections (KK) through (QQ) of Section 153.106 of Chapter 153: Zoning, Section 153.106: Uses Permitted shall be amended and a subsection (RR) shall be added to include Tattoo Establishments or Body Art Establishments in the Commercial-Industrial C-M Zone as follows:

[...]

(KK) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125;

(LL)~~(KK)~~ Television or radio transmitter.

(MM)~~(LL)~~ Temporary uses such as a circus, carnival, fair, or festival, provided that they meet the following requirements:

- (1) The use shall be temporary in nature and shall not last more than four days.
- (2) The organizers of the event shall notify the Riverbank Police Services Division of their intentions at least 30 days prior to the scheduled beginning of the event.
- (3) A business license shall be obtained as required by § 110.18 of the city code.
- (4) Licenses will only be issued to local businesses or shopping centers when conducted on the same property as the business/shopping center or to local nonprofit organizations.
- (5) The use need not be in an enclosed building or fence.

(NN)~~(MM)~~ Temporary construction building to house tools and equipment or containing supervisory offices in connection with construction projects during active construction on the same property.

(OO)~~(NN)~~ Theater, indoor.

(PP)~~(OO)~~ Tin smith.

(QQ)~~(PP)~~ Utilities.

(RR)~~(QQ)~~ Veterinary hospital.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank on February 10, 2015. Said ordinance was given a second reading at the regular City Council meeting on February 24, 2015.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on _____, 2014; motioned by Councilmember _____, seconded by Councilmember _____, moved the ordinance for adoption by a roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

ATTACHMENT 2

CITY OF RIVERBANK ORDINANCE NO. 2015-XX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RIVERBANK, CALIFORNIA, ADDING CHAPTER 125:
TATTOO AND BODY ART ESTABLISHMENTS TO TITLE XI:
BUSINESS REGULATIONS AND AMENDING TITLE XV:
ZONING, AMENDING 1) SECTION 153.076: USES
PERMITTED IN THE NEIGHBORHOOD COMMERCIAL
DISTRICT C-1 ZONE, 2) SECTION 153.092: USES
PERMITTED IN THE GENERAL COMMERCIAL DISTRICT C-2
ZONE AND 3) SECTION 153.106: USES PERMITTED IN THE
COMMERCIAL-INDUSTRIAL C-M ZONE OF THE CITY'S
MUNICIPAL CODE**

WHEREAS, Assembly Bill 300, the Safe Body Art Act, Health and Safety Code section 119300 *et seq.* ("Safe Body Art Act") was enacted in 2012 to govern the public health impacts of tattooing and other related body art activities, largely empowering counties to regulate those impacts; and

WHEREAS, the Safe Body Art Act allows a city to adopt regulations that are more stringent than the regulations contained in the Safe Body Art Act so long as those regulations do not conflict with the Safe Body Art Act; and

WHEREAS, unregulated tattoo establishments and body art establishments may have related negative secondary effects on the community such as gang related activity where tattoo establishments and body art establishments are not properly regulated; and

WHEREAS, the City of Riverbank ("City") seeks to provide regulations that will ensure tattoo establishments and body art establishments are productive participants in the City's business community; and

WHEREAS, the City Council finds it is in the interest of the public health, safety and welfare to establish guidelines and regulations that ensure the often related secondary effects of tattoo establishments and body art establishments are adequately addressed in the City.

WHEREAS, the City Council for the City of Riverbank has the made the following findings for adoption.

1. There is a threat to the general welfare of the community if tattoo and body art establishments locate in the City without proper regulations and planning in place; and

2. Tattooing and related body modification techniques are activities that can result in secondary negative impacts, such as an increase in crime and the sale of illegal drugs immediately surrounding tattoo establishments and the impairment of the market values and aesthetic and visual qualities of the properties adjacent to tattoo establishments; and
3. The proliferation of tattoo establishments may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality.
4. Pursuant to California Government Code Section 65355, the relationship between the proposed Zoning Code Amendments and the General Plan are as follows:
 - a. The proposed Ordinance is consistent with the General Plan and each of its elements and all components therein because the proposed Ordinance is consistent with the Goals and Policies of the Land Use and Economic Development Elements of the City of Riverbank General Plan:
 - 1) Policy LAND-4.3 – The City will encourage and assist small, locally-owned businesses that wish to locate, expand, or simply continue to do business in Riverbank through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement process, public-private partnerships, and other means.
 - 2) Policy ED-5.1 – The City will work with the business community to continually identify areas for improvement and/or streaming in the building and development permit approval process, City operations, public input, and other processes.
 - 3) Policy ED-5.2 – The City will proactively maintain responsiveness to addressing any business climate shortcomings identified through outreach and communication through local businesses.
 - b. The proposed Ordinance is compatible with the uses authorized in and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district.

WHEREAS, The Planning Commission has considered this Zoning Code Amendment at a duly advertised public hearing on December 16, 2014 and adopted Resolution 2014-018 recommending that the City Council approve the Ordinance; and

WHEREAS, notice of the public hearing on the Proposed Ordinance was published in the *Riverbank News*, a newspaper of general circulation on January 28, 2015; and

WHEREAS, a public hearing was held on February 28, 2015, and all comments were heard and considered by the City Council.

NOW, THEREFORE THE CITY OF RIVERBANK CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1: Title XI of Riverbank's Municipal Code shall be amended to read as follows:

Title XI, Business Regulations, is amended to add Chapter 125, Tattoo and Body Art Establishments which shall read:

TATTOO AND BODY ART ESTABLISHMENTS

Section 125.01 Definitions.

For the purposes of this chapter, the following terms have the following meanings:

A. "Tattoo establishment" or "body art establishment" shall mean any premises 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" or "body art establishment" shall include any premises 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" or "body art establishment" shall not include a permanent cosmetic facility.

B. "Body art" shall mean any act of body piercing, tattooing, branding or scarification.

C. "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.

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

E. "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.

F. "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.

G. "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.

H. "Tattoo" and "tattooing" shall mean the process of marking or coloring skin using 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.

Section 125.02 License Application.

A. Any person, firm, corporation or partnership desiring to obtain a license to operate a tattoo establishment or body art establishment shall file a complete application with all required documentation under penalty of perjury of the laws of the state. The application shall be in a form prescribed by the city and shall be accompanied by a copy of the current and complete health permit issued by the local enforcement agency and a copy of the certificate of registration for all practitioners performing tattooing or other body art.

B. The tattoo establishment or body art establishment license shall be renewed each year at the same time that the tattoo establishment or body art establishment renews its business license with the city.

C. The license is valid only for the location of the facility and the time period indicated on the license and may not be transferred to another owner or facility.

D. The city shall promptly reject as incomplete any application which does not meet all the requirements of this chapter. Upon written request of the applicant, the city shall notify the applicant in writing, by first class mail, postage prepaid, to the address supplied to the city by the application, of the deficiencies in the application.

Section 125.03 Investigation by the City.

A. Upon receipt of a complete application, all supplemental required information, and payment of all required fees, the city's community development director shall refer the application to all appropriate city agencies including building, planning, police and fire departments. The departments shall review the application, and where necessary, the proposed location of the tattoo establishment or body art establishment may be

inspected. The community development director may request any further information which is reasonably related to the licensing requirement of this chapter. Based on this review, the community development director shall grant or deny the tattoo establishment or body art establishment license.

B. The community development director shall grant a tattoo establishment or body art establishment license where it finds that the establishment, maintenance or operation of the tattoo establishment or body art establishment, under the circumstances of the particular case, will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or area of the tattoo establishment or body art establishment or will not be detrimental or injurious to property and improvements in the neighborhood or area or to the general welfare of the city.

C. If the community development director, following investigation of the applicant, determines that the applicant does not fulfill the requirements set forth in this chapter, the community development director shall deny the application by written notice sent via U.S. mail. Following the denial or revocation of a tattoo establishment or body art establishment license, no application for a tattoo establishment or body art establishment may be filed by such applicant, at the same or substantially the same location for at least one year following the date of such denial or revocation.

Section 125.04 License Procedures.

A. Upon payment of all fees and successful verification of all requirements of this chapter, a tattoo establishment or body art establishment shall be issued a tattoo establishment or body art establishment license by the city.

B. Any person, firm, corporation or partnership denied a license pursuant to this Chapter may appeal the denial in writing pursuant to the procedures specified in Section 153.218: Appeal.

Section 125.05 Site Location and Development Standards.

A. Tattoo establishments and body art establishments shall not be located within 1,000 feet of any other tattoo establishment or body art establishment as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing tattoo establishment or body art establishment.

B. The tattoo establishment or body art establishment shall not be located within 500 feet of any adult entertainment business, as defined in Riverbank Municipal Code Section 118, as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing adult entertainment business.

C. The tattoo establishment or body art establishment shall not be located within 500 feet of any business selling alcoholic beverages for on premise consumption as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing business selling alcoholic beverages.

D. The tattoo establishment or body art establishment shall not be located within 100 feet of any business selling alcoholic beverages for off premise consumption as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing business selling alcoholic beverages

ED. The tattoo establishment or body art establishment shall not be located within 100 feet of any existing residential zone as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of a residentially zoned property.

FE. The tattoo establishment or body art establishment shall not be located within 500 feet of a school, park, day care center or family day care home as measured from any point between the outer boundaries of the lease space containing the tattoo establishment or body art establishment to the nearest property line of the school, park, day care center, or family day care home.

F. All business activities of the tattoo establishment or body art establishment shall take place entirely within the building and in compliance with the requirements under the Stanislaus County Body Art Program established under the requirements of Health and Safety Code, Chapter 7, commencing with Section 119300.

Section 125.06 Hours of Operation.

The Community Development Director shall annually establish hours of operation for all tattoo establishments or body art establishments that operated in the City.

Section 125.07 Prohibited Conduct.

In addition to any other procedures regarding the enforcement of this code, or other local, state or federal law, a license issued under this chapter may be revoked if any of the following provisions or requirements is violated:

A. All offering of services and merchandise shall take place only within the building. Should other retailers within a commercial center in which the tattoo establishment or body art establishment is located complain about harassment of customers, this is prima facie evidence of non-compliance with this requirement to contain body art business activities.

B. All tattooing and other body art activities shall take place in a room or space that conceals the activity from the view of individuals outside the business.

C. The tattoo establishment or body art establishment must not jeopardize or endanger the public health and safety of persons residing or working in the surrounding area.

D. The tattoo establishment or body art establishment shall not result in repeated nuisance activities within the premises or in close proximity of the premises. Nuisance activities include but are not limited to disturbing the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assault, battery, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially late at night or in the early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

E. The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall be in full compliance with the provision of AB 300, the Safe Body Art Act, Health and Safety Code §§ 119300 *et seq.*

F. The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall meet all the requirements, health and safety standards, and proper handling and disposal of medical waste as required by the Stanislaus County Environmental Health Division under the Safe Body Art Program.

F. The tattoo establishment or body art establishment shall not violate any other applicable local, state, or federal regulation.

G. The tattoo establishment or body art establishment shall not allow the sale of drug paraphernalia at the tattoo establishment.

SECTION 2: Chapter 153: Zoning of Riverbank's Municipal Code shall be amended as follows:

Subsections (21) through (23) of Chapter 153: Zoning, Section 153.076: Uses Permitted of Riverbank's Municipal Code shall be amended and a subsection (24) shall be added to include Tattoo Establishments or Body Art Establishments in the Neighborhood Commercial District C-1 Zone and as follows:

[...]

(21) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125;

(22)(21) Television (sales and service);

(23)(22) Variety; and

~~(24)~~~~(23)~~ Other uses which are determined by the Community Development Director to be similar.

Section 153.092 of Chapter 153: Zoning, Section 153.092: Uses Permitted, Commercial shall be amended to add a subsection (R) to include Tattoo Establishments or Body Art Establishments in the General Commercial District C-2 Zone as follows:

[...]

(R) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125.

Subsections (KK) through (QQ) of Section 153.106 of Chapter 153: Zoning, Section 153.106: Uses Permitted shall be amended and a subsection (RR) shall be added to include Tattoo Establishments or Body Art Establishments in the Commercial-Industrial C-M Zone as follows:

[...]

(KK) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125;

~~(LL)~~~~(KK)~~ Television or radio transmitter.

~~(MM)~~~~(LL)~~ Temporary uses such as a circus, carnival, fair, or festival, provided that they meet the following requirements:

- (1) The use shall be temporary in nature and shall not last more than four days.
- (2) The organizers of the event shall notify the Riverbank Police Services Division of their intentions at least 30 days prior to the scheduled beginning of the event.
- (3) A business license shall be obtained as required by § 110.18 of the city code.
- (4) Licenses will only be issued to local businesses or shopping centers when conducted on the same property as the business/shopping center or to local nonprofit organizations.
- (5) The use need not be in an enclosed building or fence.

~~(NN)~~~~(MM)~~ Temporary construction building to house tools and equipment or containing supervisory offices in connection with construction projects during active construction on the same property.

~~(OO)~~~~(NN)~~ Theater, indoor.

~~(PP)~~~~(OO)~~ Tin smith.

~~(QQ)(PP)~~ Utilities.

~~(RR)(QQ)~~ Veterinary hospital.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank on February 10, 2015. Said ordinance was given a second reading at the regular City Council meeting on February 24, 2015.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on _____, 2014; motioned by Councilmember _____, seconded by Councilmember _____, moved the ordinance for adoption by a roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

**CITY OF RIVERBANK
RESOLUTION NO. 2014-018**

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF RIVERBANK, CALIFORNIA,
RECOMMENDING TO CITY COUNCIL THE APPROVAL
OF ORDINANCE 2014-XXX, ADDING CHAPTER 125:
TATTOO AND BODY ART ESTABLISHMENTS TO TITLE
XI: BUSINESS REGULATIONS AND AMENDING TITLE
XV: ZONING, AMENDING 1) SECTION 153.076: USES
PERMITTED IN THE NEIGHBORHOOD COMMERCIAL
DISTRICT C-1 ZONE, 2) SECTION 153.092: USES
PERMITTED IN THE GENERAL COMMERCIAL DISTRICT
C-2 ZONE AND 3) SECTION 153.106: USES PERMITTED
IN THE COMMERCIAL-INDUSTRIAL C-M ZONE OF THE
CITY'S MUNICIPAL CODE**

WHEREAS, the City of Riverbank's ("City") Municipal Code is silent with regard to the regulation and location of tattoo establishments; and

WHEREAS, Assembly Bill 300, the Safe Body Art Act, Health and Safety Code section 119300 *et seq.* ("Safe Body Art Act") was enacted in 2012 to govern the public health impacts of tattooing and other related body art activities, largely empowering counties to regulate those impacts; and

WHEREAS, the Safe Body Art Act allows a city to adopt regulations that are more stringent than the regulations contained in the Safe Body Art Act so long as those regulations do not conflict with the Safe Body Art Act;

WHEREAS, notice of the public hearing on the proposed Ordinance was published in the *Riverbank News*, a newspaper of general circulation, on December 3, 2014 and the *Modesto Bee*, a newspaper of general circulation, on December 3, 2014;

WHEREAS, the Planning Commission has reviewed the proposed Ordinance and conducted a public hearing on December 16, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE NO. XXXX, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN BY THIS REFERENCE, ADDING CHAPTER 125: TATTOO AND BODY ART ESTABLISHMENTS AND AMENDING CHAPTER 153: ZONING IN THE CITY OF RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. There is a threat to the general welfare of the community if tattoo and body art establishments locate in the City without proper regulations and planning in place; and
2. Tattooing and related body modification techniques are activities that can result in secondary negative impacts, such as an increase in crime and the sale of illegal drugs immediately surrounding tattoo establishments and the impairment of the market values and aesthetic and visual qualities of the properties adjacent to tattoo establishments; and
3. The proliferation of tattoo establishments may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality.
4. Pursuant to California Government Code Section 65855, the relationship between the proposed Zoning Code Amendments and the General Plan are as follows:
 - a. The proposed Ordinance is consistent with the General Plan and each of its elements and all components therein because the proposed Ordinance is consistent with the Goals and Policies of the Land Use and Economic Development Elements of the City of Riverbank General Plan:
 - 1) Policy LAND-4.3 – The City will encourage and assist small, locally-owned businesses that wish to locate, expand, or simply continue to do business in Riverbank through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement process, public-private partnerships, and other means.
 - 2) Policy ED-5.1 – The City will work with the business community to continually identify areas for improvement and/or streaming in the building and development permit approval process, City operations, public input, and other processes.
 - 3) Policy ED-5.2 – The City will proactively maintain responsiveness to addressing any business climate

shortcomings identified through outreach and communication through local businesses.

- b. The proposed Ordinance is compatible with the uses authorized in and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district.
5. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), clause(s), phrase(s), or word(s) be declared invalid.
6. The City finds and determines that the amendments prescribed in Ordinance 2014-XXX are not considered 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 Ordinance is required.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 16th day of December, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

John B. Anderson, Secretary
Contract Community Development Director

Attachments:

Exhibit A: Proposed City Council Ordinance 2014-XXX

APPROVED:

Joan Stewart *Patricia Hughes*
Planning Commission Chair

COPY

Attachment 5

HESPERIA

The city of Hesperia includes in Chapter 5.22 of its Municipal Code a license provision for body art facilities. These provisions are similar to the proposed amendments to the City of Riverbank's Municipal Code ("R.M.C.") included in the ordinance.

MODESTO

Body art establishments are a permitted use defined as a personal service in all commercial and industrial zones under Modesto Municipal Code section 10-3.101.

BANNING

The city of Banning requires a conditional use permit ("CUP") and prohibits a tattoo establishment from being located: (1) within 1,000 feet of another tattoo establishment; (2) within 500 feet of an adult-oriented business; (3) within 500 feet of any business selling alcoholic beverages; (4) within 100 feet of residential properties; (5) within 600 feet of a school, park, or daycare center. The city of Banning also declares that the hours of operation for a tattoo establishment will be from 7:00 am and 10:00 pm.

MERCED

Tattoo Parlors are listed as conditional uses in all commercial zones in the Merced Municipal Code. On May 23, 2012 that city's planning commission considered a CUP for a tattoo parlor. That permit was conditioned on requirements such as no exterior graphics on windows for the business and the city's periodic review of the business should problems occur as a result of the business's operation.

HAYWARD

The city of Hayward requires that tattoo establishments secure a CUP in order to open and operate in that city. On July 25, 2013, the planning commission of that city approved a CUP for a tattoo establishment. The CUP included conditions such as a requirement that the proposed use not be detrimental to the public health, safety, or general welfare, a limitation on the hours of operation of the establishment, and restrictions on loitering.

HUNTINGTON BEACH

The city of Huntington Beach requires that tattoo establishment secure a CUP in order to open and operate in that city. On June 12, 2012, the planning commission of that city approved a CUP for a tattoo establishment. The CUP included conditions requiring the operation of the tattoo use wholly within the interior of the business and the business shall not prove hazardous to the general welfare of the residents of that city.

Attachment 5

CHULA VISTA

The city of Chula Vista requires applicants wishing to open a tattoo establishment to obtain a police regulated business license, which includes a background check.

CULVER CITY

Culver City has a special permit requirement for certain types of businesses, including tattoo parlors, which requires a background check.

MENIFEE

The city of Menifee require a CUP to open a tattoo establishment. Menifee also sets hours of operation for tattoo establishments between 7:00 am and 9:00 pm. Additionally, Menifee states that tattoo establishments cannot be located within: (1) 500 feet of any other tattoo establishment or within the same center; (2) 500 feet of any business selling alcohol; (3) 500 feet of a school, church, or playground.

Attachment 5

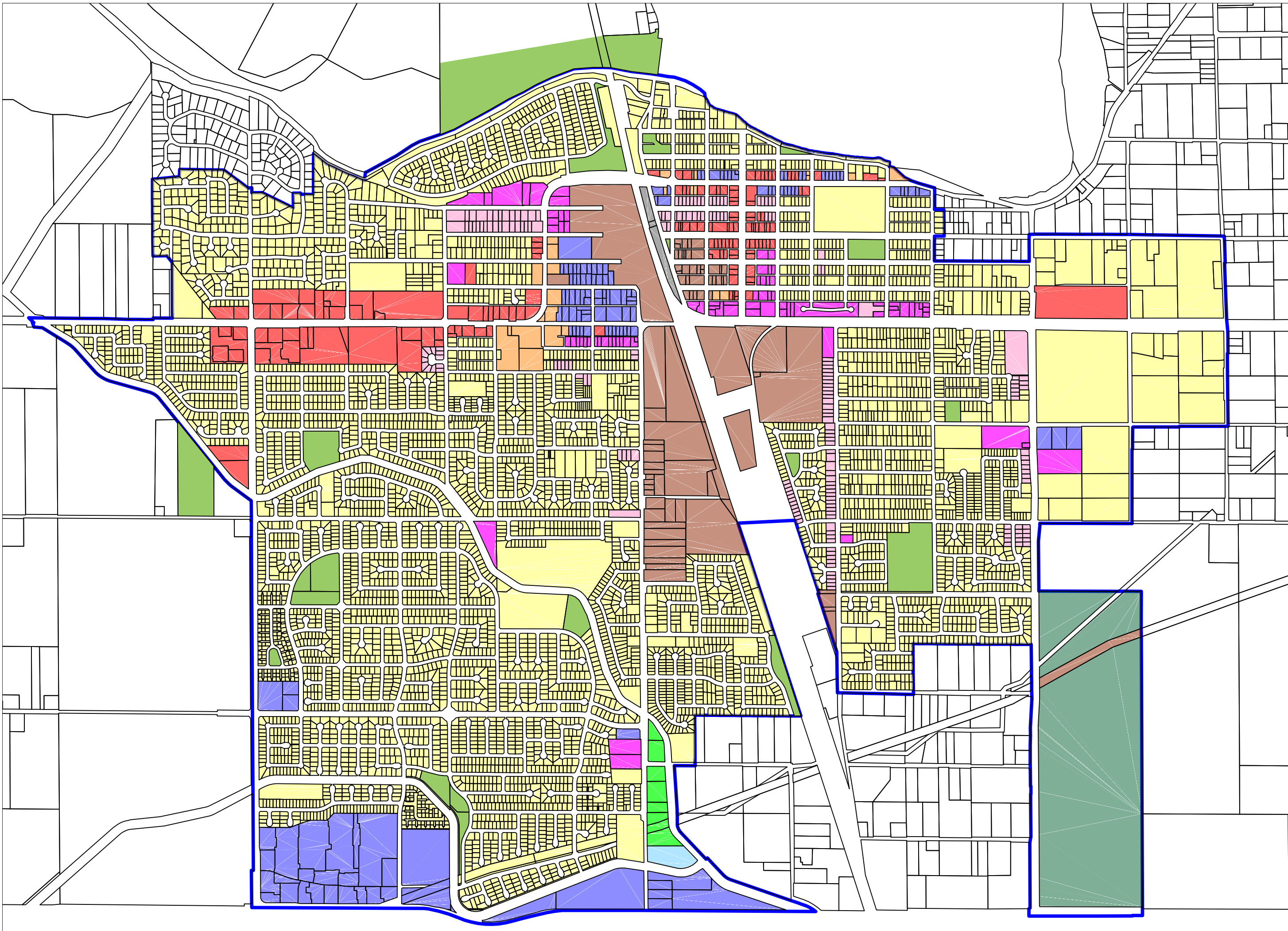
SUMMARY TABLE

The table below summarizes how other cities in California address tattoo establishments.

Tattoo Establishment Regulation	
City	Requirement
Menifee	CUP
Chino Hills	CUP
Diamond Bar	CUP
West Covina	CUP
Covina	Business License Only
Pomona	CUP
Yorba Linda	CUP
Oceanside	Police Permit
Riverside	Permitted with some restrictions
Patterson	CUP
Newman	CUP and Permitted (depending on zone)
Santa Rosa	Minor CUP
Rohnert park	CUP
San Luis Obispo	Director's Use Permit Required



City of Riverbank ZONING



Neighborhood Commercial (C-1)

General Commercial (C-2)

Commercial - Industrial (CM)

Light Industrial (M-1)

Park

Single Family Residential (R-1)

Duplex Residential (R-2)

Multiple Family Residential (R-3)

Rural to Low Residential (RLR - SP1)

Public/Quasi Public (PQP)

Riverbank Industrial Complex Park

Unassigned

City Limits

January 2015

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARINGS

Meeting Date: February 10, 2015

Subject/ Title: First Reading and Introduction by Title Only of an **Ordinance** of the City Council of the City of Riverbank, California, Amending Title XV, Chapter 153: Zoning, Amending 1) Section 153.003: Definitions, 2) Section 153.061: Uses Permitted in the Multiple Family Residential District R-3 Zone, 3) Section 153.077: Uses Permitted with a Use Permit in the Neighborhood Commercial District C-1 Zone, 4) Section 153.093: Uses Permitted with a Use Permit In The General Commercial District C-2 Zone, and 5) Section 153.107: Uses Permitted with a Use Permit In The Commercial-Industrial C-M Zone of the City's Municipal Code

From: Jill Anderson, City Manager

Submitted by: John B. Anderson, Contract Community Development Director

RECOMMENDATION

It is recommended that the City Council conduct the first reading and introduction by title only of the proposed ordinance, amending the zoning code to include the definitions for Emergency Shelters, Supportive Housing, Target Population, Transitional Housing and amending the definition of Family and Dwelling, Single Family and to include Emergency Shelters, Supportive Housing and Transitional Housing as a Permitted Use in the Multiple Family Residential District R-3 Zone and a Permitted Use with a Use Permit (CUP) in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone.

SUMMARY

The proposed amendments to the City's Zoning Code are as follows:

1. Amend the definition of "Family" and "Dwelling, Single Family" pursuant to the City's adopted 2009-2014 Housing Element Program 5.1b (Attachment 4 of this Staff Report) and to comply to Federal and State Fair Housing laws;
2. Amend the Zoning Code to add the definitions for "Emergency Shelters," "Supportive Housing," "Target Population," and "Transitional Housing" to comply with SB 2 and SB 745;

3. Amend the Zoning Code to permit Emergency Shelters as a permitted use in the Multiple-Family Residential District R-3 Zone, pursuant to Senate Bill 2 ("SB 2") enacted in 2007 and Program 2.1g in the City's adopted 2009-2014 Housing Element (Attachment 5 of this Staff Report);
4. Amend the Zoning Code to permit Emergency Shelters as a Conditional Use in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone, pursuant to the City's adopted 2009-2014 Housing Element, Table D-1 (Attachment 6 of this Staff Report).

The proposed amendments are a result of the 2009-2014 Housing Element and SB 2, a bill that was enacted in 2007 and effective on January 1, 2008. The City's Housing Element was adopted in 2009, and as part of the Housing Element, the City established a set of Policies, Goals and Programs that are actions that the City must take to implement the Housing Element in the 2009-2014 Planning Period. Two (2) of these goals are included in the proposed Zoning Ordinance Amendment and are 1) to update the definition of family and single family residence and 2) update the Zoning code pursuant to SB 2.

Definitions per SB 2 and SB 745

Emergency Shelters. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Health and Safety Code 50801(e))

Supportive Housing. Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (California Government Code Section 65582, SB 745)

Target Population. Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster cares system, individuals exiting from institutional settings, veterans, and homeless people. (California Government Code Section 65582, SB 745)

Transitional Housing. Buildings configured as rental housing developments, but operated under program requirements that require termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. (California Government Code Section 65582, SB 745)

BACKGROUND

Senate Bill 2. As stated previously, this bill was enacted in 2007 and became effective on January 1, 2008. The statutory requirements of the bill are summarized as follows:

At least one zone shall be identified to permit emergency shelters without a conditional use permit or other discretionary permit.

Requirements of the permitted zone:

- Must have sufficient capacity to develop at least one year-round emergency shelter (vacant or unoccupied inventory)
- Permit must be nondiscretionary
- Permit procedures, development and management standards must be objective, and encourage and facilitate the development or conversion to emergency shelters
- No public notice shall be required for nondiscretionary permits
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial within the same zone
- Transitional and supportive housing shall be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone

Senate Bill 745. This bill took effect on January 1, 2014 and amended Section 65582 of the Government Code (Housing Element Law) to replace prior Health and Safety Code definitions of “supportive housing,” “target population,” and “transitional housing” with definitions in the California Government Code.

ANALYSIS

There are two (2) programs adopted in the 2009-2014 Housing Element that the proposed Ordinance Amendment will implement:

- **Program 2.1g:** The City will update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters. Emergency shelters will only be subject to those development and management standards that apply to other residential development within the same zone.
- **Responsibility:** Community Development Department
- **Timeframe:** By June 2010, adopt updated permitted uses.

And

- **Program 5.1b:** The City will update the definition of “family” and “single-family residence” to comply with all federal and State fair housing laws. The definition should not distinguish between

related and unrelated persons and should not impose limitations on the number of person that may constitute a family.

- **Responsibility:** Community Development Department
- **Timeframe:** By June 2010, adopt updated definitions.

As noted above, the timeframe for these programs to be adopted by the City is by June of 2010. Due to Staff and monetary constraints, however, the City has not implemented this program to date. The current planning cycle for the City's Housing Element is 2014-2023. One of the areas that the California Department of Housing and Community Development (HCD) will review as part of certifying the City's Housing Element is how the City implemented the Goals, Policies and programs of the previous Housing Element. With this program implemented, the City will be in a better position for certification when the City's 2014-2023 Housing Element is submitted for HCD review.

It is important for the City to have a certified Housing Element because it allows the City to take advantage of State and Federal funds, such as Community Development Block Grant (CDBG) funds and Home Investments Partnership (HOME) Program to name a couple. These funds help facilitate the development and rehabilitation of homes for all income groups.

Implementation of Program 2.1g and Senate Bill 2

The proposed Ordinance identifies the Multiple Family Residential District R-3 Zone as the District where an Emergency Shelter, Transitional Housing and Supportive Housing can be developed without discretionary review. Additionally, Emergency Shelters, Transitional and Supportive Housing may be developed with a Conditional Use Permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and the Commercial-Industrial C-M Zone. The R-3 Zone has been identified in the Housing Element as having sufficient capacity to accommodate the unmet need for an emergency shelter, as required by SB 2. The City's Zoning Map has been attached to this Staff Report as Attachment 8 to provide clarification on the areas in which this Ordinance would affect if adopted.

This fulfills the requirements of Program 2.1g and Senate Bill 2.

Consequences for Noncompliance with SB 2

Government Code 65589.5(d)(5)(C): if the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an

emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses.

In summary, if the City of Riverbank fails to permit Emergency Shelters in the proposed zone of Multiple Family Residential R-3, then any proposed emergency shelter must be approved in any site, including sites designated industrial, commercial, or multifamily residential uses.

Implementation of Program 5.1b

Current Definition of “Family”

An individual, or two or more persons related by blood or marriage, or a group of not more than five persons who are not related by blood or marriage, excluding servants, living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, fraternity or sorority house.

New Definition of “Family”

One or more persons occupy a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel or hotel.

The new definition does not distinguish between related and unrelated persons and does not impose limitations on the number of persons that may constitute a family. This is consistent with the General Plan Housing Element Program 5.1b and surrounding jurisdictions, as shown in Attachment 7, where Staff conducted a survey of surrounding jurisdictions to determine the most consistent and valid definition of “family”.

Current Definition of Dwelling, Single-Family

A detached building designed for and/or occupied exclusively by one family. A single family dwelling shall not include mobile homes, but shall include modular homes.

New Definition of Dwelling, Single Family Residence

A residential building containing one (1) dwelling unit on one (1) lot. All rooms within the single-family attached dwelling shall be interconnected. Single-family dwelling shall include a dwelling that is constructed for the purposes of providing supportive and transitional housing.

The new definition expands to include supportive and transitional housing in that definition. Additionally, the definition further expands what constitutes a single family residence by requiring that all rooms be interconnected and not including rooms that are detached from the unit.

PLANNING COMMISSION ACTION

On December 16, 2014, the Planning Commission held a public hearing to consider the proposed Ordinance, amending the zoning code to include the definitions for Emergency Shelters, Supportive Housing, Target Population, Transitional Housing and amending the definition of Family and Dwelling, Single Family and to include Emergency Shelters, Supportive Housing and Transitional Housing as a Uses Permitted in the Multiple Family Residential District R-3 Zone and Uses Permitted with a Use Permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone.

Four (4) Planning Commissioners were present at this meeting: Vice Chair Hughes, Commissioner Degele, Commissioner Villapudua and Commissioner McKinney

During their deliberation, the Planning Commission raised some questions pertaining to the definition of Dwelling, Single Family Residence and how that relates to other jurisdictions and State law.

During the public the public comment period, Evelyn Halbert raised the question of the location in which this Ordinance would be in effect and suggested to the Commission that it would helpful to be able to look at the Zoning Map to display the areas affected.

Commissioner Degele made a motion and McKinney seconded to adopt Resolution 2014-019, recommending to City Council to adopt Ordinance No. 2014-XXX, amending the zoning code to include the definitions for Emergency Shelters, Supportive Housing, Target Population, Transitional Housing and amending the definition of Family and Dwelling, Single Family and to include Emergency Shelters, Supportive Housing and Transitional Housing as a Uses Permitted in the Multiple Family Residential District R-3 Zone and Uses Permitted with a Use Permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone.

Planning Commission adopted Resolution No. 2014-019 and is attached to this Staff Report as Attachment 2 as well as the Planning Commission Minutes of December 16, 2014, as Attachment 3.

ENVIRONMENTAL DETERMINATION

The proposed Ordinance Amendment is not a project for CEQA purposes and is exempt under State CEQA Guidelines Section 15061(b)(3), General Rule, because it can be seen with certainty that there is not a possibility that the proposal would result in a significant effect on the environment. The proposal is implementing existing State law and is considered an administrative activity and would not, itself, allow any construction or propose any projects. CEQA will be applied on a project-by-project basis if and when such projects are proposed.

FINANCIAL IMPACT

The proposed Ordinance will have no financial impact to the City.

STRATEGIC GOALS

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three years. The above action to the zoning code in various sections is not part of these goals. The proposed Ordinance, however, implements State Law, including Senate Bill 2, which requires the City to identify at least one zone in which Emergency Shelters may be permitted by right among other requirements included in this Ordinance and implemented with the City's 2009-2014 Housing Element. Additionally, the proposed Ordinance implements the City's adopted, HCD Certified 2009-2014 Housing Element Goals and Policies, specifically Program 2.1g.

ATTACHMENTS

1. The Proposed City Council Ordinance
2. Planning Commission Resolution 2014-019, Dated December 16, 2014
3. 2009-2014 Housing Element, Program 5.1b, Page IX-8
4. 2009-2014 Housing Element, Program 2.1g, Page IX-5
5. 2009-2014 Housing Element, Table D-1, Residential Types Permitted by Zone
6. Definition of "Family" – Survey of Surrounding Jurisdictions
7. City of Riverbank Zoning Map

CITY OF RIVERBANK

ORDINANCE NO. 2015-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RIVERBANK, CALIFORNIA, AMENDING TITLE XV, CHAPTER 153:
ZONING, AMENDING 1) SECTION 153.003: DEFINITIONS, 2)
SECTION 153.061: USES PERMITTED IN THE MULTIPLE FAMILY
RESIDENTIAL DISTRICT R-3 ZONE, 3) SECTION 153.077: USES
PERMITTED WITH A USE PERMIT IN THE NEIGHBORHOOD
COMMERCIAL DISTRICT C-1 ZONE, 4) SECTION 153.093: USES
PERMITTED WITH A USE PERMIT IN THE GENERAL COMMERCIAL
DISTRICT C-2 ZONE, AND 5) SECTION 153.107: USES
PERMITTED WITH A USE PERMIT IN THE COMMERCIAL-
INDUSTRIAL C-M ZONE OF THE CITY'S MUNICIPAL CODE**

WHEREAS, the City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, the City of Riverbank Planning Commission conducted a Public Hearing on Tuesday, December 16, 2014, to consider this proposed Ordinance for the following amendments to the City's Zoning Code:

1. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.003: Definitions to include Emergency Shelters, Transitional Housing, Supportive Housing, Target Population and amend the definitions for Family and Dwelling, Single-Family; and
2. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.061: Uses Permitted to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the Multiple Family Residential District R-3 Zone;
3. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.077: Uses Permitted with a Use Permit to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the Neighborhood Commercial District C-1 Zone;
4. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.093: Uses Permitted with a Use Permit to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the General Commercial District C-2 Zone;
5. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.107: Uses Permitted with a Use Permit to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the Commercial-Industrial C-M Zone; and

WHEREAS, the City Council for the City of Riverbank has made the following findings for adoption.

1. Pursuant to California Government Code section 65355, the relationship between the proposed Zoning Code Amendments and the General Plan are as follows:
 - a. The proposed Ordinance Amendments are consistent with the General Plan and each of its elements and all components therein because the General Plan Housing Element includes goals, policies and programs to implement the amendments herein;
 - b. The proposed Ordinance Amendments are compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
 - c. The proposed Ordinance consistent with the General Plan Housing Element and implements Program 2.1g, where Emergency Shelters will be Permitted by right in the Multiple Family Residential District, R-3 Zone; and
 - d. The proposed Ordinance Amendment to Section 153.003 of the Riverbank Municipal Code is consistent with the General Plan Housing Element and implements Program 5.1b, where the City will update the definition of “family” and “single-family residence” to comply with all federal and State fair housing laws.
2. Senate Bill 2, taken effect in January 1, 2008, requires all cities and counties to provide at least one category in which emergency shelters can be located without discretionary approval from the government.
3. There is a State law requirement to amend the Zoning Code for Emergency Shelters and Transitional and Supportive Housing which allows the City to take local concerns into account when granting approvals for Emergency Shelters and Transitional and Supportive Housing.

WHEREAS, The Planning Commission has considered this Zoning Code Amendment at a duly advertised public hearing on December 16, 2014 and adopted Resolution 2014-019 recommending that the City Council approve the Ordinance; and

WHEREAS, notice of the public hearing on the proposed Ordinance was published in the *Riverbank News*, a newspaper of general circulation on January 28, 2015; and

WHEREAS, a public hearing was held on February 10, 2015, and all comments were heard and considered by the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. *Chapter 153, Zoning, Section 153.003 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include the following definitions and amendments to specific definitions, which shall read as follows:*

153.003 DEFINITIONS

DWELLING, SINGLE-FAMILY RESIDENCE. ~~A detached building designed for and/or occupied exclusively by one family. A single-family dwelling shall not include mobile homes, but shall include modular homes. A residential building containing one (1) dwelling unit on one (1) lot. All rooms within the single-family attached dwelling shall be interconnected. Single-family dwelling shall include a dwelling that is constructed for the purposes of providing supportive and transitional housing.~~

[...]

EMERGENCY SHELTERS. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

FAMILY. ~~An individual, or two or more persons related by blood or marriage, or a group of not more than five persons who are not related by blood or marriage, excluding servants, living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, fraternity or sorority house. One or more persons occupying a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel or hotel.~~

[...]

SUPPORTIVE HOUSING. Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

[...]

TARGET POPULATION. Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of

the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

[...]

TRANSITIONAL HOUSING. Buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

SECTION 2. *Chapter 153, Zoning, Section 153.061 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use in the Multiple Family Residential District R-3 Zone, which shall read as follows:*

[...]

(P) Emergency Shelters as defined in § 153.003.

(Q) Transitional Housing as defined in § 153.003.

(R) Supportive Housing as defined in § 153.003

SECTION 3. *Chapter 153, Zoning, Section 153.077 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use with a Use Permit in the Neighborhood Commercial District C-1 Zone, which shall read as follows:*

[...]

(N) Emergency Shelters as defined in § 153.003.

(O) Transitional Housing as defined in § 153.003.

(P) Supportive Housing as defined in § 153.003.

SECTION 4. *Chapter 153, Zoning, Section 153.093 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use with a Use Permit in the General Commercial District C-2 Zone, which shall read as follows:*

[...]

(R) Emergency Shelters as defined in § 153.003.

(S) Transitional Housing as defined in § 153.003.

(T) Supportive Housing as defined in § 153.003.

SECTION 5. *Chapter 153, Zoning, Section 153.093 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use with a Use Permit in the Commercial-Industrial C-M Zone, which shall read as follows:*

[...]

(S) Emergency Shelters as defined in § 153.003.

(T) Transitional Housing as defined in § 153.003.

(U) Supportive Housing as defined in § 153.003.

SECTION 6. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank on February 10, 2015. Said ordinance was given a second reading at the regular City Council meeting on February 24, 2015.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on _____, 2014; motioned by Councilmember _____, seconded by Councilmember _____, moved the ordinance for adoption by a roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

**CITY OF RIVERBANK
RESOLUTION NO. 2014-019**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK, CALIFORNIA, RECOMMENDING TO CITY COUNCIL THE APPROVAL OF ORDINANCE 2014-XXX, AMENDING 1) SECTION 153.003: DEFINITIONS, 2) SECTION 153.061: USES PERMITTED IN THE MULTIPLE FAMILY RESIDENTIAL DISTRICT R-3 ZONE, 3) SECTION 153.077: USES PERMITTED WITH A USE PERMIT IN THE NEIGHBORHOOD COMMERCIAL DISTRICT C-1 ZONE, 4) SECTION 153.093: USES PERMITTED WITH A USE PERMIT IN THE GENERAL COMMERCIAL DISTRICT C-2 ZONE, AND 5) SECTION 153.107: USES PERMITTED WITH A USE PERMIT IN THE COMMERCIAL-INDUSTRIAL C-M ZONE OF THE CITY'S MUNICIPAL CODE

WHEREAS, homelessness in California is a continuing and growing crisis and this crisis demands the effective involvement of both the public and private sectors. A housing element can be an effective and powerful tool in combating homelessness; and

WHEREAS, the Housing Element of the Riverbank General Plan was updated and approved by the City Council and certified by the California State Department of Housing and Community Development (HCD) in 2009; and

WHEREAS, Senate Bill 2 (SB 2) was enacted in 2007 and became effective on January 1, 2008 and amended Sections 65582, 65583, and 65589.5 (Housing Element Law) of the California Government Code relating to local planning. This bill added emergency shelters and transitional housing to these provisions and required that the Housing Element identify zones in the City where emergency shelters are allowed as a permitted use without a Conditional Use Permit; and

WHEREAS, Program 2.1g of the City's Housing Element was added to allow Emergency Shelters as a permitted use in the Multiple Family Residential District R-3 Zone; and

WHEREAS, Program 5.1b of the City's Housing Element was added to update the definition of "Family" and "Single-Family Residence" to comply with all federal and State fair housing laws; and

WHEREAS, the City prepared Zoning Ordinance 2014-XXX to amend Section 153.003, Section 153.077, Section 153.093, and Section 153.107 to update the definition of "Family" and "Dwelling, Single Family", add the definition for Target Population and to include Emergency Shelters, Transitional Housing and Supportive Housing definitions and as a Permitted Use in the Multiple Family Residential District R-

3 Zone and a Permitted Use with a Use Permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and the Commercial-Industrial C-M Zone; and

WHEREAS, notice of the public hearing on the Zoning Ordinance was published in the *Riverbank News*, a newspaper of general circulation, on December 3, 2014 and the *Modesto Bee*, a newspaper of general circulation on December 3, 2014; and

WHEREAS, the Planning Commission has reviewed the Zoning Amendment and conducted a public hearing on December 16, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE 2014-____, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN BY THIS REFERENCE, AMENDING SECTION 153.003, SECTION 153.077, SECTION 153.093, AND SECTION 153.107 IN THE CITY OF RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. Pursuant to California Government Code Section 65855, the recommendation to City Council shall include the relationship to the applicable general or specific plan.
 - a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters" (Goal 2 and Program 2.1g); and
 - b. The Ordinance works to achieve the stated goal to "promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability" and to "update the definition of "family" and "single-family residence" to comply with all federal and State fair housing laws" (Goal 5 and Program 5.1b); and
 - c. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed

and with the regulations for each land use district; and

2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
3. The City finds and determines that the proposed Zoning Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with a certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 16th day of December, 2014; motioned by Commissioner Degele, seconded by Commissioner McKinney, and upon roll call was carried by the following vote of 4-0 :

AYES: Commissioners: Hughes, Degele, McKinney and Villapudua

NAYS: None

ABSENT: Commissioner Stewart

ABSTAIN: None

Attest:

Approved:

~~Secretary~~

~~Joan Stewart~~

~~Attachments:~~

Patricia Hughes

Exhibit "A" – Proposed Draft City Council Ordinance 2014-XXX

Timeframe: Ongoing

GOAL 5: PROMOTE HOUSING OPPORTUNITIES FOR ALL PERSONS REGARDLESS OF RACE, RELIGION, SEX, MARITAL STATUS, ANCESTRY, NATIONAL ORIGIN, COLOR, FAMILIAL STATUS, OR DISABILITY

Policy 5.1 Make programs and information available to all persons.

Program 5.1a: The City will continue to promote equal housing opportunity for all persons regardless of race, religion, sex, marital status, ancestry, nation origin, or color by supporting efforts of community groups that provide counseling, investigatory, legal, or referral services to victims of discrimination. Specifically, the City will:

- Disseminate information in a variety of ways (including brochures, mailings, websites, newspaper ads, etc in both English and Spanish) regarding rehabilitation and first-time homebuyer programs.
- Maintain information on State and federal fair housing laws at the Community Development Department and other public places for public distribution (such as the Riverbank branch of the Stanislaus County Public Library, the Riverbank Community Center, and City Hall);
- Train City staff at the public counter to refer victims of housing discrimination to the appropriate agency (local legal services organization, the Stanislaus County District Attorney's Office, the State Fair Employment and Housing Commission, or the U.S. Department of Housing and Urban Development);
- Seek the cooperation of the local homebuilders association, Realtor association and lenders in disseminating fair housing information; and,
- Identify an annual community event such as a fair housing day or as part of another community event at which fair housing information can be distributed.

Responsibility: Housing & Economic Development Department
Timeframe: Ongoing

Program 5.1b: The City will update the definition of "family" and "single-family residence" to comply with all federal and State fair housing laws. The definition should not distinguish between related and unrelated persons and should not impose limitations on the number of persons that may constitute a family.

Responsibility: Community Development Department

Timeframe: By June 2010, adopt updated definitions.

Policy 5.2 Adopt Universal Design Ordinance

Program 5.2a: The City will adopt a universal design ordinance governing construction or modification of homes using design principles that allow individuals to remain in those homes as their physical needs and capabilities change. The City will refer to the HCD website to develop guidelines and a model ordinance consistent with the principles of universal design.

Responsibility: Community Development Department

Timeframe: By June 2010, develop draft Universal Design Ordinance. By June 2011, adopt and implement Universal Design Ordinance.

Policy 5.3 Adopt Reasonable Accommodation Ordinance

Program 5.3a: The City will adopt written reasonable accommodation ordinance to provide exception in zoning and land-use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval by the Community Development Director applying following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws.
- The requested accommodation would not impose an undue financial or administrative burden on the City.
- The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program.

Responsibility: Community Development Department

Timing: Adopt Zoning Ordinance Amendments by December 2012

GOAL 6: PROMOTE ENERGY CONSERVATION

Policy 6.1: Continue to implement state energy-efficient standards.

Program 6.1a: Continue to implement state energy-efficient standards, including the addition of energy-efficient conditions to planned development approvals.

Responsibility: Community Development Department

Timeframe: Ongoing

Program 2.1d:	Continue to distribute information on second units at the permit counter and post information on the City's website.
Responsibility:	Community Development Department
Timeframe:	Ongoing
Program 2.1e:	Adopt a density bonus ordinance in compliance with statutory amendments (Chapter 1928, Statutes 2004) to State density bonus law (Government Code Section 65915).
Responsibility:	Community Development Department
Timeframe:	Adopt density bonus ordinance by December 2010
Program 2.1f:	Assist in the development of housing for farmworkers. Actions will include assistance with site identification and support of applications for funding. The City will identify a partner and development opportunity by June 1010 and apply for grant funding through HCD.
Responsibility:	Economic Development and Housing Department
Timeframe:	By June 2010, development opportunity will be identified and grant applications will be submitted.
Program 2.1g:	The City will update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters. Emergency shelters will only be subject to those development and management standards that apply to other residential development within the same zone.
Responsibility:	Community Development Department
Timeframe:	By June 2010, adopt updated permitted uses.

Policy 2.2: Adopt an Inclusionary Zoning Ordinance

Program 2.2a: An Inclusionary Zoning Ordinance will propose to have the City of Riverbank establish a regulatory and incentive framework which provides opportunities for the development of a supply and mix of new housing to meet the future housing needs of all residents. Through this framework it is expected that new residential development will provide housing opportunities to households of all incomes and achieve a diverse and balanced community with housing available for households of all income levels.

Inclusionary unit regulations will apply to projects that propose (1) the creation of five or more dwelling units through new construction, or (2) the creation of ten or more dwelling units through adaptive reuse or conversion of a nonresidential use to

TABLE D-1
Residential Types Permitted by Zone

	R-1 SINGLE-FAMILY ZONE DISTRICT		R-2 DUPLEX RESIDENTIAL ZONE DISTRICT		R-3 MULTIPLE-FAMILY ZONE DISTRICT		C-1 NEIGHBORHOOD COMMERCIAL ZONE DISTRICT		C-2 GENERAL COMMERCIAL ZONE DISTRICT		CM COMMERCIAL INDUSTRIAL ZONE DISTRICT		M-1 INDUSTRIAL ZONE DISTRICT		M-2 HEAVY INDUSTRIAL ZONE DISTRICT	
TYPE OF RESIDENTIAL	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT
SINGLE FAMILY	X		X		X		X					X		X		X
MOBILE HOME	X		X		X											
CORNER LOT DUPLEX		X	X		X		X			X						
SECOND UNIT	X									X						
MULTI-FAMILY					X		X			X		X				
MOBILE HOME PARK		X				X	X									
FAMILY DAY CARE (6)	X		X		X											
FAMILY DAY CARE (7-12)	X		X		X											
RESIDENTIAL CARE HOME (7)	X		X		X		X									
HOTELS						X	X	X			X					
ROOMING/ BOARDING HOMES						X		X		X		X				
LABOR CAMPS						X		X		X			X			
EMERGENCY SHELTERS					X			X		X		X				
TRANSITIONAL HOUSING					X			X		X		X				
SUPPORTIVE HOUSING					X			X		X		X				

ATTACHMENT 6 – 5.2

MODESTO

☐ ~~2.121~~ 2.129 - Family.

An individual or two (2) or more persons living together as a single household unit in a dwelling unit. Family does not include larger institutional group living situations including, but not limited to, fraternities and sororities nor does it include commercial group living arrangements including, but not limited to, boarding houses and lodging houses.

☐ ~~D-2.120~~ D-2.123 - Dwelling, Single-Family.

A detached building designed for and/or occupied by one (1) family.

TURLOCK

“Family” shall be defined by the maximum number of individuals permitted in a given residential space per the standards of the Uniform Housing Code and/or the Uniform Building Code as applicable.

Dwelling.

(c) “Single-family” shall mean a residential building containing one (1) dwelling unit on one (1) lot. All rooms within the single-family attached dwelling shall be interconnected. “Single-family dwelling” shall include a dwelling that is constructed for the purposes of providing supportive and transitional housing.

MERCED

(Family not in Definitions)

☐ ~~2.121~~ 2.121 Household.

"Household" means one (1) or more persons, whether or not related by blood, marriage or adoption, sharing a dwelling unit and using a single common cooking facility in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities, as well as maintaining a single lease or rental agreement for all members of the household.

(Ord. 2220 § 2 (part), 2005: Ord. 824 Part Five (part), 1964).

☐ ~~2.121~~ 2.121 Dwelling, single-family.

"Single-family dwelling" means a building designed for or used exclusively for residence purposes by one (1) household.

(Ord. 2220 § 2 (part), 2005: Ord. 824 Part Five (part), 1964).

ATTACHMENT 6 – 5.2

MANTECA

(Family not in Definitions)

Household. One or more persons, whether or not related by blood, marriage, or adoption, sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs, and utilities, as well as maintaining a single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.

Dwelling, Primary Unit. In the context of second dwelling unit regulations, an existing single-family residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities occupied and intended for one household.

FRESNO

1. FAMILY shall mean one of the following:

a. An individual or two or more persons related by blood, marriage or adoption.

b. Six (6) or fewer persons living together within the meaning of California Health and Safety Code Sections 1267.8, 1530.5, 1566.3, 1569.85 or any other statute or regulation which expressly requires that six (6) or fewer persons living together shall be considered a family for the purposes of any law or zoning ordinance which is related to the residential use of property.

c. Two or more unrelated persons living together as a single housekeeping unit. Unless otherwise defined by Federal or State laws, a single housekeeping unit shall mean a non-transitory group of persons jointly occupying a single dwelling unit, including the joint use of common areas, for the purpose of sharing household activities and responsibilities such as meals, chores and expenses. The existence of individuals to facilitate the functions of a single housekeeping unit does not disqualify the group from being a single housekeeping unit.

DWELLING, ONE-FAMILY shall mean a detached building designed or used exclusively for the occupancy of one family, and having kitchen and toilet facilities for only one family.

STANISLAUS COUNTY

“Family” means one or more persons occupying a premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. (Ord. CS 106 §1, 1984)

RIPON

Family. An individual, or two (2) or more persons related by blood, marriage or legal adoption, or a group of not more than five (5) persons, who are not so related, living together as a single housekeeping unit.

ATTACHMENT 6 – 5.2

SAN JOAQUIN COUNTY

N/A

OAKDALE

Family: One (1) or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel, as herein defined.

WATERFORD

“**Family**” means one or more persons occupying a premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.

PATTERSON

“Family” means an individual or two or more persons living together in a dwelling unit as a single housekeeping unit.

LOS BANOS

“Family” means one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, or fraternity or sorority house.

LIVINGSTON

FAMILY: One or more persons occupying a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel or hotel.

STOCKTON

N/A

HUGHSON

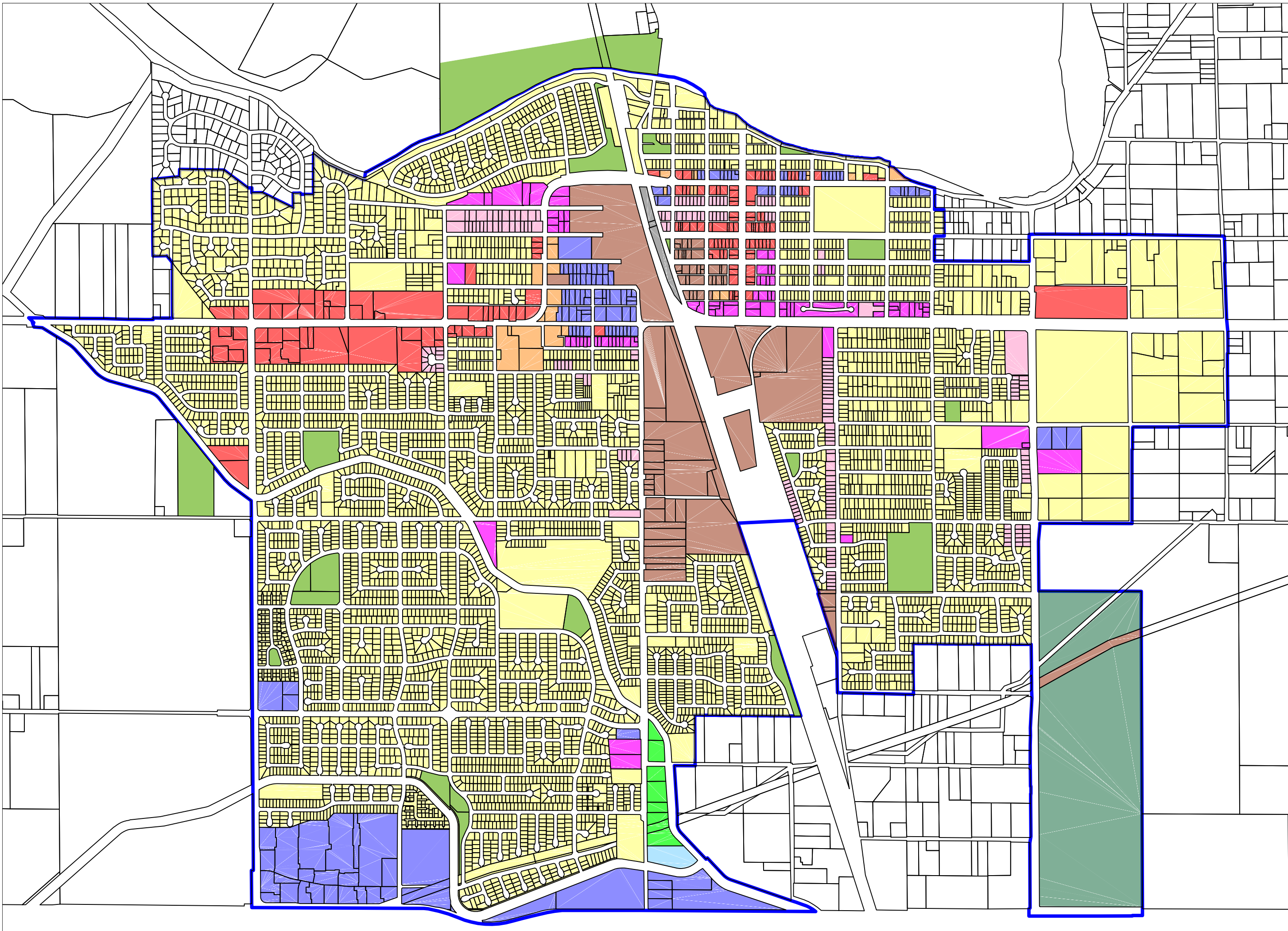
N/A

LODI

"Family" means one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a lodging house or hotel. A family includes the necessary servants.



City of Riverbank ZONING



-  Neighborhood Commercial (C-1)
-  General Commercial (C-2)
-  Commercial - Industrial (CM)
-  Light Industrial (M-1)
-  Park
-  Single Family Residential (R-1)
-  Duplex Residential (R-2)
-  Multiple Family Residential (R-3)
-  Rural to Low Residential (RLR - SP1)
-  Public/Quasi Public (PQP)
-  Riverbank Industrial Complex Park
-  Unassigned
-  City Limits

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.3

SECTION 5: PUBLIC HEARINGS

Meeting Date:	February 10, 2015
Subject/ Title:	First Reading and Introduction of an Ordinance of the City Council of the City of Riverbank, California, Amending Title XV: Land Usage, Chapter 153: Zoning, Section 153.185: Density Bonus Requirements of the City's Municipal Code
From:	Jill Anderson, City Manager
Submitted by:	John B. Anderson, Contract Community Development Director

RECOMMENDATION

It is recommended that the City Council conduct the first reading and introduction by title only of the proposed ordinance to amend Section 153.185: Density Bonus Requirements of the City's Zoning Code.

SUMMARY

The proposed Ordinance modifies the current Density Bonus Ordinance in the City's Municipal Code. In summary, the proposed ordinance implements the following:

- Establishes procedures and criteria for use in the consideration of density bonus for lower income housing developments
- Establishes procedures and criteria for incentives or concessions for the production of housing units and child care facilities
- Provides a significant contribution to the economic feasibility of lower income housing in proposed housing developments
- Criteria and procedures are set forth by Government Code Section 65915 and is applied to requests for density bonus for affordable housing units in Section 153.185 of the City's Zoning Code
- Application procedures are set forth in the Code and follow State law for Density Bonus.

The proposed Ordinance would adapt to any changes to State law and is consistent with surrounding jurisdictions.

Definitions:

Density (Residential). Expressed as dwelling units per acre (du/acre). Gross density is the number of units divided by the acreage of the entire area and net density is the number of units divided by the acreage of the residential land.

Density Bonus. Means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion. CA Government Code Section 65915.5(b)

Senior Citizen Housing Development. As defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code. CA Government Code Section 65915(C).

BACKGROUND

The State Density Bonus Law (Government Code Section 65915 et seq.) was first adopted in 1979. The law allows developers who offer a certain percentage of affordable units in their development a density bonus above what the zoning ordinance would allow. Originally, developers received a density bonus of 25% if they met the density bonus requirements. In 2004, the State legislature passed Senate Bill 1818 ("SB 1818"), which significantly amended the State Density Bonus Law. The significant changes to the law, effective on January 1, 2005, include:

- A higher maximum market-rate unit density bonus of 35% for a lower percentage of affordable units provided;
- A sliding scale of market-rate density bonus percentages from 20%-35% depending on the percentage of affordable units provided;
- Provision for up to three (3) development concessions or incentives, depending on the percentage of affordable units provided;
- Granting the developer a density bonus if they donate land for very low income housing; and,
- Requiring jurisdictions to implement Density Bonus law through code.

The following table summarizes the density bonus provisions of SB 1818.

Restricted Affordable Units or Category	Minimum Percentage of Restricted Affordable Units	Percentage of Density Bonus Granted	Additional Bonus for Each 1% in Restricted Affordable Units	Percentage of Restricted Units Required for Maximum 35% Density Bonus
Very Low Income	5%	20%	2.50%	11%
Lower Income	10%	20%	1.50%	20%
Moderate Income	10%	5%	1%	40%
Senior Citizen Housing	100%	20%	--	--
Qualifying Mobile Park	100%	20%	--	--

In addition, SB 1818 increased the number of concessions and incentives that a developer could request for a lower percentage of affordable housing provided. As with the density bonus, the number of concessions and incentives is dependent on the

affordability level of the units and the percentage of affordable units provided. Incentives include reductions in zoning standards, other development standards, design requirements, mixed use zoning, and any other incentive that would reduce costs for the developer.

Target Group	Restricted Affordable Units		
Very Low Income	5%	10%	15%
Lower Income	10%	20%	30%
Moderate Income (Common Interest Development)	10%	20%	30%
Maximum Incentive(s)/Concession(s)	1	2	3

Per State law, concessions must be granted to the developer unless the legislative body can make one of the following findings:

1. The concession, incentive, waiver and modification is not required to provide for Affordable Rents or Affordable Sales Prices; or
2. The concession, incentive, waiver or modification would have a specific, adverse impact upon the health or safety or the physical environment or on real property listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low and Moderate Income Households.
3. The concession, incentive, waiver or modification is contrary to State or Federal law.¹

The following table describes the components of the state mandated Density Bonus Program.

Components	Density Bonus Program (as amended by SB1818)
Affordability Requirement	5% very low income units, or 10% low income units, or 10% moderate income condominiums/planned developments, or Land donation of portion of site to accommodate very low units equal to 10% of project
Density Increase	Very Low Income Units: 20% density bonus, Low Income Units: 20% density bonus, Moderate Income Condos/PUDs: 5% density bonus, Land Donation: 15% density bonus Density bonus on sliding scale up to a guaranteed 35% for developers offering additional affordable units or donating land.

¹ Government Code §65915(d)(1)

Continued: Components	Density Bonus Program (as amended by SB1818)
Incentives	Developers receive one to three additional incentives depending on the percent of affordable units provided. A developer can ask for essentially any kind of incentive and the jurisdiction is required to allow it unless the jurisdiction makes certain findings. Incentives include reductions in zoning standards, other development standards, design requirements, mixed use zoning, and any other incentive that would reduce the costs for the developer.
Waiver or Modifications to "Development Standards"	Developers may request the waiver of an unlimited number of "development standards" by showing the waivers are needed to make the project economically feasible. "Development Standards" includes site or construction conditions that apply to residential development pursuant to any ordinance, general plan amendment, specific plan, charter amendment or other local condition, law, policy resolution or regulation.
Affordability Terms	Very Low and Low Income Units: 30 years

In addition, the law permits a 20% density bonus for 100% senior developments. There are no income restrictions for the 20% bonus.

The City of Riverbank is required to comply with these regulations, even if it does not adopt a local density bonus ordinance.

A copy of the California Density Bonus Law, commencing with Section 65915 of the California Government Code is attached to this Staff Report as Attachment 6.

ANALYSIS

The City of Riverbank currently has an adopted Density Bonus Ordinance, Section 153.185 of the City's Zoning Code. The current code was amended in 1988 and is summarized as follows:

- 25% density bonus for developments that are proposing to construct 25% low or moderate income or 10% lower income households or 50% of total dwelling units for qualifying residents, as defined by California Civil Code Section 51.3.
- Requests for density bonus must be received in writing
- No options for incentives or concessions.
- No sliding scale for density bonus.

The current Density Bonus Ordinance does not account for the multiple amendments to the State law, including SB1818 and is not as flexible as the State law in regards to the amount of Density permitted for housing developments.

The 2009-2014 Housing Element was adopted August of 2009. One of the Goals and Policies of the 2009-2014 planning period was for the City to adopt a Density Bonus Ordinance:

- **Program 2.1d:** Adopt a density bonus ordinance in compliance with statutory amendments (Chapter 1928, Statutes 2004) to State density bonus law (Government Code Section 65915).
- **Responsibility:** Community Development Department
- **Timeframe:** Adopt density bonus ordinance by December 2010.

As seen above, the timeframe for this program to be adopted by the City is December of 2010. Due to Staff and monetary constraints, however, the City has not implemented this program to date. A copy of the program from the City's Housing Element is attached to this Staff Report as Attachment 5. The current planning cycle for the City's Housing Element is 2014-2023. One of the areas that the California Department of Housing and Community Development (HCD) will review as part of certifying the City's Housing Element is how the City implemented the Goals, Policies and programs of the previous Housing Element. With this program implemented, the City will be in a better position for certification when the City's 2014-2023 Housing Element is submitted for HCD review.

It is important for the City to have a certified Housing Element because it allows the City to take advantage of State and Federal funds, such as Community Development Block Grant (CDBG) funds and Home Investments Partnership (HOME) Program to name a couple. These funds help facilitate the development and rehabilitation of homes for all income groups.

PLANNING COMMISSION ACTION

On November 18, 2014, the Planning Commission held a public hearing to consider the proposed Ordinance, amending Section 153.185: Density Bonus Requirements to implement Program 2.1b and State Density Bonus Law. Four (4) Planning Commissioners were present at this meeting: Chair Stewart, Vice Chair Hughes, Commissioner Villapudua and Commissioner McKinney.

During their deliberation, the Planning Commission raised some questions regarding the definition of Density, how density bonus is administered to developers and density bonus for senior trailer home parks. Staff answered the questions presented.

No one from the public spoke for or against the item.

Commissioner Villapudua made a motion and seconded by Commissioner McKinney to adopt Resolution No. 2014-017, recommending to City Council to adopt the proposed Ordinance, amending Section 153.185: Density Bonus Requirements in the City's Zoning Code. With a unanimous vote (4-0), the Planning Commission adopted Resolution 2014-017.

Planning Commission adopted Resolution No. 2014-017 and is attached to this Staff Report as Attachment 3 as well as the Planning Commission Minutes of November 18, 2014, as Attachment 4.

ENVIRONMENTAL DETERMINATION

The proposed Ordinance Amendment is not a project for CEQA purposes and is exempt under State CEQA Guidelines Section 15061(b)(3), General Rule, because it can be seen with certainty that there is not a possibility that the proposal would result in a significant effect on the environment. The proposal is implementing existing State law and is considered an administrative activity and would not, itself, allow any construction or propose any projects. CEQA will be applied on a project-by-project basis if and when such projects are proposed.

FINANCIAL IMPACT

The proposed Ordinance will have no financial impact to the City.

STRATEGIC GOALS

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three years. The above action to amend Section 153.185: Density Bonus Requirements is not part of these goals but implements the City's Certified 2009-2014 Housing Element Goals and Policies, specifically Program 2.1e, which requires the City to adopt a Density Bonus Ordinance. Furthermore, the proposed Ordinance implements State Density Bonus Law.

ATTACHMENTS

1. The Proposed City Council Ordinance
2. The Proposed City Council Ordinance (Clean Version)
3. Planning Commission Resolution 2014-017, Dated November 18, 2014
4. 2009-2014 Housing Element, Program 2.1e, Page IX-5
5. California Government Code Section 65915: Density Bonus and Other Incentives
6. City of Riverbank Zoning Map

CITY OF RIVERBANK

ORDINANCE NO. 2015-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AMENDING TITLE XV: LAND USAGE, CHAPTER 153: ZONING,
SECTION 153.185: DENSITY BONUS REQUIREMENTS IN THE CITY'S MUNICIPAL
CODE**

WHEREAS, The City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, The City of Riverbank Planning Commission conducted a Public Hearing of Tuesday, November 18, 2014 to consider this Ordinance to amend Section 153.185, Density Bonus Requirements; and

WHEREAS, The City Council for the City of Riverbank has made the following findings for adoption:

Pursuant to California Government Code Section 65358, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:

- a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to “encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households” and to “adopt a density bonus ordinance in compliance with statutory amendments to State density bonus law” (Goal 2 and Program 2.1e)
- b. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
- c. There is a community need to amend the local Density Bonus Ordinance which allows the City to take local concerns into account when granting approvals for density bonus projects and which complies with state law.

WHEREAS, the Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and

WHEREAS, notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on January 28, 2015; and

WHEREAS, a public hearing was held on February 10, 2015, and all comments were heard and considered by City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

SECTION 1: *Section 153:185 of Chapter 153: Zoning, of Title XV, Land Usage of the Riverbank Municipal Code is amended to read as follows:*

§ 153.185 DENSITY BONUS REQUIREMENTS. AFFORDABLE HOUSING DENSITY BONUS

(A) **Purpose.** The purpose of the affordable housing density bonus is to:

- 1) Establish procedures and criteria for use in the consideration of density bonuses for lower income housing development as defined in Section 65915 of the California Government Code;
- 2) Establish procedures for requesting developer incentives or concessions for the production of housing units and child care facilities as prescribed in Section 65915 of the California Government Code; and
- 3) Provide a significant contribution to the economic feasibility of lower income housing in proposed housing developments.

~~When the developer of a housing project with five or more units agrees to construct at least 25% of the total units of a housing development of persons and families of low or moderate income, as defined in Cal. Health & Safety Code § 50093, or 10% of the total units of a housing development for lower income households, as defined in Cal. Health & Safety Code § 50079.5, or 50% of the total dwelling units of a housing development for qualifying residents, as defined in Cal. Civil Code § 51.3, the city will grant a density bonus of at least 25% more units than normally allowed by the existing zoning of the property.~~

(B) **General provisions.** The criteria and procedures set forth in Section 65915 of the California Government Code shall be applied to requests for density bonuses for affordable housing unless amended in this section.

~~Specifically, **DENSITY BONUS** means a density increase of at least 25% over the otherwise allowable residential density under the applicable zoning district.~~

(C) **Application procedures.** The application for a density bonus, incentive or concession shall be submitted with the first application for approval of a housing development and shall be processed concurrently with any other planning permit required for the housing development. The application shall be submitted on form and contain such information and support data as prescribed by the Community Development Director. The application shall contain sufficient information to make the required determinations and findings defined in Section 65915 of the California

~~Government Code. Requests for a density bonus must be in writing and must be accompanied by written information to support the applicant's determination that the units will be available within the income limits described in this section.~~

(D) Fees. The City Council shall set for the amount of the fees for the application required and authorized in this section.

(E) Severability. The provisions of this section of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of this section, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

('67 Code, § 10-13-6) (Ord. 88-14, passed 11-28-88)

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank on February 10, 2015. Said ordinance was given a second reading at the regular City Council meeting on February 24, 2015.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on _____, 2014; motioned by Councilmember _____, seconded by Councilmember _____, moved the ordinance for adoption by a roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

CITY OF RIVERBANK

ORDINANCE NO. 2015-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AMENDING TITLE XV: LAND USAGE, CHAPTER 153: ZONING,
SECTION 153.185: DENSITY BONUS REQUIREMENTS IN THE CITY'S MUNICIPAL
CODE**

WHEREAS, The City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, The City of Riverbank Planning Commission conducted a Public Hearing of Tuesday, November 18, 2014 to consider this proposed Ordinance to amend Section 153.185, Density Bonus Requirements; and

WHEREAS, The City Council for the City of Riverbank has made the following findings for adoption:

Pursuant to California Government Code Section 65358, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:

- a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "adopt a density bonus ordinance in compliance with statutory amendments to State density bonus law" (Goal 2 and Program 2.1e)
- b. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
- c. There is a community need to amend the local Density Bonus Ordinance which allows the City to take local concerns into account when granting approvals for density bonus projects and which complies with state law.

WHEREAS, the Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and

ATTACHMENT 2

WHEREAS, notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on January 28, 2015; and

WHEREAS, a public hearing was held on February 10, 2015, and all comments were heard and considered by City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

SECTION 1: *Section 153:185 of Chapter 153: Zoning, of Title XV, Land Usage of the Riverbank Municipal Code is amended to read as follows:*

§ 153.185 AFFORDABLE HOUSING DENSITY BONUS

(A) **Purpose.** The purpose of the affordable housing density bonus is to:

- 1) Establish procedures and criteria for use in the consideration of density bonuses for lower income housing development as defined in Section 65915 of the California Government Code;
- 2) Establish procedures for requesting developer incentives or concessions for the production of housing units and child care facilities as prescribed in Section 65915 of the California Government Code; and
- 3) Provide a significant contribution to the economic feasibility of lower income housing in proposed housing developments.

(B) **General provisions.** The criteria and procedures set forth in Section 65915 of the California Government Code shall be applied to requests for density bonuses for affordable housing unless amended in this section.

(C) **Application procedures.** The application for a density bonus, incentive or concession shall be submitted with the first application for approval of a housing development and shall be processed concurrently with any other planning permit required for the housing development. The application shall be submitted on form and contain such information and support data as prescribed by the Community Development Director. The application shall contain sufficient information to make the required determinations and findings defined in Section 65915 of the California Government Code.

(D) **Fees.** The City Council shall set for the amount of the fees for the application required and authorized in this section.

(E) **Severability.** The provisions of this section of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of this section, or the invalidity of the application thereof to any person or

ATTACHMENT 2

circumstances, shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank on February 10, 2015. Said ordinance was given a second reading at the regular City Council meeting on February 24, 2015.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on _____, 2014; motioned by Councilmember _____, seconded by Councilmember _____, moved the ordinance for adoption by a roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

**CITY OF RIVERBANK
RESOLUTION NO. 2014-017**

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF RIVERBANK, CALIFORNIA,
RECOMMENDING TO CITY COUNCIL THE APPROVAL
OF ORDINANCE 2014-XXX TO AMEND SECTION
153.185: DENSITY BONUS REQUIREMENTS IN THE
CITY OF RIVERBANK MUNICIPAL CODE**

WHEREAS, the Riverbank General Plan adopted in 2009 calls for encouraging the production of affordable and senior housing is included within its goals, policies, and programs; and

WHEREAS, the Housing Element of the Riverbank General Plan was updated and approved by the City Council and certified by the California State Department of Housing and Community Development (HCD) in 2009; and

WHEREAS, California State Density Bonus Law (Government Code Section 65915) was first adopted in 1979 and allows developers who offer certain percentages of affordable units in their developments a density bonus above what the zoning ordinance would allow. Originally, developers received a density bonus of 25% if they met the density bonus requirements. In 2004, the State Legislature passed SB 1818, which significantly amended Section 65915 of the Government Code. The significant changes to the law, effective January 1, 2005, include:

- A higher maximum market-rate unit density bonus of 35% for lower percentage of affordable units provided;
- A sliding scale of market-rate density bonus percentages from 20%-35% depending on the percentage of affordable units provided;
- Provision of up to three (3) development concessions or incentives, depending on the percentage of affordable units provided;
- Requiring jurisdictions to implement Density Bonus Law through local code; and

WHEREAS, the City prepared Zoning Ordinance 2014-XXX to amend Section 153.185: Density Bonus Requirements; and

WHEREAS, notice of the public hearing on the Zoning Ordinance was published in the *Riverbank News*, a newspaper of general circulation, on November 5, 2014; and

WHEREAS, the Planning Commission has reviewed the Zoning Amendment and conducted a public hearing on November 18, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE 2014-____, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN BY THIS REFERENCE, AMENDING SECTION 153.185: DENSITY BONUS REQUIREMENTS IN THE CITY OF RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. Pursuant to California Government Code Section 65855, the recommendation to City Council shall include the relationship to the applicable general or specific plan.
 - a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "adopt a density bonus ordinance in compliance with statutory amendments to State density bonus law" (Goal 2 and Program 2.1e)
 - b. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
 - c. There is a community need to amend the local Density Bonus Ordinance which allows the City to take local concerns into account when granting approvals for density bonus projects and which complies with state law.
2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
3. The City finds and determines with certainty that the amendments described in Ordinance 2014-XXX are not considered a project under the California Environmental Quality Act Section 15061(b)(3) because the ordinance is not a discretionary act since it is only implementing existing state law and would not,

itself, allow any construction, and each proposed project would be subject to individual CEQA review.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 18th day of November, 2014; motioned by Commissioner Villapudus seconded by Commissioner McKinney and upon roll call was carried by the following vote of 4-0:

AYES: Chair Stewart, Vice Chair Hughes, Commissioner McKinney and Commissioner Villapudus

NAYS: None

ABSENT: Commissioner Degele

ABSTAIN: None

Attest:

Approved:

Secretary

Joan Stewart

Attachments:

Exhibit "A" – Proposed Draft City Council Ordinance 2014-XXX

EXHIBIT "A"

**CITY OF RIVERBANK
ORDINANCE NO. 2014-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF RIVERBANK, CALIFORNIA AMENDING TITLE 153:
ZONING, SECTION 153.185: DENSITY BONUS
REQUIREMENTS IN THE CITY'S MUNICIPAL CODE**

WHEREAS, The City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, The City of Riverbank Planning Commission conducted a Public Hearing of Tuesday, November 18, 2014 to consider Ordinance 2014-XXX to amend Section 153.185, Density Bonus Requirements; and

WHEREAS, The City Council for the City of Riverbank has made the following findings for adoption:

Pursuant to California Government Code Section 65358, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:

- a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "adopt a density bonus ordinance in compliance with statutory amendments to State density bonus law" (Goal 2 and Program 2.1e)
- b. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
- c. There is a community need to amend the local Density Bonus Ordinance which allows the City to take local concerns into account when granting approvals for density bonus projects and which complies with state law.

WHEREAS, the Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and

EXHIBIT "A"

WHEREAS, notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on _____; and

WHEREAS, a public hearing was held on January 13, 2015 and all comments were heard and considered by City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

SECTION 1: *Section 153:185 of Chapter 153: Zoning, of Title XV, Land Usage of the Riverbank Municipal Code is amended to read as follows:*

§ 153.185 DENSITY BONUS REQUIREMENTS. AFFORDABLE HOUSING DENSITY BONUS

- (A) **Purpose.** The purpose of the affordable housing density bonus is to:
- 1) Establish procedures and criteria for use in the consideration of density bonuses for lower income housing development as defined in Section 65915 of the California Government Code;
 - 2) Establish procedures for requesting developer incentives or concessions for the production of housing units and child care facilities as prescribed in Section 65915 of the California Government Code; and
 - 3) Provide a significant contribution to the economic feasibility of lower income housing in proposed housing developments.

~~When the developer of a housing project with five or more units agrees to construct at least 25% of the total units of a housing development of persons and families of low or moderate income, as defined in Cal. Health & Safety Code § 50093, or 10% of the total units of a housing development for lower income households, as defined in Cal. Health & Safety Code § 50079.5, or 50% of the total dwelling units of a housing development for qualifying residents, as defined in Cal. Civil Code § 51.3, the city will grant a density bonus of at least 25% more units than normally allowed by the existing zoning of the property.~~

(B) **General provisions.** The criteria and procedures set forth in Section 65915 of the California Government Code shall be applied to requests for density bonuses for affordable housing unless amended in this section.

~~Specifically, **DENSITY BONUS** means a density increase of at least 25% over the otherwise allowable residential density under the applicable zoning district.~~

(C) **Application procedures.** The application for a density bonus, incentive or concession shall be submitted with the first application for approval of a housing development and shall be processed concurrently with any other planning permit required for the housing development. The application shall be submitted on form and contain such information and support data as prescribed by the Community

EXHIBIT "A"

Development Director. The application shall contain sufficient information to make the required determinations and findings defined in Section 65915 of the California Government Code. Requests for a density bonus must be in writing and must be accompanied by written information to support the applicant's determination that the units will be available within the income limits described in this section.

(D) Fees. The City Council shall set for the amount of the fees for the application required and authorized in this section.

(E) Severability. The provisions of this section of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of this section, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

(`67 Code, § 10-13-6) (Ord. 88-14, passed 11-28-88)

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the _____ day of _____, 2014; motioned by Councilmember _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Program 2.1d: Continue to distribute information on second units at the permit counter and post information on the City's website.

Responsibility: Community Development Department

Timeframe: Ongoing

Program 2.1e: Adopt a density bonus ordinance in compliance with statutory amendments (Chapter 1928, Statutes 2004) to State density bonus law (Government Code Section 65915).

Responsibility: Community Development Department

Timeframe: Adopt density bonus ordinance by December 2010

Program 2.1f: Assist in the development of housing for farmworkers. Actions will include assistance with site identification and support of applications for funding. The City will identify a partner and development opportunity by June 2010 and apply for grant funding through HCD.

Responsibility: Economic Development and Housing Department

Timeframe: By June 2010, development opportunity will be identified and grant applications will be submitted.

Program 2.1g: The City will update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters. Emergency shelters will only be subject to those development and management standards that apply to other residential development within the same zone.

Responsibility: Community Development Department

Timeframe: By June 2010, adopt updated permitted uses.

Policy 2.2: Adopt an Inclusionary Zoning Ordinance

Program 2.2a: An Inclusionary Zoning Ordinance will propose to have the City of Riverbank establish a regulatory and incentive framework which provides opportunities for the development of a supply and mix of new housing to meet the future housing needs of all residents. Through this framework it is expected that new residential development will provide housing opportunities to households of all incomes and achieve a diverse and balanced community with housing available for households of all income levels.

Inclusionary unit regulations will apply to projects that propose (1) the creation of five or more dwelling units through new construction, or (2) the creation of ten or more dwelling units through adaptive reuse or conversion of a nonresidential use to

GOVERNMENT CODE

SECTION 65915-65918

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

Owner-occupied units shall be available at an affordable housing cost

ATTACHMENT 5 – 5.3

as defined in Section 50052.5 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 4100 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least

ATTACHMENT 5 – 5.3

10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

ATTACHMENT 5 – 5.3

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Density Bonus	Percentage
10	20	
11	21.5	
12	23	
13	24.5	
14	26	
15	27.5	
17	30.5	
18	32	
19	33.5	
20	35	

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9

ATTACHMENT 5 – 5.3

15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30

ATTACHMENT 5 – 5.3

26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises

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of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California

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Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a

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development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

65915.5. (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

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65916. Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

65917. In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.5. (a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing

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requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to

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the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

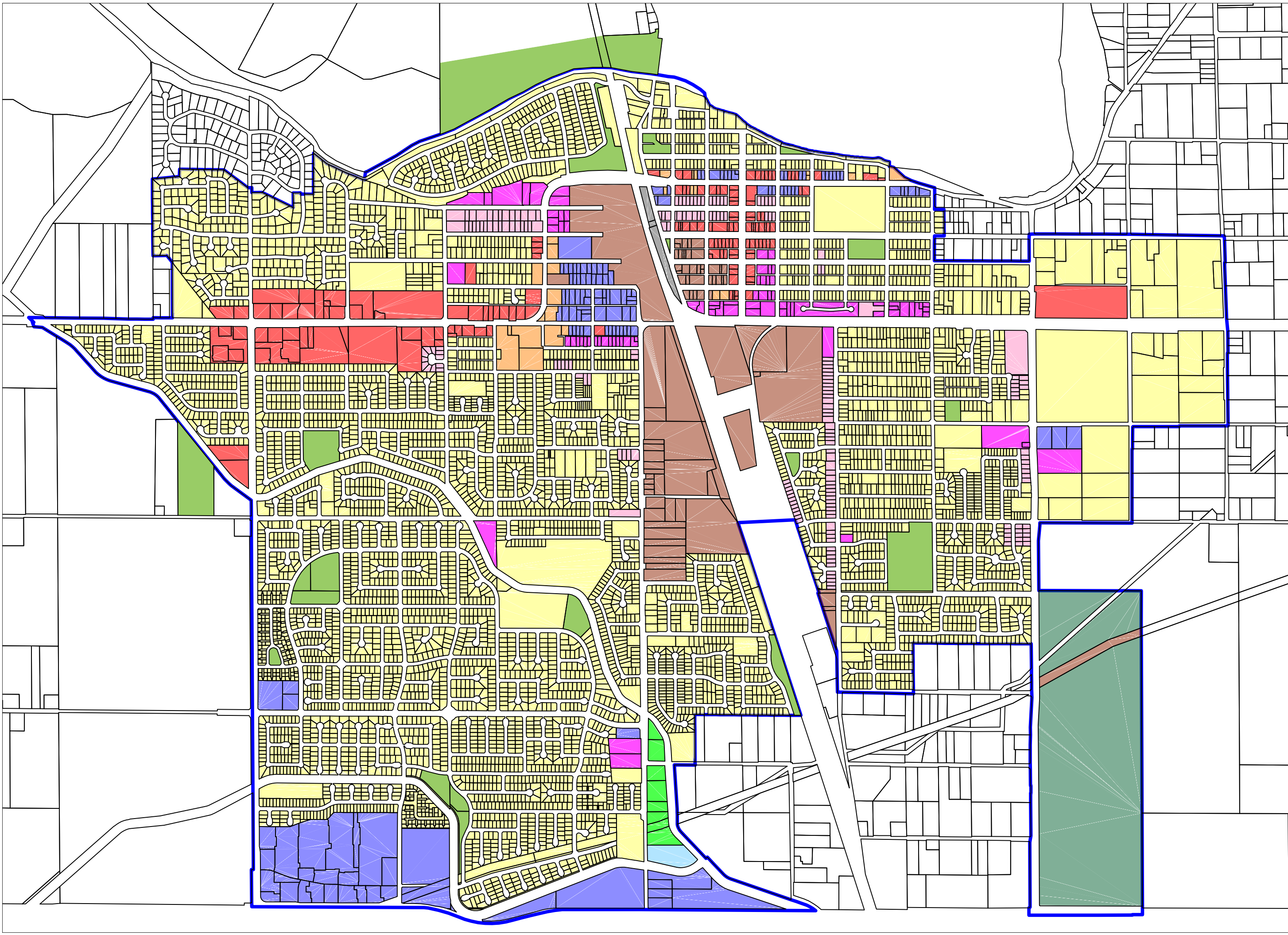
(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

65918. The provisions of this chapter shall apply to charter cities.



City of Riverbank ZONING



-  Neighborhood Commercial (C-1)
-  General Commercial (C-2)
-  Commercial - Industrial (CM)
-  Light Industrial (M-1)
-  Park
-  Single Family Residential (R-1)
-  Duplex Residential (R-2)
-  Multiple Family Residential (R-3)
-  Rural to Low Residential (RLR - SP1)
-  Public/Quasi Public (PQP)
-  Riverbank Industrial Complex Park
-  Unassigned
-  City Limits

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.4

SECTION 5: PUBLIC HEARINGS

Meeting Date: February 10, 2015

Subject: First Reading and Introduction by Title Only of an **Ordinance** of the City Council of the City of Riverbank, California Adding Sections 153.221 Through 153.229 To Title XV: Land Usage, Chapter 153: Zoning of the City's Municipal Code

From: Jill Anderson, City Manager

Submitted by: John B. Anderson, Contract Community Development Director

RECOMMENDATION

It is recommended that the City Council conduct the first reading and introduction of the proposed Ordinance, adding Sections 153.221 through 153.229, Reasonable Accommodation to Chapter 153, Zoning, of Title XV, Land Usage of the Riverbank Municipal Code

SUMMARY

Both Federal and State Fair Housing laws prohibit discrimination in housing against individuals with disabilities. These laws require that cities take affirmative action to eliminate regulations and practices that deny housing opportunities to disabled individuals. This includes requiring flexibility in the application of land use and zoning regulations.

Furthermore, California's Fair Employment and Housing Act, the State's Housing Element law, and HUD require that cities utilizing Community Development Block Grant (CDBG) funds prepare an "Analysis of Impediments to Fair Housing Choice." Taken together, these pieces of legislation require that Cities and Counties take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities, and more specifically, require that Cities and Counties provide individuals with disabilities, or developers of housing for people with disabilities, flexibility in the application of land use and zoning regulations, practices and procedures.

While fair housing laws intend that all people have equal access to housing, the law also recognizes that individuals with disabilities may need extra tools to achieve

equality. Providing reasonable accommodation is one way for the City of Riverbank to provide relief from land use and zoning and building regulations and procedures that have the effect of discriminating against the development, siting and use of housing for individuals with disabilities. Furthermore, California Government Code Section 65583(c)(3) states:

Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

The intent of the proposed Ordinance is to establish a formal procedure for persons with disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's land use regulations and to establish criteria to be used when considering such requests. These regulations implement Program 5.3a in the Riverbank General Plan Housing Element, which calls for the development of written procedures for reasonable accommodation requests with respect to zoning, permit processing, and building laws as well as Federal and State Fair Housing Laws.

BACKGROUND

The City's 2009-2014 Housing Element was adopted August of 2009. The Housing Element contains goals, policies, and proposed plans of actions to implement the City's housing program. The goals and policies reflect the needs identified in the Housing Element and each proposed implementation program contains a description of the intended action, an explanation of the agency responsible for administering the program, and the timeframe during which the program would take effect.

One of the Goals and Policies of the 2009-2014 Housing Element is for the City to adopt a Reasonable Accommodation Ordinance:

GOAL 5: PROMOTE HOUSING OPPORTUNITIES FOR ALL PERSONS REGARDLESS OF RACE, RELIGION, SEX, MARITAL STATUS, ANCESTRY, NATIONAL ORIGIN, COLOR, FAMILIAL STATUS, OR DISABILITY

Policy 5.3 Adopt Reasonable Accommodation Ordinance

Program 5.3a: The City will adopt written reasonable accommodation ordinance to provide exception in zoning and land-use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval by the Community Development Director applying the following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing law.
- The requested accommodation would not impose an undue financial or administrative burden on the City.
- The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program.

Responsibility: Community Development Department

Timeframe: Adopt Zoning Ordinance Amendments by December 2012

As seen above, the timeframe for this program to be adopted by the City is December of 2012. Due to Staff and monetary constraints, the City has not implemented this program to date. The current planning cycle for the City's Housing Element is 2014-2023. One of the issues that the California Department of Housing and Community Development (HCD) will review as part of certifying the City's Housing Element is how well the City implemented the Goals, Policies and Programs of the previous Housing Element. With this program implemented, the City will be in a better position for certification when the City's 2014-2023 Housing Element is submitted for HCD review.

It is important for the City to have a certified Housing Element because it allows the City to take advantage of State and Federal funds, such as Community Development Block Grant (CDBG) and Home Investments Partnership (HOME) Program to name a couple. These funds help facilitate the development and rehabilitation of homes for all income groups.

Additionally, the Federal Fair Housing Amendments Act (the Act) of 1988 makes it illegal to discriminate in housing against individuals based on their race, color, religion, gender, national origin, familial status, or disability. The Act prohibits local governments from making house opportunities unavailable to people with disabilities through discriminatory land use and zoning rules, policies, practices and procedures. The legislative history of the Act recognizes that zoning code provision have discriminated against people with disabilities by limiting opportunities to live in the community congregate or group living arrangements. California's own fair housing statute, the Fair Employment and Housing Act (FEHA) prohibits discrimination on the same bases as federal law and also four additional bases: ancestry, sexual orientation, and source of income. The proposed Reasonable Accommodation Ordinance provides the City with procedures and criteria to provide persons with disabilities the relief in zoning, permit procedures, and building laws that may prohibit opportunities for housing.

An applicant requesting an accommodation must have a disability that is defined and protected under Federal and State Housing Law. According to the State's FEHA, there are two categories of disabilities: physical and mental. The applicant is not required to

identify the nature or severity of the disability and it is unlawful for the City to make such an inquiry of a person with a disability or one associated with him or her (24 C.F.R. § 100.202; Cal. Gov't Code § 12955 (b)). In most instances, the establishment of a protected disability can be met by describing generally the use of the dwelling, such as licensed residential care facility, home for transitional age youth with disabilities, or sober living home for those in recovery.

Furthermore, the application and procedures are approved by the Community Development Director, reducing the timing of the review process, resulting in a more streamlined process. This is consistent with the intent of the Ordinance of reducing constraints and barriers to housing for persons with disabilities.

ANALYSIS

The proposed Ordinance establishes the Reasonable Accommodation Ordinance in the City's Zoning Code. The proposed City Council Ordinance is attached to this Staff Report as Attachment 1. In summary, the proposed ordinance implements the following:

- Establishes criteria and procedures for the request for Reasonable Accommodation that will be used by an individual with a disability protected under fair housing laws.
- Establishes submittal requirements that are applicable to reasonable accommodation, such as documentation of disability, specific exception or modification to the zoning code, other information that the CDD requires to make a determination.
- Appeal procedures for Reasonable Accommodation decisions.
- Factors for the alteration of the City's Zoning Code.
- Establishes certain findings that the Community Development Director must make to make a decision to grant or deny requested accommodations. These findings are consistent with Fair Housing Laws and the decision-making criteria listed in Program 5.3a above. Program 5.3a from the City's Housing Element is attached to this Staff Report as Attachment 4.

Examples of the types of requests that may be made are provided below:

- *Relief from Yard Setback Requirements:* Wheelchair ramps are required to comply with applicable setback requirements. Under the proposed regulations, an applicant may seek changes related to yard setback requirements to accommodate the installation of ramps to meet the needs of persons with disabilities who use wheelchairs.
- *Fence Height Restrictions:* A housing provider or developer seeks exception to fence height restrictions when greater privacy is necessary for a person with a disability to use and enjoy the outdoors at a residence.

- *Parking:* An applicant may seek special parking exceptions for the use of a vehicle where the height of the vehicle is prohibiting them from using the garage or space at the home.

PLANNING COMMISSION ACTION

On November 18, 2014, the Planning Commission held a public hearing to consider the proposed Ordinance, adding Sections 153.221 through 153.229, Reasonable Accommodation to Chapter 153, Zoning, of Title XV, Land Usage of the Riverbank Municipal Code. Four (4) Planning Commissioners were present at this meeting: Chair Stewart, Vice Chair Hughes, Commissioner Villapudua and Commissioner McKinney.

During their deliberation, the Planning Commission raised some questions pertaining to the applicability of Reasonable Accommodation for certain types of disabilities and the possibility of developers taking advantage of this Ordinance to reduce setback and development requirements.

No one from the public spoke for or against the item.

Vice Chair Hughes made a motion to adopt Resolution 2014-016, recommending to City Council to adopt the proposed Ordinance, adding Sections 153.221 through 153.229, Reasonable Accommodation to Chapter 153, Zoning, of Title XV, Land Usage of the Riverbank Municipal Code.

Planning Commission adopted Resolution No. 2014-016 and is attached to this Staff Report as Attachment 2 as well as the Planning Commission Minutes of November 18, 2014, as Attachment 3.

ENVIRONMENTAL DETERMINATION

The proposed Ordinance Amendment is not a project for CEQA purposes and is exempt under State CEQA Guidelines Section 15061(b)(3), General Rule, because it can be seen with certainty that there is not a possibility that the proposal would result in a significant effect on the environment. The proposal is implementing existing State law and is considered an administrative activity and would not, itself, allow any construction or propose any projects. CEQA will be applied on a project-by-project basis if and when such projects are proposed.

FINANCIAL IMPACT

The proposed Ordinance will have no financial impact to the City.

STRATEGIC GOALS

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three years. The above action to add Sections

153.221 through 153.229, Reasonable Accommodation is not part of these goals but implements the City's Certified 2009-2014 Housing Element Goals and Policies, specifically Goal 5 and Policy 5.3 as well as State and Federal Fair Housing Laws, which prohibit discrimination in housing against individuals with disabilities.

ATTACHMENTS

1. The Proposed City Council Ordinance
2. Planning Commission Resolution 2014-016, Dated November 18, 2014
3. 2009-2014 Housing Element, Policy 5.3, Program 5.3a, Page IX-9

CITY OF RIVERBANK

ORDINANCE NO. 2015-XXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA ADDING SECTIONS 153.221 THROUGH 153.229 TO TITLE XV:
LAND USAGE, CHAPTER 153: ZONING OF THE CITY'S MUNICIPAL CODE**

WHEREAS, the City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, the City of Riverbank Planning Commission conducted a Public Hearing on Tuesday, November 18, 2014 to consider this proposed Ordinance to establish the Reasonable Accommodation Ordinance, adding Section 153.221 through 153.229 of Title XV: Land Usage, Chapter 153: Zoning of the City's Municipal Code; and

WHEREAS, the City Council for City of Riverbank has made the following findings for adoption.

1. Pursuant to California Government Code section 65355, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:
 - a. The proposed Zoning Ordinance will establish a new section in the City's Municipal Code, Reasonable Accommodation and is consistent with Policy 5.3: Adopt Reasonable Accommodation Ordinance and Program 5.3a of the City's adopted and certified 2009-2014 Housing Element;
 - b. The Housing Element of the City of Riverbank must identify and develop a plan for removing governmental constraints to housing for individuals with disabilities including land use and zoning constraints or providing reasonable accommodation; and
 - c. The proposed Ordinance will facilitate Reasonable Accommodation procedures and criteria for the City to reasonably accommodate persons with disabilities and in accordance with state and federal laws.
2. The Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing;

3. The Attorney General of the State of California has recommended that Cities and Counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities;
4. A fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the City's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. *Chapter 153, Zoning of Title XV: Land Usage of the Riverbank Municipal Code is amended to add Sections 153.221 through 153.229, Reasonable Accommodation, which shall read as follows:*

REASONABLE ACCOMMODATION

153.221 PURPOSE

It is the policy of the City of Riverbank, pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This ordinance establishes a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the jurisdiction to comply fully with the intent and purpose of fair housing laws.

153.222 APPLICABILITY

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.

A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

153.223 NOTICE TO THE PUBLIC OF AVAILABILITY OF ACCOMMODATION PROCESS

Notice of the availability of reasonable accommodation shall be prominently displayed at public information counter in the development services department, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the development services department.

153.224 REQUESTING REASONABLE ACCOMMODATION

- A. In order to make housing available to an individual with a disability, any eligible person as defined in Section 153.256 may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.
- B. Requests for reasonable accommodation shall be in writing and provide the following information:
 - 1. Name and address of the individual(s) requesting reasonable accommodation;
 - 2. Name and address of the property owner(s);
 - 3. Address of the property for which accommodation is requested;
 - 4. Description of the requested accommodation and regulation(s), policy or procedure for which accommodation is sought; and
 - 5. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. A request for reasonable accommodation in regulations, policies, practices, and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

- E. If an individual needs assistance in making the request for reasonable accommodation, the City of Riverbank will provide assistance to ensure that the process is accessible.

153.225 REVIEWING AUTHORITY

- A. Requests for reasonable accommodation shall be reviewed by the Community Development Director, using the criteria set for in Section 153.226.
- B. The Community Development Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set for in Section 153.226.
- C. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

153.226 REQUIRED FINDINGS

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

1. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities, as defined and protected under federal and state fair housing laws;
2. Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
3. Whether the requested accommodation would impose an undue financial or administrative burden on the City; and
4. Whether the requested accommodation would require a fundamental alteration in the nature of the City's land use and zoning or building program.

153.227 WRITTEN DECISION ON THE REQUEST FOR REASONABLE ACCOMMODATION

- A. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Community Development Director's findings on the criteria set forth in Section 153.226. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.
- B. The written decision of the Community Development Director shall be final unless an applicant appeals it to the Planning Commission.
- C. If the reviewing authority fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period allotted by Section 153.226 the request shall be deemed granted.
- D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain the full force and effect.

153.228 APPEALS

- A. Within thirty (30) days of the date of the Community Development Director's written decision, an individual may appeal an adverse decision. Appeals from the adverse decision shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. Appeal procedures are set for by Riverbank Municipal Code Section 153.251: Appeal. Decisions by staff may be appealed to the Planning Commission and decisions of the Planning Commission may be appealed to the City Council.
- E. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

153. 229. Severability.

The provisions of these sections of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of these sections, or the invalidity of the application thereof to any person or circumstances,

shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

6. The Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and
7. Notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on January 28, 2015; and
8. A public hearing was held on February 10, 2015 and all comments were heard and considered by City Council.

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank on February 10, 2015. Said ordinance was given a second reading at the regular City Council meeting on February 24, 2015.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on _____, 2014; motioned by Councilmember _____, seconded by Councilmember _____, moved the ordinance for adoption by a roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

**CITY OF RIVERBANK
RESOLUTION NO. 2014-016**

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF RIVERBANK, CALIFORNIA,
RECOMMENDING TO CITY COUNCIL THE APPROVAL
OF ORDINANCE 2014-XXX ADDING SECTIONS 153.221
THROUGH 153.229 TO CHAPTER 153, ZONING OF TITLE
XV, LAND USAGE OF THE CITY OF RIVERBANK
MUNICIPAL CODE**

WHEREAS, on August 24, 2009, the City of Riverbank City Council adopted the 2009-2014 Housing Element; and

WHEREAS, the adopted and certified Housing Element, Policy 5.3 and Program 5.3a calls for the City to adopt written Reasonable Accommodation Ordinance to provide exception in zoning and land-use for housing for persons with disabilities; and

WHEREAS, the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act prohibit discrimination in housing against individuals with disabilities and require that Cities take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities; and

WHEREAS, fair housing laws require that Cities provide individuals with disabilities (or their representatives, or developers of housing for people with disabilities) flexibility in the application of land use and zoning regulations; and

WHEREAS, Government Code Section 65583 requires that the Housing Element identify constraints to providing housing for individuals with disabilities, supportive housing and transitional housing and develop strategies as appropriate for removing those constraints, and to have a program(s) that removes constraints to, or provides reasonable accommodations for such housing; and

WHEREAS, the Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities; and

WHEREAS, the Government Code section 65855 requires that the City Council receive input and a recommendation from the Planning Commission on a Zoning Amendment that imposes any regulation listed in Section 65850; and

WHEREAS, notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on November 5, 2014; and

WHEREAS, the Planning Commission has reviewed the Zoning Amendment and conducted a public hearing on November 18, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE 2014-XXX, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HERIN BY THIS REFERENCE, ADDING SECTIONS 153.221 THROUGH 229, REASONABLE ACCOMMODATION TO CHAPTER 153, ZONING OF TITLE XV, LAND USAGE OF THE RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. Pursuant to California Government Code Section 65854, the recommendation to City Council shall include the relationship to the applicable general or specific plan.
 - a. The proposed Zoning Ordinance will establish a new section in the City's Municipal Code, Reasonable Accommodation and is consistent with Policy 5.3: Adopt Reasonable Accommodation Ordinance and Program 5.3a of the City's adopted and certified 2009-2014 Housing Element;
 - b. The Housing Element of the City of Riverbank must identify and develop a plan for removing governmental constraints to housing for individuals with disabilities including land use and zoning constraints or providing reasonable accommodation; and
 - c. The proposed Ordinance will facilitate Reasonable Accommodation procedures and criteria for the City to reasonably accommodate persons with disabilities and in accordance with state and federal laws.
2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
3. The City finds and determines with certainty that the amendments described in Ordinance 2014-XXX are not considered a project and is exempt under the California Environmental Quality Act Section 15061(b)(3) as the ordinance is only implementing Federal and State laws and would not, itself, allow any construction, and each proposed project would be subject to individual CEQA review.

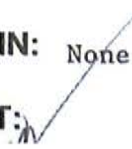
PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 18th day of November, 2014; motioned by Commissioner Hughes, seconded by Chairperson McKinney, and upon roll call was carried by the following vote of 4-0 :

AYES: Chair Stewart, Vice Chair Hughes, Commissioner McKinney and Commissioner Villapu

NAYS: None

ABSENT: Commissioner Degele

ABSTAIN: None

ATTEST: 

APPROVED:


John B. Anderson
Contract Community Development Director


Joan Stewart
Planning Commission Chair

Attachments:

Exhibit "A" – City Council Ordinance 2014-XXX

EXHIBIT A

CITY OF RIVERBANK

ORDINANCE NO. 2015-XXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA ADDING SECTIONS 153.221 THROUGH 153.229 TO TITLE XV:
LAND USAGE, CHAPTER 153: ZONING OF THE CITY'S MUNICIPAL CODE**

WHEREAS, the City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, the City of Riverbank Planning Commission conducted a Public Hearing on Tuesday, November 18, 2014 to consider this proposed Ordinance to establish the Reasonable Accommodation Ordinance, adding Section 153.221 through 153.229 of Title XV: Land Usage, Chapter 153: Zoning of the City's Municipal Code; and

WHEREAS, the City Council for City of Riverbank has made the following findings for adoption.

1. Pursuant to California Government Code section 65355, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:
 - a. The proposed Zoning Ordinance will establish a new section in the City's Municipal Code, Reasonable Accommodation and is consistent with Policy 5.3: Adopt Reasonable Accommodation Ordinance and Program 5.3a of the City's adopted and certified 2009-2014 Housing Element;
 - b. The Housing Element of the City of Riverbank must identify and develop a plan for removing governmental constraints to housing for individuals with disabilities including land use and zoning constraints or providing reasonable accommodation; and
 - c. The proposed Ordinance will facilitate Reasonable Accommodation procedures and criteria for the City to reasonably accommodate persons with disabilities and in accordance with state and federal laws.
2. The Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing;

EXHIBIT A

3. The Attorney General of the State of California has recommended that Cities and Counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities;
4. A fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the City's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. *Chapter 153, Zoning of Title XV: Land Usage of the Riverbank Municipal Code is amended to add Sections 153.221 through 153.229, Reasonable Accommodation, which shall read as follows:*

REASONABLE ACCOMMODATION

153.221 PURPOSE

It is the policy of the City of Riverbank, pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This ordinance establishes a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the jurisdiction to comply fully with the intent and purpose of fair housing laws.

153.222 APPLICABILITY

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.

EXHIBIT A

A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

153.223 NOTICE TO THE PUBLIC OF AVAILABILITY OF ACCOMMODATION PROCESS

Notice of the availability of reasonable accommodation shall be prominently displayed at public information counter in the development services department, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the development services department.

153.224 REQUESTING REASONABLE ACCOMMODATION

- A. In order to make housing available to an individual with a disability, any eligible person as defined in Section 153.256 may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.
- B. Requests for reasonable accommodation shall be in writing and provide the following information:
 - 1. Name and address of the individual(s) requesting reasonable accommodation;
 - 2. Name and address of the property owner(s);
 - 3. Address of the property for which accommodation is requested;
 - 4. Description of the requested accommodation and regulation(s), policy or procedure for which accommodation is sought; and
 - 5. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. A request for reasonable accommodation in regulations, policies, practices, and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

EXHIBIT A

- E. If an individual needs assistance in making the request for reasonable accommodation, the City of Riverbank will provide assistance to ensure that the process is accessible.

153.225 REVIEWING AUTHORITY

- A. Requests for reasonable accommodation shall be reviewed by the Community Development Director, using the criteria set for in Section 153.226.
- B. The Community Development Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set for in Section 153.226.
- C. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

153.226 REQUIRED FINDINGS

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

1. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities, as defined and protected under federal and state fair housing laws;
2. Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
3. Whether the requested accommodation would impose an undue financial or administrative burden on the City; and
4. Whether the requested accommodation would require a fundamental alteration in the nature of the City's land use and zoning or building program.

153.227 WRITTEN DECISION ON THE REQUEST FOR REASONABLE ACCOMMODATION

EXHIBIT A

- A. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Community Development Director's findings on the criteria set forth in Section 153.226. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.
- B. The written decision of the Community Development Director shall be final unless an applicant appeals it to the Planning Commission.
- C. If the reviewing authority fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period allotted by Section 153.226 the request shall be deemed granted.
- D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain the full force and effect.

153.228 APPEALS

- A. Within thirty (30) days of the date of the Community Development Director's written decision, an individual may appeal an adverse decision. Appeals from the adverse decision shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. Appeal procedures are set for by Riverbank Municipal Code Section 153.251: Appeal. Decisions by staff may be appealed to the Planning Commission and decisions of the Planning Commission may be appealed to the City Council.
- E. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

153. 229. Severability.

The provisions of these sections of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of these sections, or the invalidity of the application thereof to any person or circumstances,

EXHIBIT A

shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

6. The Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and
7. Notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on January 28, 2015; and
8. A public hearing was held on February 10, 2015 and all comments were heard and considered by City Council.

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank on February 10, 2015. Said ordinance was given a second reading at the regular City Council meeting on February 24, 2015.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on _____, 2014; motioned by Councilmember _____, seconded by Councilmember _____, moved the ordinance for adoption by a roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Timeframe: By June 2010, adopt updated definitions.

Policy 5.2 Adopt Universal Design Ordinance

Program 5.2a: The City will adopt a universal design ordinance governing construction or modification of homes using design principles that allow individuals to remain in those homes as their physical needs and capabilities change. The City will refer to the HCD website to develop guidelines and a model ordinance consistent with the principles of universal design.

Responsibility: Community Development Department

Timeframe: By June 2010, develop draft Universal Design Ordinance. By June 2011, adopt and implement Universal Design Ordinance.

Policy 5.3 Adopt Reasonable Accommodation Ordinance

Program 5.3a: The City will adopt written reasonable accommodation ordinance to provide exception in zoning and land-use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval by the Community Development Director applying following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws.
- The requested accommodation would not impose an undue financial or administrative burden on the City.
- The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program.

Responsibility: Community Development Department

Timing: Adopt Zoning Ordinance Amendments by December 2012

GOAL 6: PROMOTE ENERGY CONSERVATION

Policy 6.1: Continue to implement state energy-efficient standards.

Program 6.1a: Continue to implement state energy-efficient standards, including the addition of energy-efficient conditions to planned development approvals.

Responsibility: Community Development Department

Timeframe: Ongoing

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	February 10, 2015
Subject:	A Resolution of the City Council of the City of Riverbank, California, Approving a Memorandum Of Understanding with the Riverbank Mid-Management Employees Association for the Term Of January 3, 2015 To June 30, 2017, Regarding The Salaries, Benefits, Hours, And Other Terms And Conditions Of Employment
From:	Jill Anderson, City Manager
Submitted by:	Marisela Hernandez, Director of Finance Katie Lemons, Human Resource Manager Alvaro Zamora, Human Resource Analyst

RECOMMENDATION

It is recommended that the City Council adopt a Resolution approving the Memorandum of Understanding between the City of Riverbank and the Riverbank Mid-Management Employees Association.

SUMMARY

An agreement has been reached between the City of Riverbank and the Mid-Management Employees Association. This Memorandum of Understanding (MOU) has been reached by mutual consent and through the good-faith negotiating efforts of both parties. The MOU details the terms and conditions of employment for the term of January 3, 2015 through June 30, 2017.

BACKGROUND

The Mid-Management Employees Association was first established in July 2002. It is currently composed of 14 employees, and includes mid-management level supervisors and confidential employees.

In August 2014, the City contacted the Mid-Management Employees Association to inform them that the MOU then in effect, was set to expire on January 2, 2015. The City expressed its desire to commence good-faith labor negotiations with their bargaining team. An initial labor negotiations meeting was held in September 2014 to discuss negotiations protocol, ground rules, and scheduling of future meetings. Through the

negotiation process, it became clear to both parties that the City's financial status would weigh heavily on the results of the negotiations. Providing the group with accurate financial information was a goal that the City wanted to achieve so that both parties could negotiate in good-faith regarding the wages, hours, and other terms and conditions of employment with the Mid-Management Employees Association.

During the subsequent negotiation meetings several proposals were exchanged between the City and the Mid-Management Employees Association before coming to a mutual consent on a Tentative Agreement. The City's bargaining team strongly believes that the agreed upon Tentative Agreement is the most fair and affordable agreement given our current economic status.

As such, the two parties are requesting that the City Council consider the approval of the January 3, 2015 – June 30, 2017 MOU between the City of Riverbank and the Mid-Management Employees Association.

KEY TERMS OF AGREEMENT

The elements that comprise the Tentative Agreement are as follows:

1. **Term of the agreement:** January 3, 2015 to June 30, 2017.
2. **Compensation:** Salary
 - a. Following ratification and approval, a retroactive adjustment to January 5, 2015 of one and one half percent (1.5%) across the board salary increase.
 - b. Effective in the first full pay period of January 2016 a one and one half percent (1.5%) across the board salary increase.
 - c. Effective in the first full pay period of July 2016 a one and one half percent (1.5 %) across the board salary increase.
3. **Benefits:** Status Quo.
4. **Classification and Compensation Study:** The City will complete a market-based classification and compensation study of all classifications represented by the Association. The study will be completed and a copy of the findings provided to the Association by April 1, 2017.
5. **Sick Leave Cash Out:** The City proposes the elimination of sick leave cash out. The City agrees to a one-time final cash out of up to 48 hours to those employees who are eligible under the current terms stated in the Memorandum of Understanding.

6. **Vacation:** Authorize employees to cash out up to 40 hours in the first pay period in July of each year if the employee will have a balance 250 hours or more of accrued vacation after the cash out and the employee must have taken at least 36 hours of consecutive vacation hours during the previous fiscal year.
7. **Tuition Reimbursement:** The tuition reimbursement program is reinstated automatically.
8. **Boot Allowance:** The City agrees to increase the boot allowance reimbursement by \$50 and process current fiscal year reimbursements under this modified program.
9. **Holidays:** Floating holidays will remain status quo. City paid leave for holiday closure time will be eliminated.
10. **Article 3.01(A):** Eliminate “Me too” language.
11. **All other terms:** All terms of the MOU not changed by TA’s remain status quo.

OTHER UPDATES/REVISIONS

Retirement: Updated LIUNA National Industrial Pension Fund contribution rate. The updates were necessary to comply with the LIUNA Funding Rehabilitation Plan agreement dated March 23, 2011. Effective July 1, 2015 the LIUNA Pension contribution rate increased to \$1.53 per hour and effective July 1, 2016 the contribution rate will increase to \$1.69 per hour.

FINANCIAL IMPACT

The financial impact associated with the Tentative Agreement with the Mid-Management Bargaining Unit for January 3, 2015 – June 30, 2017 is as follows:

Total Cost: \$56,250

Fund Impacts:

General Fund:	\$27,400
Gas Tax:	\$1,800
Sewer Fund:	\$11,600
LTF:	\$400
Water Fund:	\$10,500
LRA:	\$3,600
SDF:	\$950

ATTACHMENT

The following items are attached to this report:

1. Resolution
2. January 3, 2015 – June 30, 2017 Memorandum of Understanding

3. January 3, 2015 Sideletter

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE RIVERBANK MID-MANAGEMENT EMPLOYEES ASSOCIATION FOR THE TERM OF JANUARY 3, 2015 TO JUNE 30, 2017, REGARDING THE SALARIES, BENEFITS, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT

WHEREAS, the provisions of Title 4, Section 36506 of the Government Code of the State of California provide that the salaries of employees of General Law cities may be fixed or increased by resolution; and

WHEREAS, Title I, Chapter 35 of the Riverbank City Code provides that the City Council may from time to time by resolution, change the compensation of employees of the City and may by resolution adopt salary and wage scales ; and

WHEREAS, A Memorandum of Understanding regarding salaries, benefits, hours, and other terms and conditions of employment has been approved and executed by the authorized representatives of the Riverbank Mid-Management Employees Association, and the City Manager; and

WHEREAS, the City Council of the City of Riverbank desires to adopt such Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Riverbank hereby approve and ratify the Memorandum of Understanding attached hereto as Exhibit A and made a part hereof; and

BE IT FURTHER RESOLVED, that the provisions contained herein pertaining to salaries, employee benefits, hours, and other terms and conditions of employment are, by this Resolution, made operable.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 10TH day of February, 2015; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

MEMORANDUM OF UNDERSTANDING

between

THE CITY OF RIVERBANK

AND

THE RIVERBANK MID-MANAGEMENT
EMPLOYEES ASSOCIATION

JANUARY 3, 2015 – JUNE 30, 2017

**RIVERBANK MID-MANAGEMENT EMPLOYEES ASSOCIATION
MEMORANDUM OF UNDERSTANDING**

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Agreement Between CITY OF RIVERBANK AND RIVERBANK MID-MANAGEMENT EMPLOYEES ASSOCIATION

SECTION 1.00 – MEMORANDUM OF UNDERSTANDING

1.01 Parties Of Understanding

This Memorandum of Understanding hereinafter referred as “MOU” is between the authorized representatives of the City of Riverbank, hereinafter referred to as the “City”, and the authorized representatives of the Riverbank Mid-Management Employees Association, hereinafter referred to as the “Association”, the recognized employee organization for the classifications listed in Appendix “A” of this MOU.

This MOU complies with the provisions of the State of California Public Employees Representation Law, as contained in Section 3500 of the Government Code of the State of California, in that the Employer-Employee representatives noted herein did meet and confer in good faith and did reach agreement on those matters within the scope of representation.

This MOU also complies with Ordinance No. 72-04 relating to Employer-Employee relations, as adopted and amended by the City Council of the City of Riverbank.

1.02 General Conditions

This MOU does not modify or change the provisions of the Personnel Rules and Regulations of the City of Riverbank unless specific reference is made herein to modify or add to the existing Personnel Rules and Regulations.

This MOU does not modify existing salaries, benefits, hours and terms and conditions of employment contained in the currently adopted Pay and Classification Plan, except as noted herein. Such benefits and terms of employment remain unmodified and shall continue in full force and effect throughout the term of this MOU.

1.03 Terms of Agreement

This MOU embodies all modifications on salaries, hours, employee benefits, and other terms and conditions of employment for a **two and one-half (2.5) year** term. **This MOU is effective January 3, 2015 continuing through 11:59 p.m., June 30, 2017** at which time the MOU terminates.

SECTION 2.00 – HOURS OF WORK

2.01 Standard Work Periods

The standard workday, exclusive of lunchtime, shall be eight (8) hours, and the standard workweek shall be forty (40) hours, to be worked within five (5) consecutive days. The workday for part-time employees shall be established as directed by the Department Head.

Upon approval of the Department Head and employees may arrange to work an alternative work schedule. This schedule provides for a starting time other than the normal starting time on each workday and a quitting time other than the normal quitting time on each workday and shall consist of eight-hour workdays to be worked within five consecutive days.

2.02 Flexible Work Schedule

Employees may request in writing to their Department Head to work a flexible work schedule. This schedule provides for a starting time other than the normal starting time on each workday and a quitting time other than the normal quitting time on each workday and may be of eight-hour workdays to be worked within five consecutive days, a 4/10 work schedule that shall consist of four (4) consecutive ten (10) hour workdays followed by three (3) consecutive days off, or a 9/80 work schedule that shall consist of five (5) consecutive workdays during which the employee works nine (9) hour workdays for four (4) days and eight (8) hours for one day followed by two (2) consecutive day off; followed by four (4) consecutive nine (9) hour workdays followed by three (3) consecutive days off. Department Heads will review requests for flexible work schedules, on a case-by-case basis, and will consider the following criteria:

- a) productivity and service to the public will not be decreased;
- b) that there will be no adverse effects on the operation of any City department or division;
and
- c) with due regard to the wishes of the employee.

The Department Head has the sole discretion to approve, not approve and/or cancel alternative and flexible schedules. If the schedule is cancelled the employee shall be reassigned to their original work schedule. A five workday notice shall be given to the employee prior to modification or cancellation of schedule.

2.02 Exceptions to Standard Work Periods

The City Manager is hereby authorized to designate other work periods and working hours for employees when, in his/her opinion, the best interest of the City may be served by such adjustment of the standard work periods and hours. The procedure for making adjustment in the standard work periods and hours shall be consistent with the provisions of §3504.5 of the Government Code. *(Government Code Section 3504.5 provides that, except in cases of emergency, notice and an opportunity to meet and confer shall be given prior to enacting any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation.)*

2.03 Pay Periods

The pay period for all employees shall be bi-weekly and salaries will be paid every other Wednesday of each month.

Except for employees being terminated, salaries will be paid only on regular pay days, unless early payment is approved by the Chief Personnel Officer. Employees leaving the municipal service will normally be paid on the regular day following the date of termination and upon written clearance of the department concerned that said employee has returned all City-owned tools, clothing, keys, and equipment.

The method of distributing payroll checks shall be established by the Chief Personnel Officer.

SECTION 3.00 –SALARY AND COMPENSATION

3.01 Salary Adjustments

During the term of this agreement the City agrees to adjust salary ranges of all job classifications covered by this MOU as follows:

- Following ratification and approval of this MOU the salary ranges shall be increased as provided in Appendix B to reflect a one and a half percent (1.5%) cost of living adjustment (COLA). *This salary adjustment shall be retroactive to January 5, 2015.*
- Effective in the first full pay period of January 2016 the salary ranges shall be increased as provided in Appendix C to reflect a one and a half percent (1.5%) cost of living adjustment (COLA).
- Effective in the first full pay period of July 2016 the salary ranges shall be increased as provided in Appendix D to reflect a one and a half percent (1.5%) cost of living adjustment (COLA).

3.02 Employee Compensation Plan

An Employee Compensation Plan shall be established to provide salary schedules, salary rates, salary ranges, and steps and time intervals for salary review. Each class in the City Classification Plan shall be assigned a salary range or a rate established by the Compensation Plan. All persons employed by the City shall be compensated in accordance with the Compensation Plan appended hereto as Appendix "B", "C", and "D".

3.03 Computation of Salary

Salary rates for all authorized City positions are set forth in the Employee Compensation Plan. In the conversion table included in the Plan, hourly rates are based on 2,080 hours per year.

3.04 Application of Salary Ranges and Rates

A. Appointment

All initial appointments to classes assigned a pay range in the City Compensation Plan shall be at the first step of the salary range, provided that the Chief Personnel Officer may make an appointment to a position at an appropriate higher salary step when in his/her opinion, it is difficult to obtain qualified personnel at the starting salary, or when the education or experience of a proposed employee is substantially superior to that required of the class and justifies a beginning salary in excess of the first step.

B. Promotion

Any employee receiving a promotion shall start on the first step of the salary range of the class to which he/she is promoted and be eligible for merit increases as elsewhere provided, unless his/her present salary level is equal to or exceeds the first step of the class to which he/she is promoted. In that event, the employee shall be assigned to the step in the salary range to which he/she is promoted that is the equivalent of at least a five percent (5%) increase in salary.

When the promotion includes the assigned responsibility of supervision over other employees, the salary level shall be increased by assigning the promoted employee to a higher step within the salary range to allow his/her annual salary to be a minimum of five percent (5%) above the salary of those he/she supervises.

C. Transfer

A transfer does not affect an employee's salary level.

D. Advancement Within Salary Range

An employee shall be considered for salary advancement in accordance with the time intervals established in the Employee Compensation Plan and the following provisions.

- 1) Automatic: Advancement to Step "B" in a salary range shall be automatic and effective on the first day of the payroll period following satisfactory completion of six (6) months of service.
- 2) Merit: Advancement to Steps "C", "D", and "E" in a salary range shall be granted for continued improvement and efficient and effective service by the employee in the performance of his/her duties. Such merit advancement shall be made only upon recommendations of the Department Head after an annual evaluation.

Nothing herein prohibits the granting of a merit salary advancement prior to the normal time intervals established in the Employee Compensation Plan. All merit salary advancements shall be effective on the first day of the payroll period immediately following the employee's salary anniversary date.

Salary adjustments resulting from an employee's promotion or demotion shall become effective on the first day of the payroll period coinciding with or following the employee's promotion or demotion.

3.05 Deductions

Deductions from employee's pay shall be made in accordance with prevailing laws, contract and administrative rules, and procedures established by the Chief Personnel Officer.

3.06 Overtime Policy

Overtime is defined as the time worked beyond the normal eight (8) hours in a workday, or forty (40) hours in a workweek.

Until an employee accumulates 100 hours of compensatory time, the employee will determine whether overtime work is to be compensated for by "compensatory time" or "paid overtime".

Non-Standard Work Periods

Overtime for employees assigned to non-standard work periods and working hours as provided in §2.02 herein, shall be defined as follows:

Overtime shall be any time worked over 40 hours in a given workweek and any time worked in excess of eight (8) hours in a given day when 40 hours have been paid during the workweek.

A. Overtime Compensation

Overtime may be compensated for either by compensatory time off at one and one-half (1½) times the hours worked, or by payment at one and one-half (1½) times the employee's basic hourly salary rate. Compensatory time off shall be granted only upon approval by the employee's Department Head.

All employees may accrue compensatory time off to a maximum of one hundred (100) hours.

B. Overtime – Compensation Exception: Cheese & Wine Festival

Public Works Personnel shall not be required to work overtime as a result of the Cheese and Wine Festival. Any Public Works employee who agrees to work overtime for the Cheese and Wine Festival will be paid at the rate of one and a half (1½) time the regular compensation except Sunday call outs which will be reimbursed at (2) times the regular compensation. Any person called out will be paid a minimum of four (4) hours compensation.

3.07 Compensatory Time

A. Compensatory Time Cash-Out

Compensatory time may be "cashed in" once a year for a total of forty (40) hours only if the employee has at least forty (40) hours of compensatory time on the books. Employees separating themselves from the City service shall be allowed to use compensatory time earned prior to the effective separating date.

Compensatory time earned by an employee who is required to work in excess of the normal workweek, shall be recorded by the immediate supervisor of the employee on the time card.

Compensatory Time Off

Use of compensatory time earned must be scheduled at least twenty-four (24) hours in advance and requires the concurrence of the Department Head for the requested time off.

Employees shall not be required to give reason for requesting compensatory time off. Exceptions to this procedure will be made only upon written authorization by the Chief Personnel Officer.

3.08 Callback Compensation

Employees who are called to work overtime from their day off or other off-duty hours, except for disciplinary purposes, shall be compensated for a minimum of two (2) hours work at time and one-half (1½), or as provided in §3.09.

Overtime shall commence at the time an employee reaches the place where he/she is directed to report and shall continue until he/she is released or the work is completed, whichever is the earlier.

3.09 On-Call Compensation

Compensation for regularly established emergency on-call service shall be in the amount set forth in the Employee Compensation Plan.

Compensation for regularly established on-call service shall be an additional five (5) hours per week at time and one-half (1½).

Presently compensation is set at time and a half for regular working days and double time for Sundays and Holidays. Employees called out will receive a minimum of two hours time. Employees on call will be provided a City vehicle to take home in order to facilitate response to emergency service request.

3.10 Attendance of Training Courses

City employees should feel free to attend training courses available during days off if they so desire. However, compensation for attendance at training courses held during days off (weekends), vacations, or holidays, will be authorized only where employees have been directed by their Department Head to attend such.

3.11 Longevity Pay

Longevity Pay is to recognize long term employees of the City and designed to provide eligible employees, compensation in addition to their regular base pay. Regular full-time employees eligible for longevity pay shall be paid as follows:

<u>Year of Service</u>	<u>Longevity Pay Rate</u>
10 but less than 13	2.5%
13 +	additional 2.5%

The total longevity pay increase any employee can receive during their term of employment is five percent (5%). Longevity Pay compensation shall be effective the first full pay period following the employees' eligibility criteria.

SECTION 4.00 – PROBATIONARY PERIOD

4.01 Probationary Period

All original and promotional appointments to regular municipal service positions shall be tentative and subject to a probationary period of not less than six (6) months. The probationary period may be extended with the approval of the Chief Personnel Officer for a period not to exceed an additional six months, upon the recommendation of the Department Head that unusual conditions justify such extension.

4.02 Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position, and for rejecting any probationary employees whose performance does not meet the acceptable standards of the work.

4.03 Rejection of Probationer

The Chief Personnel Officer or any department head may suspend, demote, or terminate a probationer under his/her control from their position at any time without cause and without the right of appeal or to submit a grievance.

4.04 Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which he/she was promoted or a comparable position, unless charges are filed and he/she is discharged in the manner provided in Section 9.00 herein.

Employees who elect a voluntary demotion after the six (6) month probationary period for a promotional appointment may be reinstated to the position from which he/she was promoted or to a comparable position.

SECTION 5.00 – BENEFITS

5.01 Health Benefits

During the term of this MOU the City shall continue to provide group health benefits to employees covered by this MOU and their eligible dependents as provided below. As used in this section group health benefits shall include medical, dental and vision insurance. During the term of this agreement, the City reserves the right to change group health benefits providers and the parties shall meet regarding any such change.

A. Medical

The City currently offers a High-Deductible Health Plan (HDHP) and a Health Maintenance Organization (HMO) Plan to eligible employees and their eligible dependents. The employee and their eligible dependents will be enrolled in the medical plan chosen by the employee.

The effective date of coverage for new employees shall be the first of the month following a thirty-day waiting period, provided the employee properly submits a completed enrollment form within 31 days of the eligibility date. Coverage shall terminate at 12:00 midnight on the last day of the month in which the employee is on paid status prior to separation from employment with the City.

During the term of this agreement the City shall pay 100% of the premium cost for employees and their dependents enrolled in the HDHP plan. In addition the City shall pay 100% of the plan's annual deductible by depositing said amounts into each employee's HSA. The annual deductible for the current plan is \$3,000.00 for family coverage and

\$1,500.00 for single coverage per calendar year. As permitted by the HDHP the City shall establish a Health Savings Account (HSA) on behalf of each eligible employee of the City.

Employees enrolled in the HDHP shall be responsible for 100% of their respective annual out-of-pocket maximum, only in the event that an employee exhausts his/her annual deductible for that calendar year. The annual out-of-pocket maximum for the current HDHP plan is \$2,000.00 for family coverage and \$1,500 for single coverage.

During the term of this agreement the City shall pay 100% of the premium cost for employees and their dependents enrolled in the HMO plan. Employees shall be responsible for all copays as required by the HMO plan.

Family coverage consists of the employee plus one or more dependents and single coverage consists of the employee only.

Medical Insurance Allowance

Any employee covered by this MOU who has medical insurance coverage through their spouse, or who has medical insurance coverage as an eligible dependent of a person employed elsewhere, may request that their medical plan coverage as an employee of the City be terminated. Those employees who waive the medical insurance coverage shall be eligible to receive taxable cash in the amount of \$250.00 per month. To participate in this program, the employee shall sign a waiver, provided by the City, and provide proof of other medical insurance coverage which shall be provided to the Human Resources Department. Once coverage is waived the employee can only reenroll in the City medical insurance plan during open enrollment or as allowed by law. (Eff_07/01/07)

B. Dental

The City contracts with Stanislaus Foundation for Medical and Dental Care (SFMD) to provide dental insurance to employee and their eligible dependents. Dental benefits shall be provided as outlined on the SFMD Benefits Outline sheet.

The effective date of coverage for new employees shall be the first of the month following the a thirty-day waiting period, provided the employee properly submits a completed enrollment form within 31 days of the eligibility date. Coverage shall terminate at 12:00 midnight on the last day of the month in which the employee is on paid status prior to separation from employment with the City.

C. Vision

Employees and eligible dependents shall be provided vision insurance subject to the terms and conditions of the City's contract with Vision Service Plan (VSP). Vision benefits shall be provided as stated in the "Enhanced Plan B" of VSP.

The effective date of coverage for new employees shall be the first of the month following the a thirty-day waiting period, provided the employee properly submits a completed enrollment form within 31 days of the eligibility date. Coverage shall terminate at 12:00 midnight on the last day of the month in which the employee is on paid status prior to separation from employment with the City.

5.02 Health Benefits CAP

Effective January 1, 2006 through the term of this labor agreement, employees who are currently enrolled in the single plan for medical coverage shall receive a credit of \$250. Employees whose coverage status changes from single coverage to family coverage will not be eligible for the \$250 credit.

Employees who change their coverage status after July 1, 2005 from family coverage to single coverage will not be eligible for the \$250 credit.

New employees with single medical coverage hired after July 1, 2005 will not be eligible for the \$250 credit.

Eligible employees may use their credit for deferred compensation, health club membership fees, PERS buyback (re-deposits), supplemental insurance benefits (AFLAC), college expenses (tuition, books), or United Way donations. At no time may an employee receive cash payment in lieu the credit.

5.03 PERS Retirement

The City contracts with the California Public Employee's Retirement System (PERS) to provide retirement benefits to eligible employees. Retirement benefits and/or options shall include the following:

- 2% @ 55 retirement formula
- 2% @ 60 retirement formula (employees hired on or after 04/09/11)
- 2% @ 62 retirement formula (employees hired on or after 01/01/13)
- Sick Leave Credit
- Military Service Credit
- Retired Death Benefit
- Final compensation three (3) years
- COLA 2%
- Death Benefit Continues - Remarriage
- Prior Service Credit

During the term of this agreement employees covered by this MOU shall pay the total PERS member contribution rate of seven percent (7%) of the employee's salary subject to retirement contributions.

Retirement from the municipal service shall be subject to the terms and conditions of the City's contract with the Public Employee's Retirement System.

5.04 Life Insurance

Subject to the terms and conditions of the City's contract with the provider the City shall provide term life insurance coverage for the eligible employees in a total policy amount of fifty thousand dollars (\$50,000). This policy also provides accidental death and dismemberment benefit for the employee in an amount not to exceed fifty thousand dollars (\$50,000). The City shall pay all premiums for such policy during the term of the agreement.

The effective date of coverage shall be the first of the month following the a thirty-day waiting period, provided the employee properly submits a completed enrollment form within 31 days of the eligibility date. Coverage shall terminate at 12:00 midnight on the last day of the month in which the employee is on paid status prior to separation from employment with the City.

5.05 Employee Assistance Program

The City shall provide an Employee Assistance Program (EAP) to all eligible employees and their dependents. The employee and/or dependents are entitled to eight (8) sessions per fiscal year (July – June) for counseling and assistance as stated in the EAP plan.

5.06 Deferred Compensation

The City contracts with ICMA Retirement Corporation to offer a deferred compensation plan. Subject to the terms and conditions of ICMA on a voluntary basis eligible employees may defer a portion of their salary into his/her account until the employee's retirement, permanent disability, death, or as allowed by ICMA. For participating employees covered by this MOU the City shall match the employee's contribution in an amount not to exceed **\$75.00** per pay-period, provided that the employee is contributing at least **\$75.00** per pay-period.

5.07 LIUNA National (Industrial) Pension Fund

During the term of this agreement the City shall make contributions to the LIUNA National (Industrial) Pension Fund (Pension Fund) on behalf of the employees covered by this MOU up to forty (40) hours per week of budgeted/approved work hours that the employee is on paid status. Contributions to the Pension Fund shall be as follows:

- Effective July 1, 2014 the contribution rate shall be \$1.39 per hour.
- Effective July 1, 2015 the contribution rate shall be \$1.53 per hour.
- Effective July 1, 2016 the contribution rate shall be \$1.69 per hour.
- Contributions shall be paid monthly to the LIUNA National (Industrial) Pension Fund.
- The monthly contributions are based on the hours an employee is on paid status up to 40 hours per week. The amount shall be prorated for employees working less than forty (40) hours weekly.
- The City shall not make contributions for hours in excess of forty hours per week.

This MOU provision shall not be construed to create a vested right that can be asserted against the City and shall not be construed to guarantee any future funding for the LIUNA pension fund beyond the term of this MOU. Future funding shall be subject to negotiations.

Unless specifically amended by the terms of this Understanding, all other terms and conditions of employment remain as previously established. The terms and conditions set forth in this Agreement represent the full and complete understanding and commitment between the parties. The terms and conditions may be altered, changed, added to, deleted from, or modified only through the voluntary and mutual consent of the parties in a written amendment to the Agreement. During the term of this Agreement, the parties agree that neither the Association nor the City shall be obligated to reopen or renegotiate any of the provisions of this agreement.

SECTION 6.00 – REIMBURSEMENTS

6.01 Tuition Reimbursement

The City shall reimburse regular full-time employees expenses incurred for tuition, textbooks, admission fees not to exceed \$1,500 per fiscal year and the cost of other required course materials provided the following conditions are met:

- a. The course selected must be directly related to work the employee performs or fulfilling general education requirements;
- b. Prior to enrolling, the course must be approved in advanced by the employee's Department Head and Chief Personnel Officer;
- c. The course must be offered at an accredited college or university;
- d. The employee must receive a passing grade of or equivalent to "C" or better, at the completion of the course;
- e. The class and study time shall be outside the employee's working hours.

Upon completion of a course, the employee shall submit a Tuition Reimbursement form along with paid receipt for tuition, books and materials and proof of passing grade to the Personnel Office. After verification of satisfactory completion of the course, the Personnel Office shall forward the approved tuition reimbursement form to the Finance Department for payment.

If an employee leaves the City service within one (1) year after the completion of any course paid for by the City, the cost of such course, textbooks and other course materials shall be deducted from the employee's last paycheck.

6.02 Mileage Reimbursement

City employees may receive compensation for use of their personal vehicle in business.

The rate of mileage reimbursement to employees using their private vehicles for City business shall be five (5) cents less than the rate presently in effect by the Internal Revenue Service.

6.03 Safety Boots and Winter Jacket Reimbursement

Annually, eligible employees shall be reimbursed the cost of safety boots and/or winter jacket, the jacket must be bright orange and have the City of Riverbank logo. Such reimbursement shall not exceed \$200.00 per fiscal year. Office employees are not eligible for this benefit.

6.04 Personal Property Reimbursement

Damage to personal effects required by the City while in the line of duty will be reimbursed by the City upon the recommendation of the individual's immediate supervisor. Prior condition of the damaged item should be considered in determining the amount of reimbursement.

Damage to personal effects not required by the City, would be allowed under the same conditions as above.

No costs should be incurred by the City when it has demonstrated that loss or damage was due to personal negligence.

No costs should be incurred by the City in an unreasonable amount: if an employee loses a \$300 wristwatch while in the line of duty, it would not be reasonable for the City to reimburse the employee in this amount, inasmuch as he/she did not exercise good judgment in wearing an expensive instrument on a job that has certain hazards connected with it.

Definition of personal effects: Those items worn or carried by the employee in the line of duty.

SECTION 7.00 – LEAVES OF ABSENCE

7.01 Attendance

In every case in which a regular employee is not present for duty, his/her absence shall be reported by the Department Head to the Personnel Office on the Request for Leave form. Since part-time employees are not entitled to leave, only actual time worked will be reported. Request for Leave shall be forwarded to the Personnel Office.

7.02 Sick Leave

A. Statement of Policy

Sick leave shall not be considered as a privilege which an employee may use at his/her own discretion, but shall be granted only upon the recommendation of the Department Head. Sick leave shall be allowed and used only in case of necessity and actual personal sickness or disability, medical or dental treatment, or in case of an emergency illness in the immediate family. Immediate family shall mean the spouse, parent, child, brother, sister, or a close relative residing in the household of the employee.

B. Eligibility

Regular and probationary employees shall be eligible to accrue sick leave. Such employees shall be entitled to sick leave, as authorized in this Section, upon the completion of one (1) month of employment with the City.

In order to receive compensation while absent on sick leave, the employee shall notify his/her department at the beginning of the workday he/she is absent. The employee may be required at any time, by his/her Department Head, to file a physician's certificate, at City's expense, stating they can resume work. However, when an employee is absent due to illness or injury for more than three (3) consecutive working days, a physician's certificate may be required.

Sick leave will not be granted for an illness occurring during any leave of absence other than sick leave, with one exception: an illness or injury occurring while on vacation leave may be covered by sick leave when such illness or injury causes the employee to be hospitalized.

C. Accrual

Sick leave shall be accrued at the rate of eight (8) hours per month for all City employees and there shall be no limit to the amount of sick leave that may be accrued.

D. Deductions

Unless otherwise provided, sick leave will be deducted as follows:

- 1) All City employees shall be charged sick leave at the rate of eight (8) hours of sick leave for each full day absent. Unless exceptions are approved by the City Manager, absence less than a full day will be charged sick leave at the rate of one (1) hour sick leave for each hour absent.
- 2) Any employee scheduled to work on a holiday who reports off sick will be charged sick leave at the appropriate rate authorized above, and the holiday will be accrued.
- 3) Sick leave may be used as needed and approved to the point of depletion, at which time the employee will no longer receive pay for sick leave.

E. Depletion of Sick Leave Benefits

Upon depletion of accumulated sick leave for an injury or illness, and upon the recommendation of the employee's Department Head, an employee may be placed on medical leave of absence without pay for a period not to exceed sixty (60) days. If the employee is unable to return to work at the end of this period, he/she must request further medical leave which will be subject to approval of the Chief Personnel Officer. If further leave is granted, the employee must notify the City of his/her intent to return to work every thirty (30) days. If further leave is not granted, the employee's service with the City shall be considered terminated.

F. Forfeiture Upon Termination

Accumulated sick leave shall be forfeited by all employees upon leaving the municipal service, voluntarily or involuntarily, and whether by reason of retirement for disability, age, or for any reason whatsoever.

Accumulated sick leave may be used for the purpose of computing an employee's PERS retirement.

7.03 Vacation

A. Use of Vacation

The purpose of annual vacation leave is to enable each eligible employee to return to his/her work refreshed. For this reason it is the intention of the City that vacation be taken, insofar as possible, in periods of one week or more.

- 1) When to be taken: The time at which an employee may use his/her accrued vacation leave and the amount to be taken at any one time, whenever an employee requests a vacation in excess of the amount of days he/she accumulates annually, shall be determined by his/her Department Head with particular regard for the needs of the City, but also, insofar as possible, considering the wishes of the employee.
- 2) Waiting period: Employees shall complete six (6) months continuous service before using accrued vacation leave.

- 3) Double compensation prohibited: Employees shall not work for the City during their vacation.

B. Eligibility

- 1) Regular employees: Regular employees shall be eligible for vacation leave in conformance with paragraph "C" below.
- 2) Part-time and probationary employees: Part-time and original appointment probationary employees shall not be eligible for vacation leave.

C. Vacation Accrual

Vacation will be accrued and credited on a bi-weekly basis when an employee is in pay status for fifty (50) percent or more of the workdays in a given month. Each eligible employee shall accrue vacation at the following rate for continuous service performed in pay status:

Years of Service	Accrual Hours Per		Max. Hrs.
	Pay-Period	Year	Accrual
New employee to completion of 5 th year	3.0769	80	400
Start of the 6 th year to completion of 10 th year.	4.6154	120	400
Start of the 11 th year to completion of 15 th year.	6.1538	160	400
Start of 16 th year and succeeding years.	7.6923	200	400

Limits of accrual: Such accrual and credit for all employees shall not exceed four hundred (400) hours.

D. Holidays Falling During Vacation

In the event a City holiday falls within an employee's vacation period which would have excused the employee from work and for which no other compensation is made, said holiday shall not be charged as a vacation day.

E. Vacation at Termination

Employees leaving the municipal service with accrued vacation leave shall be paid the amounts of accrued vacation to the date of termination.

Payments for accrued vacation shall be at the employee's current rate of pay.

Employees who terminate employment with the City and have less than six (6) months continuous service shall not be compensated for accrued vacation.

F. Vacation and Military Leave

An employee who interrupts his/her municipal service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.

G. Vacation Cash Out

Employees covered by this MOU may cash out a maximum of forty (40) hours of accrued vacation leave once per fiscal year. Vacation cash out shall only be requested during the first full pay period in July of each fiscal year. To be eligible for vacation cash out the following criteria must be met:

- Vacation cash out must be done in forty (40) hour increments.
- Employee must have taken a minimum of thirty six (36) hours of consecutive vacation leave the prior fiscal year.
- After cash out the employee's accrued vacation leave balance must be a minimum of 250 hours.

7.04 Paid Holidays

- A. Regular Holiday for Pay Purposes: The following holidays are recognized as municipal holidays for pay purposes and all regular and probationary employees shall have these days off, except as otherwise provided in Paragraph (b) below:

<u>Paid Holiday</u>	<u>Date</u>
1. New Year's Day	January 1 st
2. Martin Luther King Day	3 rd Monday in January
3. President's Day	3 rd Monday in February
4. Memorial Day	Last Monday in May
5. Independence Day	July 4 th
6. Labor Day	1 st Monday in September
7. Veteran's Day	November 11
8. Thanksgiving Day	4 th Thursday in November
9. Day After Thanksgiving	4 th Friday in November
10. Christmas Eve	December 24
11. Christmas Day	December 25
12. New Year's Eve	December 31
13. Floating Holiday – Two (2)	Employee's Choice

When a holiday falls on a Saturday, the preceding Friday shall be deemed to be a holiday in lieu of the day named. When a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day named.

B. Compensation for Work on Paid Holidays

Regular and probationary employees assigned to work on holidays shall receive compensatory time off or pay in lieu of compensatory time off, at twice the regular rate of pay.

7.05 Management Floating Holiday

Eligible employees covered by this MOU shall be entitled to eight (8) hours of management/confidential leave per fiscal year. Management/confidential leave cannot be cashed-out, it must be used during the fiscal year or it will be removed from the employees' account balances.

7.06 Mid-Management Exempt Leave

Exempt employees covered by this MOU shall be entitled to forty (40) hours of mid-management exempt leave per fiscal year. Unused mid-management exempt leave cannot be carried over from one fiscal year to the next, it must be used during the fiscal year in which it is earned. Unused mid-management exempt leave cannot be cashed-out.

7.07 Bereavement Leave

Up to five (5) days leave may be granted to a regular employee by the head of his/her department in the event of death in the employee's family. For the purposes of this section only, the employee's family shall mean the spouse, parents, children, brother, sister, grandmother, grandfather, grandchildren, brother and sister-in-law (current), and mother and father-in-law (current), or a close relative residing in the household of the employee. Requests for leave in excess of three (3) days for this purpose shall be subject to approval of the Chief Personnel Officer.

Leave without pay may be granted to a regular employee in the event of death to family members other than one of the immediate family; such leave to be granted in accordance with §7.14.

7.08 Workers' Compensation Leave

Any employee who is absent from work by reason of an injury or illness covered by Workers' Compensation shall continue in pay status under the following provisions:

- A. The difference between the amount granted pursuant to such Workers' Compensation and the employee's regular rate of pay shall be deducted first from the employee's accumulated sick leave, and then from compensatory time, and when authorized by the employee, vacation days.
- B. Such an employee will continue in pay status and receive his/her regular rate of pay until his/her accumulated sick leave, compensatory time, and vacation days have been depleted to the nearest one-half (½) day.
- C. During the time the employee is in pay status while absent from work by reason of injury or illness covered by Workers' Compensation, he/she shall continue to accrue sick leave and vacation benefits as though he/she was not on leave of absence.
- D. Any employee who depletes his/her accumulated sick leave, compensatory time, holidays, and vacation days to maintain pay status while absent from work by reason of

an injury or illness covered by Workers' Compensation shall be removed from pay status.

Employees who have been injured in the course and scope of their employment with the City and who are required as a result of such injury to be absent from duty to take physical examinations required by the City's Workers' Compensation insurer or the Industrial Accident Commission, or to attend hearings of the Industrial Accident Commission shall be granted leave with pay for such absences by the City Manager when he/she determines such absences are in the best interest of the City and only if the employee is in pay status at the time of the scheduled examination or hearing. Applications for such leaves of absence shall be filed in advance of City of Riverbank Request for Leave form.

7.09 Military Leave

State and other applicable laws shall govern the granting of military leaves of absence and the rights of employees returning from such absences.

7.10 Family Leave Acts

The City shall comply with the requirements of the California Family Rights Act (CFRA) of 1991 and the Family Medical Leave Act (FMLA) of 1993, as they are in effect or may be amended during the term of this agreement.

In accordance with CFRA and FMLA employees who have worked for at least one (1) year and for 1,240 hours during the twelve (12) month period immediately preceding the commencement of leave is entitled for up to twelve weeks (480 hours) of job protected leave.

Leave may only be taken for the following reasons:

- The employee's own serious health condition;
- To care for a child, parent or a spouse who has a serious health condition; or
- To care for the employee's newborn child, or placement of adoption or foster care.

Employees requesting leave must give at least 30 days notice for foreseeable events. In unforeseeable situations the employee must notify the City as soon as practicable.

7.11 Pregnancy Disability Leave

Pregnancy Disability Leave without pay shall be granted to employees in accordance with applicable state and federal laws.

If you are disabled by pregnancy, childbirth or related medical conditions, you are eligible to take a pregnancy disability leave. Current law provides up to 4 months of unpaid leave. Employees may also be eligible for an additional 12 weeks of leave under the California Family Rights Act (CFRA). An employee may be required to use any available sick leave during her pregnancy disability leave. At the employee's option, any accrued vacation or other accrued paid leaves may be used during such leave.

- a) An employee who plans to take a pregnancy leave must give reasonable notice (if possible, not less than four (4) weeks) before the date she expects to take the leave and the estimated duration of the leave.

7.12 Employee's Time Off to Vote

Time off with pay to vote at any general, direct primary, or presidential primary election shall be granted as provided in the State of California Election Code, and notice that any employee desires such time off shall be given in accordance with the provisions of said Code.

7.13 Jury Duty and Subpoenas Leave

Employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the Court, provided the employee remits to the City all fees received for such duties other than mileage or subsistence allowance within thirty (30) day from the termination of his/her jury service.

Regular employees who are subpoenaed to appear as witnesses in behalf of the State of California or any of its agencies shall be granted leaves of absence with pay from their assigned duties until released. The employee shall remit all fees received for such appearances to the City within thirty (30) days from the termination of his/her services. Compensation for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.

7.14 Leave of Absence Without Pay

Leave of absence without pay may be granted in cases of emergency or where such absence would not be contrary to the best interest of the City. Such leave is not a right, but a privilege. Employees on authorized leave of absence without pay may not extend such leave without express approval of the Chief Personnel Officer. No vacation or sick leave benefits shall be used for illness occurring during such leave.

Leave of absence without pay may be granted by the Chief Personnel Officer depending on the merit of the individual case.

7.15 Absence Without Leave

Absence without leave shall be considered to be without pay and reductions in the employee's pay shall be made accordingly. Absence without leave for more than three (3) consecutive workdays may result in termination of employment. Such termination shall not be subject to appeal.

SECTION 8.00 – PERSONNEL PRACTICES

8.01 Performance Appraisals

A. Regular Employee

A performance appraisal of each regular employee shall be made annually at or near the anniversary date of the employee's hire.

B. Probationary Employee

A performance appraisal of each probationary employee shall be made by the Department Head on "City of Riverbank Employee Performance Appraisal" forms according to the directions thereon and forwarded to the Personnel Office. The Employee Performance Appraisal form shall be filed by the Department Head upon the completion of the employees' third, and sixth month of service with the City.

In those cases where the probationary period extends to twelve (12) months or longer, the Employee Performance Evaluation form shall be required from the Department Head at the conclusion of each six-month interval.

C. Appeal

Within five (5) days after receiving the performance appraisal, the employee may request in writing, a review of the appraisal with the Chief Personnel Officer. Within five days after said review, the Chief Personnel Officer shall either accept the original performance appraisal, a modified appraisal, or cause a new appraisal to be prepared which shall be entered into the personnel file as the official performance appraisal. The official appraisal shall bear the Chief Personnel Officer's signature. The decision of the Chief Personnel Officer shall be final.

8.02 Transfers

Any employee may be transferred from one department or division to another.

8.03 Promotions

Because it is the policy of the City of Riverbank to encourage the advancement of personnel within the organization, promotional examinations for vacancies will be conducted as the needs of the City require. Promotional opportunities (available to City employees) will be posted on bulletin boards selected by the Personnel Office at least five (5) working days before the selection is made.

8.04 Demotions

The Chief Personnel Officer or Department Head may demote an employee whose ability to perform his/her required duties falls below acceptable standards, for disciplinary reasons set forth in §9.02, when the need for the position which an employee fills no longer exists, or when an employee requests such demotion. No employee shall be demoted to a classification for which he/she does not possess minimum qualifications. When the action is initiated by the Department Head, written notice of demotion shall be given an employee at least five (5) days before the effective date of the demotion. An employee may appeal such action in the manner provided in §9.04, et seq.

8.05 Reinstatement

The Chief Personnel Officer may reinstate any suspended employee for good cause and may, upon such reinstatement, compensate, in whole or in part, such employee for the time lost.

8.06 Terminations

A. Resignation

An employee wishing to leave the service of the City in good standing, either by resignation or retirement, shall give the Department Head concerned at least two (2) weeks notice when practical.

B. Lack of Work or Funds

An employee may be terminated by the Personnel Officer because of changes in duties or organization, abolishment of position, shortage of work or funds, or completion of work. In cases involving regular employees only, notice of such termination will be given to the employee at least two (2) weeks prior to the effective date of termination. Such termination shall not be subject to appeal.

In any such reduction in personnel caused by lack of work or funds, seniority shall be observed, except in supervisory or management positions. The order of termination shall be in the reverse order of total cumulative time the employee has served in municipal service. Supervisory or management employees shall be eligible for lower rated positions based upon their seniority but non-supervisory or non-management personnel may not take supervisory or management positions solely based upon seniority.

For the purpose of determining termination, total cumulative time shall include the employee's time served in probation and regular status, and time serve on military leave of absence.

C. Non-Disciplinary Action

Part-time and probationary employees may be terminated by the Chief Personnel Officer at any time, with or without notice, for cause or for the convenience of the City. Regular employees terminated by the Chief Personnel Officer for cause or for the convenience of the City shall be given a written statement of the reasons for such termination and may appeal such action in the manner provided in §9.04 et se. Such cause may be other than cause for disciplinary action set forth in §9.02, et seq. and may include, but not be limited to, inefficiency and incompetency.

8.07 Reappointments

Reappointments after termination will be considered new employment. However, reappointments made within six (6) months from the termination date may be made with reinstatement of prior seniority, sick leave, and pay rate.

SECTION 9.00 – DISCIPLINARY PROCEEDINGS

9.01 Disciplinary Action; Definition

As used in this Section, "Disciplinary Action" shall mean discharge, demotion, reduction in salary, disciplinary probation, or suspension.

9.02 Causes For Disciplinary Action

Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

- a) Fraud in securing appointment.
- b) Inexcusable neglect of duty.
- c) Insubordination.
- d) Dishonesty.
- e) Drunkenness on duty.
- f) Inefficiency.
- g) Addiction to the use of controlled substances.
- h) Inexcusable absence without leave.
- i) Conviction of a felony, or conviction of a misdemeanor, involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offence involving moral turpitude is deemed to be a conviction within the meaning of this Section.
- j) Immorality.
- k) Discourteous treatment of the public or other employees.
- l) Improper political activity as defined by State Law.
- m) Repeated violation of safety procedures.
- n) Misuse of City property.
- o) Violation of any of the provisions of these working Rules and Regulations or departmental rules and regulations.
- p) Other failure of good behavior either during or outside of duty hours which is of such a nature that causes discredit to the City.
- q) Refusal to take or subscribe to any oath or affirmation, which is required by law in connection with his/her employment.
- r) Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, mental disability, physical disability, marital status, sex, or age, against the public or other employees while acting in the capacity of a District employee.
- s) Unlawful retaliation against any other District Officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General, or any other appropriate authority, any facts or information related to actual or suspected violation of any law of this State or the United States occurring on the job or directly related thereto.

9.03 Persons By Whom Disciplinary Action May Be Taken, Notice, Service, Contents

The Chief Personnel Officer or any Department Head may take disciplinary action against an employee under his/her control for one or more of the causes for discipline specified in this Section by written notice to the employee of the proposed disciplinary action and the cause for which the proposed disciplinary action is to be taken, which shall allow the employee a period of five (5) days to respond to the person proposing the disciplinary action. The notice may be served upon the employee, either personally or by certified mail, and shall include:

- a) A statement of the nature of the disciplinary action.
- b) The effective date of the penalty.
- c) A statement of the causes therefore.

- d) A statement in ordinary and concise language of the act or omissions upon which the causes are based.
- e) A statement notifying the employee that he/she has five (5) days in which to respond orally or in writing regarding the proposed disciplinary action.

If the employee responds, either orally or in writing, to the notice of proposed disciplinary action, the Chief Personnel Officer or Department Head, as the case may be, shall thereafter amend or withdraw the proposed disciplinary action or proceed with its implementation.

9.04 Right Of Appeal: Form

Any regular employee shall have the right of appeal to the Chief Personnel Officer from any disciplinary action taken by his/her Department Head under §9.03. Such appeal shall be in writing and must be filed with the Chief Personnel Officer within ten (10) working days after receipt of written notice of such disciplinary action. Failure to file an appeal within such period constitutes a waiver of right to appeal.

The Chief Personnel Officer shall conduct a hearing as provided in this Section. Neither the provisions of this section or this Section shall apply to reductions in force or reductions in pay, which are part of a general plan to reduce or adjust salaries and wages.

In the event the Chief Personnel Officer institutes the disciplinary action, he/she shall be disqualified. Should the Chief Personnel Officer be disqualified, or should he/she disqualify himself/herself as hearing officer, the City Council shall appoint a hearing officer who shall have the same power, authority, and responsibility as the Chief Personnel Officer would have as a hearing officer.

9.05 Hearing

The Chief Personnel Officer shall conduct a hearing on an appeal filed in accordance with §9.04 within thirty (30) days after receipt thereof. The Chief Personnel Officer may continue the hearing either for the convenience of the City or upon written application of the appellant, for a period not to exceed an additional thirty (30) days from the receipt of the appeal. Written notice of the time and place of the hearing shall be conducted in accordance with the provisions of §11513 of the Government Code of the State of California, except that the appellant and other persons may be examined as provided in §19580 of said Government Code, and the parties may submit all proper and competent evidence against, or in support of the causes.

9.06 Representation

Any City employee other than those appointed to supervisory, management, and confidential classifications as provided in §18.08 of the Personnel Rules and Regulation, shall be permitted to represent another City employee or group of City employees at the hearing of the appeal. The appellant may appear in person or be represented by counsel.

9.07 Notices To Witnesses: Cost

The Chief Personnel Officer shall issue notice for the appearances of witnesses for the appellant upon his/her written request and at his/her cost. The Chief Personnel Officer may require such cost to be prepaid.

9.08 Failure Of Employee To Appear At Hearing

Failure of the appellant to appear at the hearing shall be deemed a withdrawal of his/her appeal and the action of the Chief Personnel Officer or Department Head shall be final.

9.09 Decisions

The Chief Personnel Officer shall render a written decision within thirty (30) days after concluding the hearing. The Chief Personnel Officer's decision shall be final and conclusive, except when an employee is suspended for more than three (3) days or discharged. A copy of such decision shall be forwarded to the appellant. If the disciplinary action taken against the employee is reversed or modified by the Chief Personnel Officer, the employee may be compensated, in whole or in part, for the time lost as determined by the Chief Personnel Officer.

In cases involving suspending an employee for more than three (3) days or discharging an employee, a copy of such decision shall be forwarded to the employee and the association on behalf of the employee may, within ten (10) working days after receipt of written notice of the Chief Personnel Officer's decision, give notice to the Chief Personnel Officer that the association representing the grievated employee may submit the matter to binding arbitration. The arbitration board shall consist of one retired superior court judge and the cost of arbitration shall be borne equally between the City and the employee. The arbitration hearing shall be held within thirty (30) days from the date of the request by employee to submit to arbitration. The parties may agree to continue the date of the arbitration hearing by mutual agreement.

9.10 Effect Of Certain Disciplinary Actions

- A. Oral reprimand. Employee receiving an oral reprimand may have it noted in their departmental record by the Department Head.
- B. Written reprimand. Employees receiving a written reprimand shall have a copy of the reprimand filed in their permanent record for future reference. Each employee's permanent record is his/her personnel jacket kept in the Chief Personnel Officer's Office
- C. Disciplinary Probation. Employees placed on disciplinary probation shall not accrue earned time for salary review while on such probation.
- D. Suspension. Employees suspended from the municipal service shall forfeit all rights, privileges, and salary while on such suspension with the exception of group health and life insurance benefits.
- E. Discharge. Employees terminated pursuant to §8.06 C of this MOU shall be paid salary accumulated to the effective date of termination only, and shall be paid for accumulated vacation, accumulated compensatory time, and paid days in lieu of holidays.

SECTION 10.00 – GRIEVANCE PROCEDURES

10.01 Purpose

Grievance procedures for employees are provided herein:

- A. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.
- B. To afford employees individually and through qualified employee organizations a systematic means of obtaining further considerations of problems after every other reasonable effort has failed to resolve them through discussions.
- C. To provide that grievances shall be settled as near as possible to the point of origin.
- D. To provide that grievances shall be heard and settled as informally as possible.

10.02 Matters Subject to Grievance Procedure

Any City employee shall have the right to present a grievance regarding wages, salaries, hours and working conditions for which appeal is not provided or is not prohibited under the provisions of Section 9.00.

10.03 Informal Grievance Procedure

An employee should first attempt to resolve a grievance or complaint through discussion with his/her immediate supervisor without undue delay. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, he/she shall have the right to discuss it with his/her supervisor's immediate superior, if any. Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. If the employee is not in agreement with the decision reached through such discussion, he/she shall then have the right to file a formal grievance in writing within ten (10) calendar days after receiving the informal decision of his/her superior or superiors. An informal grievance shall not be taken above the Department Head.

10.04 Formal Grievance Procedure

Formal grievance procedure after exhaustion of the informal grievance procedure shall proceed as follows:

- A. Department review. The grievance shall be presented in writing to the employee's Department Head who shall discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The Department Heads shall render his/her decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the grievance. If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, he/she may present the grievance in writing to the Chief Personnel Officer. Failure of the employee to take further action within ten (10) calendar days after receipt of the decision, or within a total of twenty-five (25) calendar days if no decision is rendered, will constitute withdrawal of the grievance.
- B. Chief Personnel Officer Review. Upon receiving the grievance, the Chief Personnel Officer shall discuss the grievance with the employee, his/her representative, if any, and with all other appropriate persons. The Chief Personnel Officer shall render a decision in writing to the employee within twenty (20) calendar days after receiving the grievance. The decision of the Chief Personnel Officer shall be final, however, in cases where disciplinary action results in termination of the employee. This action is subject to ratification by the City Council as provided in §31.03(H)(3) of the Riverbank City Code.

10.05 Conduct Of Grievance Procedure

- A. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- B. The employee may request the assistance of another person of his/her choosing in preparing and presenting his/her grievance at any level of review.
- C. Employees shall be free from reprisal for using the grievance procedure.

SECTION 11.00 – EMPLOYER – EMPLOYEE RELATIONS

11.01 Purpose

It is the purpose of the City of Riverbank to promote full communications with its employees by providing a reasonable method of resolving disputes between it and employee organizations regarding wages, hours, and other terms and conditions of employment.

It is also the purpose of the City of Riverbank to promote the improvement of personnel management and employer-employee relations by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice and be represented by such organizations in their employment relationships with the City of Riverbank.

Nothing contained in this Section shall be deemed to supersede the provisions of existing State Law and the Ordinances and Rules and Regulations of the City of Riverbank which establish and regulate a merit personnel system or which provide for other methods of administering employer-employee relationships.

This Section is intended, instead, to strengthen merit and other methods of administering employer-employee relationships through the establishment of uniform and order methods of communication between employees and the City of Riverbank.

11.02 Definitions

City Council shall mean the City Council of the City of Riverbank.

Chief Personnel Officer shall mean the City Manager of the City of Riverbank.

Bargaining Representative shall mean the Chief Personnel Officer and his/her representatives and/or the duly authorized representatives of an employee organization that has been granted formal recognition by the City Council as representing the employees of a representation unit.

Consult or Consultation in Good Faith shall mean to communicate verbally or in writing for the purpose of presenting and obtaining view or advising of intended actions.

Employee Organization shall mean any organization which includes employees of the City of Riverbank and which has one of its primary purposes representing such employees in their employment relations with the City of Riverbank.

Mediation shall mean any effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between

representatives of the City of Riverbank and the recognized employee organization or recognized employee organizations, through interpretation, suggestion, and advice.

Meet and Confer in Good Faith shall mean that the City of Riverbank by and through its Chief Personnel Officer and his/her representatives, and representatives or recognized employee organizations, shall have the mutual obligation personally to meet and confer in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

Miscellaneous Employees shall mean all regular City employees who are referred to as "miscellaneous members" by the California Public Employees' Retirement System (§20018 of the Government Code).

Recognized Employee Organization shall mean an employee organization which has been acknowledged by the City Council as an employee organization that represents employees of the City of Riverbank. The rights accompanying recognition are either:

- 1) Formal Recognition which is the right to meet and confer in good faith as the conference representative in a representational unit; or
- 2) Informal Recognition which is the right to consultation in good faith by all recognized employee organizations.
- 3) Representational Unit shall mean a unit as established by §11.03(B) of this Section.

11.03 Designation and Recognition of Bargaining Representative

- A. The Chief Personnel Officer and his/her representative shall be the Bargaining Representatives for the City of Riverbank for the purpose of meeting and conferring in good faith pursuant to Government Code §3500 - §3511 inclusive.
- B. There shall be not more than two (2) representational units of employees for purposes of extending formal recognition to, and meeting and conferring in good faith with, the conference representative of the City of Riverbank. If the City employees request more than one (1) representational unit, said additional unit(s) shall be established as follows:
 - 1) Management and Supervisory employees and
 - 2) Miscellaneous employees
- C. Every regular authorized position identified in the Employee Compensation unit may choose a single organization as its bargaining representative, which shall be formally recognized by the City Council as the unit's bargaining representative in compliance with applicable State Law, as it now exists, or as it may hereafter be amended. Such choice shall be made by means of a secret ballot representational election, with a ballot containing the names of all employee organizations petitioning to represent a representational unit, and a choice of having no bargaining representation. Upon presentation to the Chief Personnel Officer of a petition, signed by at least thirty (30) percent of the employees in the representational unit, asking that an election be held and that a named organization be placed on the ballot, a representational election shall be held.

- D. Each employee representational unit may choose a single organization as its bargaining representative, which shall be formally recognized by the City Council as the unit's bargaining representative in compliance with applicable State law, as it now exists, or as it may hereafter be amended. Such choice shall be made by means of a secret ballot representational election, with a ballot containing the names of all employee organizations petitioning to represent a representational unit, and a choice of having no bargaining representation. Upon presentation to the Chief Personnel Officer of a petition, signed by at least thirty (30) percent of the employees in the representational unit, asking that an election be held and that a named organization be placed on the ballot, a representational election shall be held.

Elections shall be decided on the basis of a majority vote of the employees in the representational unit voting at such election.

- E. Each employee representational unit shall be represented by no more than one recognized employee organization, although this shall not preclude an employee who is not a member of a recognized employee organization from representing himself/herself.

A recognized employee organization shall remain representative of a particular unit for a minimum of one full calendar year and no other organization shall represent employees of the representation unit during that time with regard to matters within the scope of representation as set forth herein.

- F. In cases where there is no recognized employee organization for an employee representational unit, an organization elected by representational unit, shall become the formally recognized employee organization and bargaining representative on the day such organization is formally recognized by the City Council.

In cases where an incumbent formally recognized employee organization is decertified by another employee organization, the newly elected organization shall be recognized by the City Council immediately upon the certification of the election results.

11.04 Bargaining Procedure

- A. Within the first sixty (60) days of each calendar year, each formally recognized employee organization and the Chief Personnel Officer, or his/her representative, shall mutually exchange written proposals on salaries, fringe benefits, and other terms and conditions of employment to affect each representational unit during the coming year. Following such exchange, representatives of each formally recognized employee organization shall meet at mutually agreeable times and places, with the Chief Personnel Officer or his/her representative(s) for the purpose of conferring in good faith regarding wages, hours, and other terms and conditions of employment. The parties, in conferring, shall consider, but are not limited to consideration of prevailing rates and standards in private business and other public employment, cost of living, internal salary relationships in the City of Riverbank, and the financial condition of the City of Riverbank.
- B. If agreement is reached by the Chief Personnel Officer and his/her representatives and the formally recognized employee organization representative, they shall jointly prepare a written Memorandum of Understanding, which shall not be binding; sign it, and present it to the City Council for its determination. The City Council may approve or reject the

Memorandum of Understanding and enact such Ordinances or Resolutions necessary to implement said Memorandum of Understanding.

- C. If, after a reasonable period of time, representatives of the City of Riverbank and the formally recognized employee organization fail to reach agreement, the City of Riverbank and the formally recognized employee organization together may agree upon the appointment of a mediator mutually agreeable to the parties. Cost of mediation shall be divided one-half to the City of Riverbank and one-half to the formally recognized employee organization.
- D. All Memorandum of Understanding regarding cost items shall be submitted to the City Council by May 1st of each year for consideration at the annual budget hearings, or as requested by the City Council at other times.
- E. The City Council shall cause written notice to be provided to each recognized employee organization concerning matters described in Government Code §3504.5.

11.05 Scope of Representation

Conference representatives may meet and confer in good faith and execute a written Memorandum of Understanding on any matter of employer-employee relations, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or Executive Order.

11.06 Rights and Duties of Conference Representatives and Recognized Employee Organizations

- A. Each employee organization which seeks recognition from the City Council shall file a petition with the City Council containing the following information and documentation:
 - 1. Name and address of the employee organization.
 - 2. Names and titles of its officers.
 - 3. Names of employee organization representatives who are authorized to speak on behalf of its members.
 - 4. A statement that the employee organization has one of its primary purposes, representing employees in their employment relations with the City.
 - 5. A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with a regional or state or national or international organization.
 - 6. Certified copies of the employee organization's Constitution and Bylaws.
 - 7. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose. In addition, any employee organization seeking informal recognition shall file with the City Council a statement that the employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that employees have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Chief Personnel Officer.
- B. Conference representative of either party shall have the right to meet with conference representatives of the other party, upon reasonable notice, to discuss any problem regarding

employer-employee relations arising within the representational unit, or any problems arising under a written Memorandum of Understanding between the parties.

- C. The City of Riverbank shall allow a reasonable number of employee representatives of a formally recognized employee organization reasonable time off without loss of compensation or other benefits when formally meeting and conferring with the Chief Personnel Officer or his/her representatives regarding matters within the scope of representation, or for the purpose of consultation in good faith.
- D. The City of Riverbank shall provide reasonable space on bulletin boards at places of work for the use of recognized employee organizations to inform employees about organizational activities and affairs.
- E. Agents shall be allowed to visit places of City employment where employees it represents are at work, for the purpose of observing conditions of work, or consulting with members regarding immediate grievances or job problems. Such visits shall not be permitted to interfere with the orderly flow of work, nor cause an unsafe condition.

11.07 No Discrimination

- A. There shall be no discrimination by the City of Riverbank in employment conditions or treatment of employees on the basis of race, sex, creed, color, national origin, ancestry, or membership, non-membership, or participation in the activities of any lawful organization.
- B. There shall be no discrimination by any employee organization in treatment of its members on the basis of race, sex, creed, color, national origin, ancestry, membership, non-membership, or participation in the activities of any lawful organization.

11.08 Classifications Restricted from Representing Recognized Employee Organizations

The Chief Personnel Officer, elected officials, and department heads shall be restricted from representing a recognized non-management employee organization to avoid potential conflicts of interest.

Nothing herein prohibits employees from joining an employee organization; however, restrictions are placed upon certain employees in representing the organization.

11.09 Savings Clause

If, at any time, any part of this Section should be found to be unconstitutional, or contrary to applicable law as it now exists, or as it may hereafter be amended, the remainder of the Section will not be affected thereby.

SECTION 12.00 – MISCELLANEOUS PROVISIONS

12.01 Outside Employment

Any regular employee desiring to engage in outside employment shall first obtain non-City conflict job approval from his/her Department Head. The Employee shall submit a statement to his/her Department Head on a standard City form, naming the prospective employer, his/her address and telephone number, and outlining the proposed duties and the hours of work.

Approval may be denied if, in the opinion of the Department Head, such outside employment is incompatible with the proper discharge of the employee's official duties. All such approvals shall be subject to review by the Chief Personnel Officer, and shall be re-submitted prior to January 10th each year to maintain a valid, continuous authorization.

12.02 Uniforms

The City shall provide and maintain uniforms to regular full-time employees assigned to work in the field and facility maintenance. The City will report to CalPERS the monetary value for providing and maintaining the employee's required uniforms. The City will report the uniform allowance on an annual basis to CalPERS in June of each year. The uniform allowance amount reported to CalPERS will derive from the City's total fiscal year budgeted amount for providing and maintaining the employees' uniforms, not to exceed \$300 per year, per employee.

Rain Gear

Rain gear consisting of waterproof boots, pants, coat and hat, will be provided to all employees assigned to work in the field at City expense.

12.03 Contracting Unit Work

During the term of this MOU the City agrees not to contract out work of any position, and will not terminate any existing employee as a result of subcontracting of any work that has been performed by the members of the Bargaining Unit. Vacant positions that have not been filled may be contracted out for not more than one (1) year.

SECTION 13.00 – AGREEMENT

13.01 Entire Agreement

Except as otherwise specifically provided herein, this MOU fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties in any and all matters subject to meet and confer. Any prior or existing Agreement between the parties, whether formal or informal, regarding any such matters is hereby superseded and terminated in its entirety.

In the event that any provision of this MOU is found to be in conflict with a City rule, regulation, or resolution, the provision of this MOU shall prevail over such conflicting rule, regulation or resolution.

13.02 Severability of Provisions

Should any part of this MOU is for any reason held to be invalid by a court of competent jurisdiction or by reason of any existing or subsequently enacted legislation, such part shall be suspended and superseded by such applicable law or regulations, and the remainder of this MOU shall remain in full force and effect for the duration of this MOU.

13.03 Modifications, Amendments and Revisions

The terms and conditions of this MOU may be modified, amended or revised, only through the voluntary and mutual consent of both parties.

13.04 Ratification

This Agreement shall be in full force and effect upon adoption by the City Council of the City and implementation of its terms and conditions by appropriate ordinance, resolution, or other lawful action. Subject to the foregoing, this Agreement is hereby executed by the authorized representatives of the City and the Association.

SIGNATURES

For the City of Riverbank

Jill Anderson
City Manager

For the Riverbank Mid-Management
Employees Association

Dawndi Morrell
RMMEA Secretary/Treasurer

Janet Smallen
RMMEA Vice-President

Michael Riddell
RMMEA President

W. Robert Phibbs
Association Counsel

Appendix A

City of Riverbank Position Classifications and Salary Ranges

<u>Classification Title</u>	<u>Salary Range</u>
Accountant	125
Accounting Manager	146
Administrative Analyst II	128
Administrative Assistant/Confidential	111
Building Official	155
City Planner	174
Development Services Administrative Manager	166
Human Resources Analyst	125
Human Services Specialist/Administrative Analyst II	128
Park & Facilities Maintenance Supervisor	123
Planning & Building Manager	176
Public Works Superintendent	169
Public Works Supervisor	132
Recreation Supervisor	125
Senior Building Inspector	140
Senior Community Development Specialist	122
Senior Management Analyst	146
Senior Management Analyst/City Clerk	146
Wastewater Treatment Plant Supervisor	132
Water Supervisor	132

Appendix B

City of Riverbank Employee Compensation Plan Effective January 5, 2015

Classification	Range	MONTHLY SALARY STEPS				
		A	B	C	D	E
Accountant	125	4,561.68	4,789.76	5,029.25	5,280.71	5,544.75
Accounting Manager	146	5,621.79	5,902.88	6,198.02	6,507.92	6,833.32
Administrative Analyst II	128	4,699.91	4,934.91	5,181.66	5,440.74	5,712.78
Administrative Assistant/Confidential	111	3,968.51	4,166.94	4,375.29	4,594.05	4,823.75
Building Official	155	6,148.48	6,455.90	6,778.70	7,117.64	7,473.52
City Planner	174	7,428.02	7,799.42	8,189.39	8,598.86	9,028.80
Development Services Administrative Manager	166	6,859.67	7,202.65	7,562.78	7,940.92	8,337.97
Human Resources Analyst	125	4,561.68	4,789.76	5,029.25	5,280.71	5,544.75
Human Services Specialist /Administrative Analyst II	128	4,699.91	4,934.91	5,181.66	5,440.74	5,712.78
Parks & Facilities Maintenance Supervisor	123	4,471.81	4,695.40	4,930.17	5,176.68	5,435.51
Planning & Building Manager	176	7,577.33	7,956.20	8,354.01	8,771.71	9,210.30
Public Works Superintendent	169	7,067.52	7,420.90	7,791.95	8,181.55	8,590.63
Public Works Supervisor	132	4,890.75	5,135.29	5,392.05	5,661.65	5,944.73
Recreation Supervisor	125	4,561.68	4,789.76	5,029.25	5,280.71	5,544.75
Senior Building Inspector	140	5,295.97	5,560.78	5,838.82	6,130.76	6,437.30
Senior Community Development Specialist	122	4,427.53	4,648.91	4,881.36	5,125.43	5,381.70
Senior Management Analyst	146	5,621.79	5,902.88	6,198.02	6,507.92	6,833.32
Senior Management Analyst/City Clerk	146	5,621.79	5,902.88	6,198.02	6,507.92	6,833.32
Waste Water Treatment Plant Supervisor	132	4,890.75	5,135.29	5,392.05	5,661.65	5,944.73
Water Supervisor	132	4,890.75	5,135.29	5,392.05	5,661.65	5,944.73

Appendix C

City of Riverbank Employee Compensation Plan Effective January 8, 2016

Classification	Range	MONTHLY SALARY STEPS				
		A	B	C	D	E
Accountant	125	4,630.11	4,861.62	5,104.70	5,359.94	5,627.94
Accounting Manager	146	5,706.12	5,991.43	6,291.00	6,605.55	6,935.83
Administrative Analyst II	128	4,770.41	5,008.93	5,259.38	5,522.35	5,798.47
Administrative Assistant/Confidential	111	4,028.04	4,229.44	4,440.91	4,662.96	4,896.11
Building Official	155	6,240.71	6,552.75	6,880.39	7,224.41	7,585.63
City Planner	174	7,539.44	7,916.41	8,312.23	8,727.84	9,164.23
Development Services Administrative Manager	166	6,962.57	7,310.70	7,676.24	8,060.05	8,463.05
Human Resources Analyst	125	4,630.11	4,861.62	5,104.70	5,359.94	5,627.94
Human Services Specialist /Administrative Analyst II	128	4,770.41	5,008.93	5,259.38	5,522.35	5,798.47
Parks & Facilities Maintenance Supervisor	123	4,538.89	4,765.83	5,004.12	5,254.33	5,517.05
Planning & Building Manager	176	7,690.99	8,075.54	8,479.32	8,903.29	9,348.45
Public Works Superintendent	169	7,173.53	7,532.21	7,908.82	8,304.26	8,719.47
Public Works Supervisor	132	4,964.11	5,212.32	5,472.94	5,746.59	6,033.92
Recreation Supervisor	125	4,630.11	4,861.62	5,104.70	5,359.94	5,627.94
Senior Building Inspector	140	5,375.42	5,644.19	5,926.40	6,222.72	6,533.86
Senior Community Development Specialist	122	4,493.94	4,718.64	4,954.57	5,202.30	5,462.42
Senior Management Analyst	146	5,706.12	5,991.43	6,291.00	6,605.55	6,935.83
Senior Management Analyst/City Clerk	146	5,706.12	5,991.43	6,291.00	6,605.55	6,935.83
Waste Water Treatment Plant Supervisor	132	4,964.11	5,212.32	5,472.94	5,746.59	6,033.92
Water Supervisor	132	4,964.11	5,212.32	5,472.94	5,746.59	6,033.92

Appendix D

City of Riverbank Employee Compensation Plan Effective July 8, 2016

Classification	Range	MONTHLY SALARY STEPS				
		A	B	C	D	E
Accountant	125	4,699.56	4,934.54	5,181.27	5,440.33	5,712.35
Accounting Manager	146	5,791.71	6,081.30	6,385.37	6,704.64	7,039.87
Administrative Analyst II	128	4,841.97	5,084.07	5,338.27	5,605.18	5,885.44
Administrative Assistant/Confidential	111	4,088.46	4,292.88	4,507.52	4,732.90	4,969.55
Building Official	155	6,334.32	6,651.04	6,983.59	7,332.77	7,699.41
City Planner	174	7,652.53	8,035.16	8,436.92	8,858.77	9,301.71
Development Services Administrative Manager	166	7,067.01	7,420.36	7,791.38	8,180.95	8,590.00
Human Resources Analyst	125	4,699.56	4,934.54	5,181.27	5,440.33	5,712.35
Human Services Specialist /Administrative Analyst II	128	4,841.97	5,084.07	5,338.27	5,605.18	5,885.44
Parks & Facilities Maintenance Supervisor	123	4,606.97	4,837.32	5,079.19	5,333.15	5,599.81
Planning & Building Manager	176	7,806.35	8,196.67	8,606.50	9,036.83	9,488.67
Public Works Superintendent	169	7,281.13	7,645.19	8,027.45	8,428.82	8,850.26
Public Works Supervisor	132	5,038.57	5,290.50	5,555.03	5,832.78	6,124.42
Recreation Supervisor	125	4,699.56	4,934.54	5,181.27	5,440.33	5,712.35
Senior Building Inspector	140	5,456.05	5,728.85	6,015.29	6,316.05	6,631.85
Senior Community Development Specialist	122	4,561.35	4,789.42	5,028.89	5,280.33	5,544.35
Senior Management Analyst	146	5,791.71	6,081.30	6,385.37	6,704.64	7,039.87
Senior Management Analyst/City Clerk	146	5,791.71	6,081.30	6,385.37	6,704.64	7,039.87
Waste Water Treatment Plant Supervisor	132	5,038.57	5,290.50	5,555.03	5,832.78	6,124.42
Water Supervisor	132	5,038.57	5,290.50	5,555.03	5,832.78	6,124.42

**Sideletter of Agreement
Between
The City of Riverbank
and
The Riverbank Mid-Management Employees Association
January 3, 2015**

Sick Leave Cash Out

Upon approval and ratification of the 2015-2017 Mid-Management Employees' Association's MOU, both parties agree to the elimination of Section 7.02, G (Sick Leave Cash Out). In return for the elimination of Section 7.02, G from the MOU eligible employees may request a one-time final cash out of up to 48 hours of accrued sick leave. The one-time final cash out must be requested during the first full pay period following ratification and approval of the MOU. To be eligible for the one-time final cash out the employee must following criteria must be met:

- Must have a minimum of 200 hours in their sick leave bank;
- Must not have used more than forty (40) hours during the fiscal year;

Both parties agree that this sick leave cash out is a one-time benefit and will be eliminated after the first full pay period following ratification and approval of this MOU.

Market-based Classification & Compensation Study

The City will complete a market-based classification and compensation study of all classifications represented by the Association. The study will be completed and a copy of the findings will be provided to the Association by April 1, 2017.

SIGNATURES

For the City of Riverbank

Jill Anderson
City Manager

For the Riverbank Mid-Management
Employees Association

Dawndi Morrell
RMMEA Secretary/Treasurer

Janet Smallen
RMMEA Vice-President

Michael Riddell
RMMEA President

W. Robert Phibbs
Association Counsel

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	February 10, 2015
Subject:	Jacob Myers Park Master Plan Update
From:	Jill Anderson, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council review the Master Plan for Jacob Myers Park and provide input.

SUMMARY

The Master Plan for Jacob Myers Park will be reviewed. The focus of the presentation will be on future parking expansion plans and resources for extending the park into the Army Corp property to the West, adjacent to the City owned park land.

This presentation was requested during the City Strategic Planning session.

BACKGROUND

The Parks and Recreation Department worked with the Friends of Jacob Myers Park and the Community to complete a Park Master Plan for the park in August of 2003. The Master Plan was designed in three phases as follows:

Phase I: This phase concentrated on the front 8 acres of the park. A new playground was installed and the rocket was relocated. New picnic tables, BBQ pits, kiosks and trash cans were installed. The road leading to the back section of the park was paved and parking lines were drawn. The park host site was developed. The Oak Grove picnic area was developed as well as the Rotary picnic area. Horse shoe pits were installed and the Bicentennial Grove was improved. This work was done by donations and grant funding.

Phase II: This phase developed the loop trail and campground area. Trail side picnic areas were developed with picnic tables and paving. Garbage receptacles, benches, trail signage and two trailside restrooms were installed. The open grass area near the

end of the loop trail was developed as well as the back park host site. A portion of the access road above the campground was paved until funding was exhausted. More recently the wedding gazebo was complete and irrigation and landscaping was installed.

The development that we are seeking funding for includes parking expansion at the end of the loop trail and above parallel to the City Waste Water Treatment Plant, the Amphitheatre and an additional restroom. This development is considered Phase II that the City is currently working on.

Some changes have been made to the plan over the years such as deleting the nature center but instead installing a bird observation area.

All of the improvements in Phase II to date have been predominately completed with donations, grant funds and some funding match through park development fees.

Phase III: This phase involves leasing the 90 acres of land that is owned by the Army Corp of Engineers that is located adjacent to Jacob Myers Park to the West. A letter of interest has been sent to the Army Corp of Engineers and has been well received. At this point they have requested to install a traffic counter at the park entrance to determine the use of the park. The City will receive a letter in return soon that will specify what the City would need to do in order to lease this land. Some of these conditions may involve notification to any people living along the river and receiving their input. Some environmental work may be required to identify the Elderberry and any endangered species. Once this information is received it will be brought to the City Council for direction.

NEXT STEPS

In regards to Phase II completion, there are annual grants that are available that could provide funding. The Land and Water Conservation Fund Grant, the Recreation Trails Grant and the Habitat Conservation Fund are all sources of funds that we have been successful in obtaining. There are match funds required for these grants that we would need to provide. This has been the factor that has delayed our continued development.

The City is attempting to find other ways to move forward if funding is not secured such as providing a dirt parking lot to begin with by clearing the area that we have designated. Private grant foundations are also being researched and applied for. Seeking assistance from Stanislaus County and San Joaquin County Parks and Recreation Departments are one resource that we will be exploring.

Preparing a Request for Proposal for a conceptual design and cost estimate for parking expansion would be helpful in preparing for future grants.

To move forward with Phase III we need to review any stipulations that we would have to meet with the Army Corp. We would also need to be confident that we can maintain

the additional acreage both operationally and financially. The preliminary plan is to develop a loop bike trail that would be built by volunteers and overseen by a Trail Advisory Committee. The local Bike Clubs and trail enthusiasts have submitted a plan and many ideas. This development is low impact and something that the Army Corp sees as a good fit.

Problem Solving

As we have discovered securing a grant and developing an area is one thing but managing it once complete is the real challenge. The parking fee has allowed us to maintain our improvements as well as keep the park clean and safe.

We are attempting to find solutions to the current parking lot confinements and gridlock that occurs at the park entrance. We are scheduling meetings with San Joaquin County, our City Engineer and other City staff to brainstorm.

The River Cove issue is another challenge that we will be presenting some options on to the City Council on March 24th.

FINANCIAL IMPACT

There is no financial impact at this time. If match funding is required to submit a grant, there may be a request for general funds or future park development funds.

OTHER PROJECTS

There is a desire to expand and move forward with the development of Jacob Myers Park but if General Fund money is requested it is important to keep in mind that the Community Center and Pool Locker rooms are in urgent need of renovation or repair.

STRATEGIC PLAN

The Development of Jacob Myers Park directly relates to the City Strategic Plan in Improving and Maintaining infrastructure and facilities.

ATTACHMENTS

1. Jacob Myers Park Master Plan

Master Plan

SITE BACKGROUND:

Jacob Myers Park is a 55 acre park located on the north bank of the Stanislaus River. To date, eight of the 55 acres have been developed with the remainder of land existing in it's natural state. Areas along the Stanislaus River were once inhabited by Native Americans and adjacent sites show historical signs of battles with the Spanish Army in the lower bluff and terraced areas. The original land grant for the park, by the Myers family to the City of Riverbank, intended for all development to focus on park and recreational use only.

EXISTING PARK ELEMENTS:

- Restroom and shelter structures
- Camp host building
- Bicentennial tree grove
- Youth and tot play areas
- Informal picnic area
- Beach access to river
- Informal trail system
- Archery range
- Paved parking
- Boat Launch

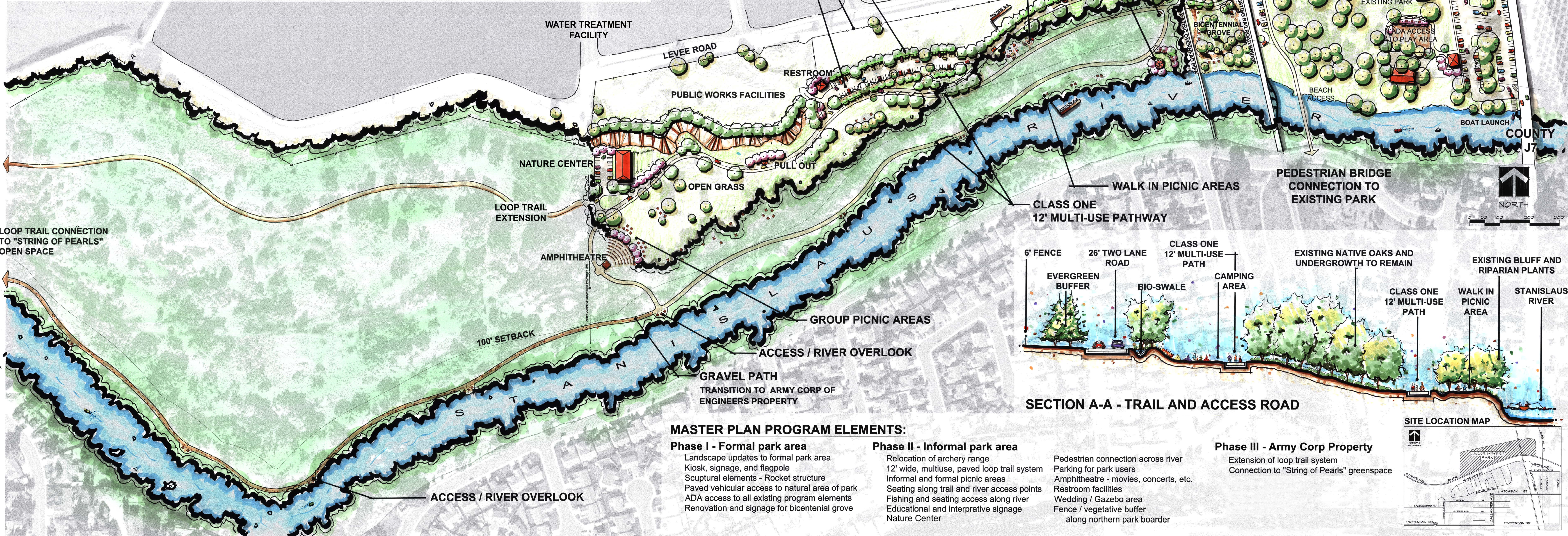
**VEGETATIVE BUFFER
ALONG LEVEE
FENCE ALONG LEVEE
PAVED PARKING AREAS**
APPX. 120 TOTAL SPACES

**TRAILHEAD & SIGNAGE
WEDDING GAZEBO
WALK IN CAMPSITES**

PARKING UNDER TRESTLE

**ENTRY SIGN, KIOSK, &
FLAGPOLES**

**COUNTY
J7**



**LOOP TRAIL CONNECTION
TO "STRING OF PEARLS"
OPEN SPACE**

ACCESS / RIVER OVERLOOK

MASTER PLAN PROGRAM ELEMENTS:

Phase I - Formal park area

- Landscape updates to formal park area
- Kiosk, signage, and flagpole
- Sculptural elements - Rocket structure
- Paved vehicular access to natural area of park
- ADA access to all existing program elements
- Renovation and signage for bicentennial grove

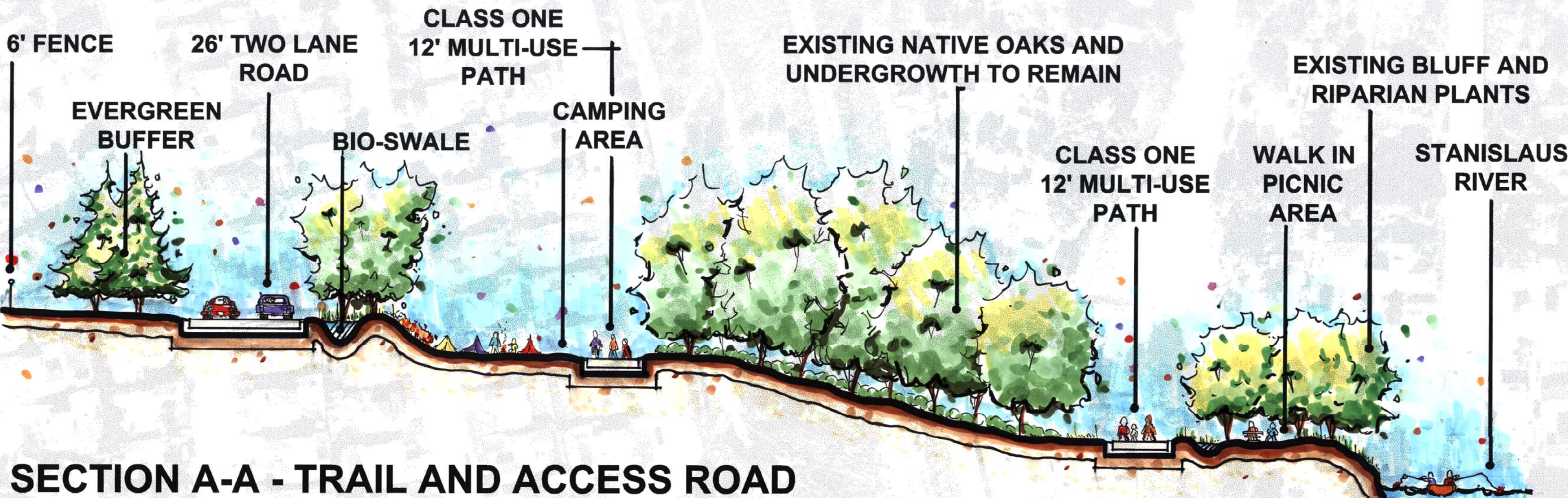
Phase II - Informal park area

- Relocation of archery range
- 12' wide, multiuse, paved loop trail system
- Informal and formal picnic areas
- Seating along trail and river access points
- Fishing and seating access along river
- Educational and interpretive signage
- Nature Center

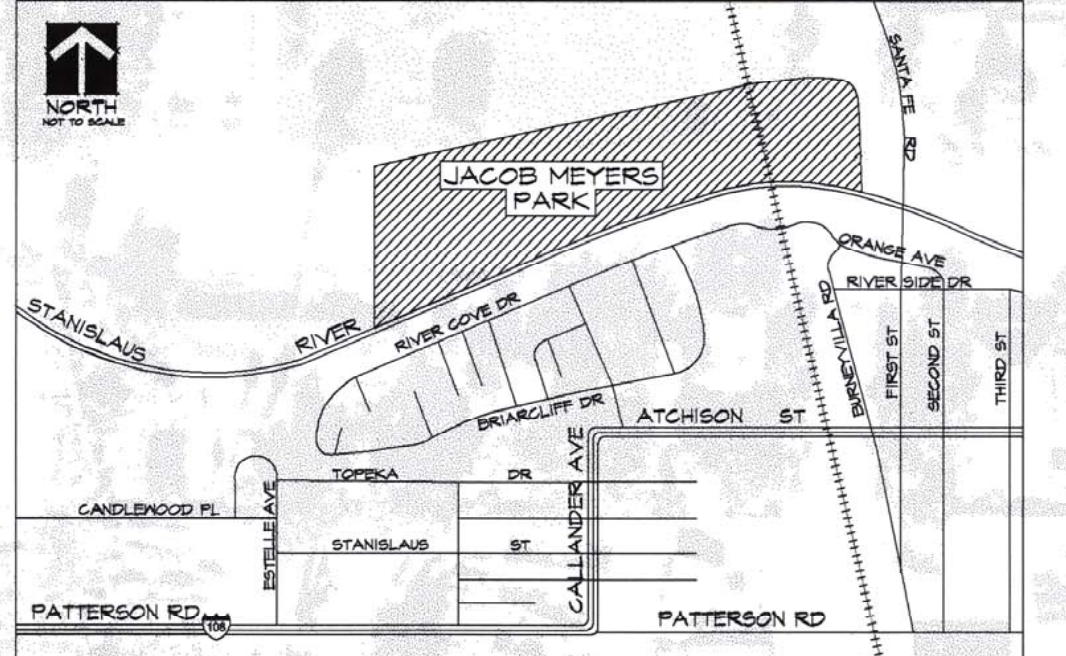
- Pedestrian connection across river
- Parking for park users
- Amphitheatre - movies, concerts, etc.
- Restroom facilities
- Wedding / Gazebo area
- Fence / vegetative buffer along northern park boarder

Phase III - Army Corp Property

- Extension of loop trail system
- Connection to "String of Pearls" greenspace



SITE LOCATION MAP



Project No. 350002
August 2003



RIVERBANK CITY COUNCIL AGENDA ITEM NO. 10.1

SECTION 10: INFORMATIONAL ITEMS

Meeting Date:	February 10, 2015
Subject/ Title:	Warrant Registers for 12/17/2014 and 01/08/2015.
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 12/17/2014 and 01/08/2015.

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:

12/17/2014 Warrant

Check No.	Vendor & Description	Funding Source	Amount
44124	Darlene Barber-Martinez: League Councilmember Academy Travel Allowance	General Fund	\$626.38
44138	Hotsy Pacific: Pressure Washer	Motor Pool	\$6,700.28
44151	San Joaquin Engineering Solutions: New Switch for Substation 9 at RIC	LRA Tenant Revenue	\$8,865.48

01/08/2015 Warrant

Check No.	Vendor & Description	Funding Source	Amount
44162	Applied Power Systems, Inc: Installation of New Circuit Breakers at RIC	LRA Tenant Revenue	\$6,083.75
44206	Pacific Excavation: Jackson Ave. Utility Split	Water/Sewer Funds	\$14,943.50
44213	San Joaquin Engineering: Transformer Removal and Monthly Management Fee	LRA Tenant Revenue	\$73,917.81

FINANCIAL IMPACT:

Reductions in various funds for payment of expenses.

ATTACHMENTS: (List attachments in order of placement)

1. Warrant Registers: 12/17/2014 and 01/08/2015

WARRANT REGISTER

Date: 01/08/2015

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
ADTECH	COMPUTER MAINTENANCE	101-408-000-702-039	44158	01/08/2015	529.89
				Vendor Total:	529.89
ADVANCED INFO SYSTEM	MAILING OF UTILITY BILLS	101-403-000-702-032	44159	01/08/2015	1,375.98
				Vendor Total:	1,375.98
AECOM INC.	GP UPDATE	210-467-000-702-032	44160	01/08/2015	710.64
				Vendor Total:	710.64
AMERICAN LEGAL PUBLISHING	RENEWAL	101-408-000-702-030	44161	01/08/2015	495.00
				Vendor Total:	495.00
APPLIED POWER SYSTEMS INC.	BUILDING MAINTENANCE - LR/	197-439-000-706-029	44162	01/08/2015	6,083.75
				Vendor Total:	6,083.75
ASCAP	MUSIC LICENSE FEE	118-441-000-702-032	44163	01/08/2015	335.00
				Vendor Total:	335.00
ASSOCIATION OF DEFENSE	MEMBERSHIP DUES - LRA	198-439-505-702-053	44164	01/08/2015	390.00
				Vendor Total:	390.00
AT&T	COMMUNICATIONS	101-407-000-704-022	44165	01/08/2015	568.16
				Vendor Total:	568.16
AT&T-CALNET 2	COMMUNICATIONS	134-459-000-704-022	44166	01/08/2015	44.02
AT&T-CALNET 3	COMMUNICATIONS	101-406-000-704-022	44166		19.60
AT&T-CALNET 4	COMMUNICATIONS	106-423-000-704-022	44166		15.26
AT&T-CALNET 5	COMMUNICATIONS	101-412-000-704-022	44166		18.45
AT&T-CALNET 6	COMMUNICATIONS	101-407-000-704-022	44166		76.71
AT&T-CALNET 7	COMMUNICATIONS	101-409-000-704-022	44166		22.03
AT&T-CALNET 8	COMMUNICATIONS	198-439-505-702-053	44166		364.00
				Vendor Total:	560.07
BAY ALARM COMPANY	ALARM SERVICE	101-407-000-702-032	44167	01/08/2015	464.35
BAY ALARM COMPANY	ALARM SERVICE	102-418-000-702-032	44167		107.00
BAY ALARM COMPANY	ALARM SERVICE	106-423-000-702-032	44167		107.00
BAY ALARM COMPANY	ALARM SERVICE	114-433-000-702-032	44167		107.00
				Vendor Total:	785.35
BOHANNON INSURANCE GROUP	INSURANCE ADMIN -DECEMBE	201-000-000-200-080	44168	01/08/2015	1,716.44
				Vendor Total:	1,716.44
CEN - CAL MECHANICAL	OVERPAYMENT REFUND	101-000-000-450-030	44169	01/08/2015	41.50
				Vendor Total:	41.50
CENTRAL SAN JOAQUIN VALLEY	WORKERS' COMP/LIABILITY PF	137-460-000-706-035	44170	01/08/2015	53,198.00
CENTRAL SAN JOAQUIN VALLEY	WORKERS' COMP/LIABILITY PF	138-461-000-706-035	44170		24,451.00
				Vendor Total:	77,649.00
CHARTER COMMUNICATIONS	COMMUNICATIONS	101-407-000-702-032	44171	01/08/2015	44.98
				Vendor Total:	192.97
CITY OF RIVERBANK	UTILITIES	101-407-000-704-021	44172	01/08/2015	214.88
CITY OF RIVERBANK	UTILITIES	220-590-000-704-021	44172		577.51
CITY OF RIVERBANK	UTILITIES	118-441-000-704-021	44172		44.20
CITY OF RIVERBANK	UTILITIES	101-413-000-704-021	44172		78.76
CITY OF RIVERBANK	UTILITIES	101-414-000-704-021	44172		1,019.02
CITY OF RIVERBANK	UTILITIES	175-590-000-704-021	44172		130.16
CITY OF RIVERBANK	UTILITIES	177-590-000-704-021	44172		36.79
				Vendor Total:	2,101.32
COLLECTION PLUS	CLINIC SERVICES	101-408-000-706-014	44173	01/08/2015	550.00
				Vendor Total:	550.00
CWEA	MEMBERSHIP DUES	106-424-000-706-036	44174	01/08/2015	156.00
				Vendor Total:	156.00
JOHN DEGELE	PLANNING COMMISSION MEET	101-405-000-701-005	44175	01/08/2015	100.00
				Vendor Total:	100.00
DONLEE PUMP COMPANY	VEHICLE FUEL	119-442-000-705-041	44177	01/08/2015	150.00
				Vendor Total:	150.00

WARRANT REGISTER

Date: 01/08/2015

<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
DON'S MOBILE GLASS	VEHICLE MAINTENANCE	119-442-000-705-040	44176	01/08/2015	35.00
				Vendor Total:	35.00
E.R. VINE & SONS, INC.	VEHICLE FUEL	119-442-000-705-041	44178	01/08/2015	8,247.26
				Vendor Total:	8,247.26
EXTRA SPACE STORAGE	6225 DON CARLOS AVE	213-597-044-702-058	44179	01/08/2015	126.00
				Vendor Total:	126.00
FAR WEST	LAB SAMPLES	106-424-000-702-032	44180	01/08/2015	2,798.00
				Vendor Total:	2,798.00
FASTENAL COMPANY	BREAK ROOM SUPPLIES	119-442-000-705-040	44182	01/08/2015	380.26
FASTENAL COMPANY	BREAK ROOM SUPPLIES	119-442-000-706-026	44182		156.06
FASTENAL COMPANY	BREAK ROOM SUPPLIES	102-418-000-703-062	44182		9.89
FASTENAL COMPANY	BREAK ROOM SUPPLIES	102-418-000-703-028	44182		32.18
FASTENAL COMPANY	BREAK ROOM SUPPLIES	119-442-000-705-041	44182		120.27
				Vendor Total:	929.78
GILTON SOLID WASTE MGMT. INC.	REFUSE SERVICE	102-418-000-702-036	44183	01/08/2015	7,164.03
GILTON SOLID WASTE MGMT. INC.	REFUSE SERVICE	197-439-000-704-021	44183		99.55
GILTON SOLID WASTE MGMT. INC.	REFUSE SERVICE	101-000-000-200-160	44183		112,762.91
				Vendor Total:	120,026.49
GRAINGER	EQUIPMENT MAINTENANCE	106-424-000-702-030	44184	01/08/2015	100.39
GRAINGER	EQUIPMENT MAINTENANCE	106-424-000-706-029	44184		93.66
GRAINGER	EQUIPMENT MAINTENANCE	119-442-000-705-040	44184		316.74
				Vendor Total:	510.79
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	101-414-000-702-032	44185	01/08/2015	7,890.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	101-414-000-706-029	44185		395.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	175-590-000-706-029	44185		2,650.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	173-590-000-706-029	44185		1,075.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	177-590-000-706-029	44185		200.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	178-590-000-706-029	44185		50.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	220-590-000-706-029	44185		11,708.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	179-590-000-702-032	44185		50.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	101-413-000-702-032	44185		275.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	172-590-000-706-029	44185		425.00
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	171-590-000-706-029	44185		300.00
				Vendor Total:	25,018.00
HETCH HETCHY WATER & POWER	UTILITIES - LRA	197-439-000-704-021	44186	01/08/2015	53,267.35
				Vendor Total:	53,267.35
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	134-459-000-703-027	44187	01/08/2015	132.81
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	102-418-000-706-026	44187		105.12
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-413-000-706-029	44187		6.55
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	114-433-000-702-030	44187		155.64
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	106-423-000-706-026	44187		53.04
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	114-433-000-706-026	44187		53.04
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	102-418-000-706-026	44187		28.61
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-414-000-706-029	44187		501.98
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-407-000-706-029	44187		124.59
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	114-433-000-706-029	44187		29.58
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	102-418-000-703-062	44187		245.36
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	101-412-000-709-001	44187		290.10
HOME DEPOT CREDIT SERVICES	BUILDING MAINTENANCE	106-423-000-702-030	44187		17.35
				Vendor Total:	1,743.77
HR PERFORMANCE SOLUTIONS	PERFORMANCE PRO RENEWA	101-408-000-702-030	44188	01/08/2015	1,122.00
				Vendor Total:	1,122.00
HUB INTERNATIONAL INSURANCE	INSURANCE RENTAL	118-441-000-706-035	44189	01/08/2015	125.98
				Vendor Total:	125.98
PATRICIA HUGHES	PLANNING COMMISSION MEET	101-405-000-701-005	44190	01/08/2015	100.00
				Vendor Total:	100.00

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<u>Vendor Name</u>	<u>Invoice Description</u>	<u>GL Number</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>
J.B. ANDERSON	CONTRACT PLANNING SERVIC	101-405-000-702-032	44191	01/08/2015	9,475.00
J.B. ANDERSON	CONTRACT PLANNING SERVIC	101-405-000-702-034	44191		5,328.00
				Vendor Total:	14,803.00
KB HOME	DEPOSIT REFUND	114-000-000-200-171	44192	01/08/2015	136.54
				Vendor Total:	136.54
LEAGUE OF CALIFORNIA CITIES	MEMBERSHIP DUES	101-401-000-706-036	44193	01/08/2015	8,130.56
				Vendor Total:	8,130.56
LIEBERT CASSIDY WHITMORE	LEGAL SERVICES	101-404-000-702-033	44194	01/08/2015	5,947.50
				Vendor Total:	5,947.50
DAVID MCDANIEL	BOOT ALLOWANCE	101-414-000-706-027	44195	01/08/2015	29.02
				Vendor Total:	29.02
ANTHONY D. MCKINNEY	PLANNING COMMISSION MEET	101-405-000-701-005	44196	01/08/2015	100.00
				Vendor Total:	100.00
MID	UTILITIES	102-418-000-704-021	44198	01/08/2015	140.36
MID	UTILITIES	101-414-000-704-021	44198		776.31
MID	UTILITIES	173-590-000-704-021	44198		100.25
MID	UTILITIES	114-433-000-704-021	44198		3,729.64
MID	UTILITIES	220-590-000-704-021	44198		2,513.81
MID	UTILITIES	101-412-000-704-021	44198		193.00
MID	UTILITIES	101-407-000-704-021	44198		408.47
MID	UTILITIES	119-442-000-704-021	44198		1,770.74
MID	UTILITIES	177-590-000-704-021	44198		138.53
				Vendor Total:	9,771.11
MARIA MIRANDA	DEPOSIT REFUND	114-000-000-200-171	44199	01/08/2015	13.47
				Vendor Total:	13.47
MO - CAL	COPY COUNT	101-412-000-702-031	44200	01/08/2015	310.04
MO - CAL	COPY COUNT	114-433-000-702-031	44200		310.04
MO - CAL	COPY COUNT	106-424-000-702-031	44200		310.04
				Vendor Total:	930.12
MODESTO BEE	ADVERTISEMENT	101-405-000-706-023	44201	01/08/2015	657.65
				Vendor Total:	657.65
MODESTO WELDING PRODUCTS	EQUIPMENT MAINTENANCE	106-424-000-702-030	44202	01/08/2015	220.25
				Vendor Total:	220.25
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-402-000-708-009	44203	01/08/2015	255.76
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-403-000-708-009	44203		1,278.80
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-405-000-708-009	44203		255.76
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-406-000-708-009	44203		511.52
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-407-000-708-009	44203		255.76
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-408-000-708-009	44203		1,023.04
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-412-000-708-009	44203		1,278.80
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	101-414-000-708-009	44203		867.36
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	102-418-000-708-009	44203		1,278.80
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	106-423-000-708-009	44203		511.52
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	106-424-000-708-009	44203		767.28
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	114-433-000-708-009	44203		1,278.80
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	117-411-000-708-009	44203		255.76
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	119-442-000-708-009	44203		255.76
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	134-459-000-708-009	44203		511.52
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	198-439-000-708-009	44203		767.28
NATIONAL INDUSTRIAL	PENSION CONTRIBUTIONS	213-438-000-708-009	44203		255.76
				Vendor Total:	11,609.28
NORQUIST	HEATING & AIR MAINTENANCE	106-424-000-702-032	44204	01/08/2015	74.20
NORQUIST	HEATING & AIR MAINTENANCE	101-407-000-702-032	44204		1,444.50
				Vendor Total:	1,518.70
PACIFIC BOLT CO.	EQUIPMENT MAINTENANCE	106-424-000-702-030	44205	01/08/2015	6.40
				Vendor Total:	6.40

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PACIFIC EXCAVATION	JACKSON AVE ELECTRICAL CH	114-000-000-200-175	44206	01/08/2015	7,471.75
PACIFIC EXCAVATION	JACKSON AVE ELECTRICAL CH	106-000-000-200-175	44206		7,471.75
				Vendor Total:	14,943.50
PACIFIC GAS & ELECTRIC	UTILITIES	102-418-000-704-021	44208	01/08/2015	7,509.99
PACIFIC GAS & ELECTRIC	UTILITIES	106-424-000-704-021	44208		1,164.63
PACIFIC GAS & ELECTRIC	UTILITIES	101-414-000-704-021	44208		629.29
PACIFIC GAS & ELECTRIC	UTILITIES	118-441-000-704-021	44208		1,964.94
PACIFIC GAS & ELECTRIC	UTILITIES	114-433-000-704-021	44208		11,139.49
PACIFIC GAS & ELECTRIC	UTILITIES	175-590-000-704-021	44208		206.41
PACIFIC GAS & ELECTRIC	UTILITIES	101-409-000-704-021	44208		1,882.58
PACIFIC GAS & ELECTRIC	UTILITIES	106-423-000-704-021	44208		2,670.97
PACIFIC GAS & ELECTRIC	UTILITIES	101-407-000-704-021	44208		1,445.18
PACIFIC GAS & ELECTRIC	UTILITIES	163-459-000-706-005	44208		32.52
				Vendor Total:	28,646.00
PAPA	EDUCATION & TRAINING	101-414-000-706-038	44209	01/08/2015	80.00
				Vendor Total:	80.00
PETTY CASH	SHOP WITH A COP	101-4096-000-709-001	44157	01/08/2015	500.00
PETTY CASH	PARKS & RECS	101-414-000-706-029	44210	01/08/2015	6.04
		134-459-000-703-027	44210		122.76
				Vendor Total:	628.80
SAFE T LITE	VEHICLE MAINTENANCE	119-442-000-705-040	44211	01/08/2015	216.71
SAFE T LITE	VEHICLE MAINTENANCE	138-461-000-707-003	44211		618.54
SAFE T LITE	VEHICLE MAINTENANCE	102-418-000-706-050	44211		289.35
SAFE T LITE	VEHICLE MAINTENANCE	102-418-000-703-062	44211		293.02
SAFE T LITE	VEHICLE MAINTENANCE	106-424-000-706-029	44211		111.69
				Vendor Total:	1,529.31
LINDY SALOMON	DEPOSIT REFUND	114-000-000-200-171	44212	01/08/2015	23.06
				Vendor Total:	23.06
SAN JOAQUIN ENGINEERING	BUILDING MAINTENANCE	197-439-000-702-063	44213	01/08/2015	37,918.59
SAN JOAQUIN ENGINEERING	BUILDING MAINTENANCE	197-439-000-706-029	44213		35,999.22
				Vendor Total:	73,917.81
GARRETT SEYMOUR	OVERPAYMENT REFUND	114-000-000-200-170	44214	01/08/2015	75.30
				Vendor Total:	75.30
LISA SPENCER	OVERPAYMENT REFUND	114-000-000-200-170	44215	01/08/2015	60.00
				Vendor Total:	60.00
STANISLAUS CO. SHERIFF'S DEPT.	LAW ENFORCEMENT - OCT 201	101-409-000-702-060	44216	01/08/2015	552,069.54
STANISLAUS CO. SHERIFF'S DEPT.	LAW ENFORCEMENT - OCT 201	101-409-000-702-034	44216		24,678.49
				Vendor Total:	576,748.03
STANISLAUS FOUNDATION	DENTAL LIABILITY	201-000-000-200-082	44217	01/08/2015	1,236.50
				Vendor Total:	1,236.50
STRAND ACE HARDWARE INC.	VEHICLE MAINTENANCE	119-442-000-705-040	44218	01/08/2015	48.59
				Vendor Total:	48.59
SUTTER GOULD	MEDICAL SERVICES	106-423-000-702-032	44219	01/08/2015	486.50
SUTTER GOULD	MEDICAL SERVICES	114-433-000-702-032	44219		69.50
				Vendor Total:	556.00
SWRCB ACCOUNTING OFFICE	SMALL WATER SYSTEM ANNUAL	197-439-000-706-029	44220	01/08/2015	456.00
				Vendor Total:	456.00
THE LINCOLN NATIONAL LIFE	LIFE INSURANCE	201-000-000-200-086	44221	01/08/2015	460.30
				Vendor Total:	460.30
THE PRACTICAL SOLUTIONS	MANAGEMENT CONSULTING SERVICES	101-402-000-706-037	44222	01/08/2015	2,250.00
				Vendor Total:	2,250.00
UNIVERSAL SYSTEMS	BUILDING MAINTENANCE	171-590-000-706-029	44223	01/08/2015	750.00
				Vendor Total:	750.00
CARLOS VILLAPUDUA	PLANNING COMMISSION MEETING	101-405-000-701-005	44224	01/08/2015	100.00
				Vendor Total:	100.00

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VISION SERVICE PLAN	VISION PREMIUM	201-000-000-200-084	44225	01/08/2015	822.48
				Vendor Total:	822.48
WESTERN GRAPHIX	PARKING VIOLATION BOOKS	126-449-000-706-029	44226	01/08/2015	349.78
				Vendor Total:	349.78
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	156-555-000-706-062	44227	01/08/2015	506.51
WILLDAN FINANCIAL SERVICES	LOCAL IMPROVEMENT	170-555-000-706-062	44227		455.73
				Vendor Total:	962.24
WILSON TECHNOLOGIES	TELEPHONE MAINTENANCE	119-442-000-702-038	44228	01/08/2015	225.00
				Vendor Total:	225.00
YOSEMITE CHAPTER OF THE	MEMBERSHIP DUES	101-405-000-706-036	44229	01/08/2015	320.00
				Vendor Total:	320.00
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-406-000-703-025	44230	01/08/2015	20.36
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-412-000-703-025	44230		20.36
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-403-000-703-025	44230		20.35
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-405-000-703-025	44230		20.35
ZEE MEDICAL SERVICE CO.	SAFETY SUPPLIES	101-408-000-706-042	44230		32.99
				Vendor Total:	114.41
				Grand Total:	1,067,718.20
				Less Credit Memos:	0.00
				Net Total:	1,067,718.20
				Less Hand Check Total:	500.00
				Outstanding Invoice Total :	1,067,218.20

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A & A PORTABLES INC.	PORTABLE RESTROOM - LRA	197-439-000-704-021	44119	12/17/2014	49.76
				Vendor Total:	49.76
ADTECH	SPAM FILTERING - LRA	198-439-505-702-053	44120	12/17/2014	89.97
				Vendor Total:	89.97
ALPHA NUMERIC	COPY COUNT	101-401-000-703-025	44121	12/17/2014	30.07
ALPHA NUMERIC	COPY COUNT	101-402-000-703-025	44121		10.66
ALPHA NUMERIC	COPY COUNT	101-403-000-703-025	44121		34.50
ALPHA NUMERIC	COPY COUNT	101-405-000-703-025	44121		2.39
ALPHA NUMERIC	COPY COUNT	101-406-000-703-025	44121		17.36
ALPHA NUMERIC	COPY COUNT	101-408-000-703-025	44121		13.17
				Vendor Total:	108.15
ARROWHEAD	BOTTLED WATER - LRA	197-439-000-704-021	44122	12/17/2014	52.48
				Vendor Total:	52.48
AT&T-CALNET 2	COMMUNICATIONS	101-405-000-704-022	44123	12/17/2014	97.53
AT&T-CALNET 3	COMMUNICATIONS	101-406-000-704-022	44123		32.51
AT&T-CALNET 4	COMMUNICATIONS	101-407-000-704-022	44123		260.09
AT&T-CALNET 5	COMMUNICATIONS	101-409-000-704-022	44123		227.58
AT&T-CALNET 6	COMMUNICATIONS	101-412-000-704-022	44123		65.02
AT&T-CALNET 7	COMMUNICATIONS	101-414-000-704-022	44123		32.51
AT&T-CALNET 8	COMMUNICATIONS	134-459-000-704-022	44123		65.02
AT&T-CALNET 9	COMMUNICATIONS	106-423-000-704-022	44123		65.02
AT&T-CALNET 10	COMMUNICATIONS	119-442-000-704-022	44123		32.52
				Vendor Total:	877.80
DARLENE BARBER-MARTINEZ	TRAVEL ALLOWANCE	101-401-000-706-037	44124	12/17/2014	626.38
				Vendor Total:	626.38
CHARTER COMMUNICATIONS	COMMUNICATIONS - POLICE	101-409-000-704-021	44125	12/17/2014	35.86
CHARTER COMMUNICATIONS	COMMUNICATIONS - NORTH	101-408-000-702-032	44126	12/17/2014	86.12
				Vendor Total:	121.98
CITY OF OAKDALE	ANIMAL CONTROL SERVICES	101-411-000-702-034	44127	12/17/2014	12,803.92
				Vendor Total:	12,803.92
COMTEL	TELEPHONE MAINTENANCE	102-418-000-702-032	44128	12/17/2014	22.00
COMTEL	TELEPHONE MAINTENANCE	114-433-000-702-032			23.00
				Vendor Total:	45.00
DESIGNS BY KAREN	FALL CENTERPIECE	101-401-000-706-037	44129	12/17/2014	107.63
				Vendor Total:	107.63
EXPERIAN	CREDIT CHECK	213-597-044-702-053	44130	12/17/2014	100.00
				Vendor Total:	100.00
FAR WEST	LAB SAMPLES - LRA	106-423-000-702-032	44131	12/17/2014	1,630.00
FAR WEST	LAB SAMPLES - LRA	114-433-000-702-032	44131		3,220.00
FAR WEST	LAB SAMPLES - LRA	197-439-000-706-029	44131		820.00
				Vendor Total:	5,670.00
FASTENAL COMPANY	EQUIPMENT MAINTENANCE	101-413-000-702-030	44132	12/17/2014	423.38
FASTENAL COMPANY	EQUIPMENT MAINTENANCE	114-433-000-702-030	44132		7.73
				Vendor Total:	431.11
ORLANDO FLORES	DEPOSIT REFUND	118-000-000-675-080	44133	12/17/2014	125.00
				Vendor Total:	125.00
GREEN RUBBER KENNEDY AG	EQUIPMENT MAINTENANCE	114-433-000-702-030	44134	12/17/2014	15.02
				Vendor Total:	15.02
GROENIGER #1423	EQUIPMENT MAINTENANCE	114-433-000-702-030	44135	12/17/2014	160.27
				Vendor Total:	160.27
GROVER LANDSCAPE SERVICES,	LANDSCAPE MAINTENANCE	220-590-000-706-029	44136	12/17/2014	330.00
				Vendor Total:	330.00

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HOME DEPOT CREDIT SERVICES	EQUIPMENT MAINTENANCE	106-424-000-706-029	44137	12/17/2014	196.97
HOME DEPOT CREDIT SERVICES	EQUIPMENT MAINTENANCE	114-433-000-702-030	44137		143.05
HOME DEPOT CREDIT SERVICES	EQUIPMENT MAINTENANCE	101-414-000-706-029	44137		1,268.91
HOME DEPOT CREDIT SERVICES	EQUIPMENT MAINTENANCE	101-407-000-702-030	44137		82.71
HOME DEPOT CREDIT SERVICES	EQUIPMENT MAINTENANCE	101-407-000-706-029	44137		372.11
				Vendor Total:	2,063.75
HOTSY PACIFIC	VEHICLE MAINTENANCE	119-442-000-705-040	44138	12/17/2014	6,700.28
				Vendor Total:	6,700.28
KAMPS PROPANE INC.	BUILDING MAINTENANCE	197-439-000-706-029	44139	12/17/2014	706.05
				Vendor Total:	706.05
MIGUEL LARRANAGA	REFUND	118-000-000-200-150	44140	12/17/2014	100.00
		101-000-000-680-025	44140		132.00
				Vendor Total:	232.00
LIEBERT CASSIDY WHITMORE	LEGAL SERVICES	101-404-000-702-033	44141	12/17/2014	4,777.50
				Vendor Total:	4,777.50
MAILFINANCE	POSTAGE LEASE	114-433-000-702-031	44142	12/17/2014	110.40
MAILFINANCE	POSTAGE LEASE	106-423-000-702-031	44142		110.41
MAILFINANCE	POSTAGE LEASE	101-403-000-702-031	44142		110.40
				Vendor Total:	331.21
MISSION UNIFORM SERVICE	CLEANING SERVICE	101-407-000-706-073	44143	12/17/2014	50.00
				Vendor Total:	50.00
MITCHELL1	VEHICLE MAINTENANCE	119-442-000-705-040	44144	12/17/2014	1,608.00
				Vendor Total:	1,608.00
MODESTO BEE	ADVERTISEMENT	134-459-000-706-023	44145	12/17/2014	350.85
				Vendor Total:	350.85
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	119-442-000-705-040	44146	12/17/2014	385.88
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	101-414-000-706-029	44146		12.89
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	119-442-000-706-028	44146		12.89
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	106-424-000-702-030	44146		13.98
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	126-449-000-706-029	44146		57.02
O'REILLY AUTOMOTIVE, INC.	VEHICLE MAINTENANCE	101-412-000-706-029	44146		59.19
				Vendor Total:	541.85
PACIFIC PLAN REVIEW	2925 TURPIN AVE	101-000-000-600-090	44148	12/17/2014	3,272.50
				Vendor Total:	3,272.50
PETTY CASH	SHOP WITH A COP 2014	101-409-000-709-001	44118	12/17/2014	7,180.62
				Vendor Total:	7,180.62
PRIME SHINE EXPRESS CAR WASH	VEHICLE WASHES	119-442-000-705-040	44149	12/17/2014	7.00
PRIME SHINE EXPRESS CAR WASH	VEHICLE WASHES	114-433-000-702-030	44149		3.50
PRIME SHINE EXPRESS CAR WASH	VEHICLE WASHES	102-418-000-702-030	44149		3.50
PRIME SHINE EXPRESS CAR WASH	VEHICLE WASHES	101-406-000-703-025	44149		3.50
				Vendor Total:	17.50
PVP COMMUNICATIONS, INC.	BUILDING MAINTENANCE	126-449-000-706-029	44150	12/17/2014	132.56
				Vendor Total:	132.56
SAN JOAQUIN ENGINEERING	BUILDING MAINTENANCE - LRA	197-439-000-706-029	44151	12/17/2014	8,865.48
				Vendor Total:	8,865.48
STAPLES ADVANTAGE	OFFICE SUPPLIES	101-412-000-703-025	44152	12/17/2014	119.09
STAPLES ADVANTAGE	OFFICE SUPPLIES	101-408-000-703-025	44152		43.40
STAPLES ADVANTAGE	OFFICE SUPPLIES	119-442-000-706-026	44152		66.96
STAPLES ADVANTAGE	OFFICE SUPPLIES	106-424-000-703-025	44152		17.41
				Vendor Total:	246.86
STRAND ACE HARDWARE INC.	FIELD SWEATERS	114-433-000-709-001	44153	12/17/2014	71.27
				Vendor Total:	71.27
T'S & TOPS	EMBROIDERY	114-433-000-709-001	44154	12/17/2014	252.92
				Vendor Total:	252.92

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UNIVERSAL SYSTEMS	EQUIPMENT MAINTENANCE	114-433-000-702-030	44155	12/17/2014	955.00
				Vendor Total:	955.00
WESTURF NURSERY	BUILDING MAINTENANCE	106-424-000-706-029	44156	12/17/2014	12.92
				Vendor Total:	12.92
				Grand Total:	60,083.59
				Less Credit Memos:	0.00
				Net Total:	60,083.59
				Less Hand Check Total:	7,180.62
				Outstanding Invoice Total :	52,902.97

Total Invoices: **60**