



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, APRIL 11, 2017 – 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 Leanne Jones Cruz
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member District 4 Darlene Barber-Martinez
Council/Authority Member Cal Campbell
- CHANGES TO THE AGENDA:** Mayor/Chair Richard D. O'Brien

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: Proclamation – National Library Week, April 9 – 15, 2017.

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 requested by an individual Council/Authority Member or member of the public for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by motion of the City Council/LRA Board.

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

Item 3.B: Approval of the March 20, 2017, Special City Council Minutes.

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

4. UNFINISHED BUSINESS

Item 4.1: **Second Reading by Title Only and Adoption of Proposed Ordinance No. 2017-005 of the City Council of the City of Riverbank, California, Repealing Chapter 96: Trees of Title IX: General Regulations and Substituting it with a new Chapter 96: Trees, of the City of Riverbank Code of Ordinances** – It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2017-005 and consider its adoption by roll call vote.

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 03/29/2017.

Item 5.1: **The First Reading and Introduction by Title Only of a Proposed Ordinance Approving the Development Agreement No. 01-2015 – Hayes 4, Phase One Tentative Map – APN: 062-022-019 and 062-022-022 Residential Project** – It is recommended that the City Council approve the proposed ordinance to initiate a second reading by title only and consider its adoption on April 25, 2017, for the approval of the proposed project that consists of a Development Agreement that clarifies the original conditions of map approval specific to the Hayes 4, Phase One development, adds map life, and sets forth criteria for developing a paseo between Claus Road and Central Ave. The project consists of 9.36 gross acres and would result in 43 to 45 single-family detached residential lots consists of about 5,000 square feet (overall residential density between 4.59 and 4.801 du/acre), three (3) storm drainage/park basins to be known as a Central Paseo, and associated street, sewer, water, and storm drainage improvements. The Planning Commission recommends approval for a forty-five (45) residential lot layout and adopt the Initial Study, based on the analysis provided and based on the findings in the published Initial Study for the Project.

6. NEW BUSINESS

Item 6.1: **Legal Review and Consideration of Implementation Options for Proposition 64 – Adult Use of Marijuana Regulation** – It is recommended that the City Council consider the full legal review that will be provided by the City's Law Firm Churchwell White, LLP, and provide direction on key regulation decisions that must be made to begin the implementation process of Proposition 64. (The presentation materials will be available on the evening of the meeting.)

LRA Item 6.2: **A Resolution Authorizing a Contract Modification to the Existing Weston Solution, Inc. Contract for Reroofing Services at the Former Army Ammunition Plant** – It is recommended that the Local Redevelopment Authority Board of Directors review and approve a modification to the existing contract with Weston Solution, Inc. to include an amended scope of work and budget adjustment to accommodate Weston assuming tasks associated with the replacement of roofing at the former Riverbank Army Ammunition Plant, more commonly known as the Riverbank Industrial Complex.

7. COMMENTS/REPORTS

A brief report on notable attendance of a meeting or conference or other notable topics of business shall be made. The Brown Act does not allow for discussion or action by the City Council.

Item 7.1: Staff

Item 7.2: Council/Authority Member

Item 7.3: Mayor/Chair

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 LABOR NEGOTIATORS**
Pursuant to Government Code § 54957.6
Agency representative: Sean Scully, City Manager
Employee organizations: Riverbank Miscellaneous Employees
 Riverbank Mid-Management Bargaining Unit

9. REPORT FROM CLOSED SESSION

Item 9.1: Report on Closed Session on Item 8.1: **CONFERENCE WITH LABOR NEGOTIATORS**

ADJOURNMENT (The next regular City Council meeting –**Tuesday**, April 25 @ 6:p.m.)

AFFIDAVIT OF POSTING

I 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 6th day of April, 2017

/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 or cityclerk@riverbank.org. Notification (72) hours before the meeting will enable the City to make reasonable arrangements to ensure any special needs are met. [28 CFR 35.102-35.104 ADA Title II].

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

GENERAL INFORMATION

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

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.1

SECTION 1: PRESENTATIONS

Meeting Date:	April 11, 2017
Subject:	Proclamation – National Library Week, April 9 – 15, 2017
From:	Sean Scully, City Manager
Submitted by:	Cheryl Stefani, Administrative Assistant

RECOMMENDATION

It is recommended that the City Council read the Proclamation for National Library Week, April 9 – 15, 2017.

SUMMARY

Libraries, librarians, library workers, volunteers and supporters in Stanislaus County are celebrating National Library Week, April 9 – 15, 2017. Libraries continue to evolve in a time of increasing technology and cultural change. Libraries and library workers are trusted resources in their community and enhance lives by providing access to technology, information, and opportunities for community involvement. Libraries offer equal right to usage regardless of race, ethnicity, creed, ability, sexual orientation, or socio-economic status. Libraries supply diverse wants and interests, including cultural collections, multilingual internet trainings, bilingual story hours, materials in alternate formats such as large print or braille, and many more services and programs. Literacy is vital for personal growth, as well as success in school, in work, and in life. During this week, we honor and recognize the valuable contributions made by all library workers.

FINANCIAL IMPACT

There is no financial impact with the report.

ATTACHMENT

1. Proclamation



CITY OF RIVERBANK
PROCLAMATION
NATIONAL LIBRARY WEEK

WHEREAS, reading and literacy and the freedom to explore are cornerstones of a free and democratic society; and,

WHEREAS, libraries support democracy through their commitment to providing equitable access to information for all library users regardless of race, ethnicity, creed, ability, sexual orientation, or socio-economic status; and,

WHEREAS, literacy is key to achieving personal success in school, in business and in life; and,

WHEREAS, libraries and librarians open up a world of possibilities through innovative programming and through the power of information; and,

WHEREAS, librarians are trained, tech-savvy professionals, providing training in and access to technologies; and,

WHEREAS, libraries offer 24/7 access to library services through online resources such as eBooks, eMagazines, downloadable audiobooks, music, and movies, online language instruction, and research databases; and,

WHEREAS, libraries partner with parents and caregivers to empower children to enter Kindergarten with the knowledge and skills necessary for success in school and beyond; and,

WHEREAS, libraries continually grow and evolve in how they provide for the needs of every member of their communities; and,

WHEREAS, libraries, librarians, library workers, volunteers and supporters in Stanislaus County are celebrating National Library Week.

NOW, THEREFORE, LET IT BE RESOLVED that the City Council of the City of Riverbank does hereby unanimously proclaim April 9 - 15, 2017, Stanislaus County Library Week and urges everyone to visit their local library to take advantage of the wonderful resources available, provided through the voter-approved 1/8-cent sales tax dedicated to the support of libraries.

April 11, 2017

Richard D. O'Brien
Mayor

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	April 11, 2017
Subject:	Waiver of Readings
From:	Sean Scully, 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 AGENDA ITEM NO. 3.B

SECTION 3: CONSENT CALENDAR

Meeting Date:	April 11, 2017
Subject:	Approval of the March 20, 2017, Special City Council Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the March 20, 2017, Special City Council meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. March 20, 2017, Special City Council Minutes
2. Strategic Planning Session – Mission Statement, Vision Statement, Core Values, Three-Year Goals, and SWOT Analysis
3. Six-Month Strategic Objectives Grid



City of Riverbank
SPECIAL CITY COUNCIL MEETING
(STRATEGIC PLANNING WORKSHOP)
MINUTES OF
MONDAY, MARCH 20, 2017



CALL TO ORDER:

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

CALL TO ORDER: Mayor Richard D. O'Brien

ROLL CALL:

Present: Mayor Richard D. O'Brien
Vice Mayor Leanne Jones Cruz
Councilmember District 2 Cindy Fosi
Councilmember District 4 Darlene Barber-Martinez
Councilmember Cal Campbell

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

No one declared a conflict.

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

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

No one spoke.

2. BUSINESS

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

Mayor O'Brien began the City's Strategic Planning Update with an introduction of Marilyn Snider and Michelle Luna, with Snider and Associates. Mrs. Snider served as the facilitator of the strategic plan update process. Management Staff in attendance included Sean Scully, City Manager; Marisela Garcia Assistant City Manager/Director of Finance; Sue Fitzpatrick, Director of Parks & Recreation; Debbie Olson, Executive Director of the Local Redevelopment Authority; Kathleen Cleek, Development Services Administration Manager; Donna Kenney, Planning and Building Manager; Michael Riddell, Public Works Superintendent; John Anderson, Contract Planner of J.B. Anderson Land Use Planning; Tom Hallinan, City Attorney; Robin Baral, Deputy City Attorney; Alvaro Zamora, Human Resources Analyst; and Annabelle Aguilar, City Clerk.

An evaluation of the City's Strengths, Weaknesses, Opportunities, and Threats ensued. The Mission/Purpose Statement, Vision Statement, Core Values/Guiding Principles, and the Three-Year Goals (2016-2019) were reviewed. After discussion and consideration, the Three-Year Goals were revised to consolidate "Retain and Attract Business" and "Expand Economic Development", into "Expand Economic Development Opportunities for Businesses", and "Enhance Public Safety" was added.

The identification of the six-month strategic objectives for each of the Three-Year Goals ensued.

The meeting was recessed at 12:30 p.m.; the meeting reconvened at 1:00 p.m.

The identification of the six-month strategic objectives continued until completed.

ADJOURNMENT

There being no further business, Mayor O'Brien adjourned the meeting at 2:09 p.m.

ATTEST: (Adopted 04/11/2017)

APPROVED:

**Annabelle H. Aguilar, CMC
City Clerk**

**Richard D. O'Brien
Mayor**

Attachment: Strategic Planning – Mission, Vision, Values, and SWOT Analysis
Six Months Strategic Objectives Grid

C I T Y O F R I V E R B A N K
STRATEGIC PLANNING SESSION

March 20, 2017 * Riverbank Industrial Complex

Marilyn Snider, Facilitator – Snider and Associates (510) 531-2904
Michelle Snider Luna, Graphic Recorder – Snider Education & Communication (510) 610-8242

MISSION STATEMENT

The City of Riverbank is committed to providing exceptional municipal services in a fiscally sound and professionally responsible manner for our community.

VISION STATEMENT

The City of Riverbank will be recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment.

CORE VALUES

not in priority order

The City of Riverbank values . . .

Professionalism

Transparency

Teamwork

Respectful behavior

Fiscal responsibility

Integrity and Ethical behavior

THREE-YEAR GOALS

2016-2019 * not in priority order

Achieve and maintain financial stability and sustainability

Attract, develop and retain quality staff

Maintain and improve the City's infrastructure and service delivery systems

Expand economic development opportunities for businesses

Enhance public safety

S.W.O.T. ANALYSIS
Strengths – Weaknesses - Opportunities - Threats

WHAT ARE THE STRENGTHS AND ACCOMPLISHMENTS OF THE CITY OF RIVERBANK SINCE THE SEPTEMBER 2016 STRATEGIC PLANNING SESSION?

Brainstormed List of Perceptions

- Reorganized
- Reduced auto theft by 23%
- New lease at the Riverbank Industrial Complex (RIC)
- Completed integration of water meter system to financial system
- First District election
- Replaced Jill Anderson with a new City Manager
- Submitted the housing-related parks grant
- Acquired three grant-funded electric motorcycles
- Began siding and roof replacement at RIC
- Started environmental review for Crossroads West
- Certified Housing Element
- Ongoing water conservation—28% above our 2010 Water Management Plan
- Participated in the HVAC Energy Efficiency Program
- Implemented a social media training
- Implemented new time keeping system
- Received \$230,000 from the Department of Defense for LRA administration
- In the process of signal and pedestrian improvements at Roselle and Patterson
- Met with downtown businesses regarding a Business Improvement District (BID)
- Began ADA upgrades to all restrooms at RIC
- ADA improvements on Orange Avenue
- Obtained a second park host for Jacob Meyers Park
- Extended the parking fees for the upcoming summer at Jacob Meyers Park
- Distributed quality activity guide to the community
- State of the City was completed
- Began working on an online commercial database
- We have been promoting the Home Energy Renovation Program
- Opened dialogue between City of Riverbank and City of Modesto
- Approved the site plan for the Del Rio Theater
- Extended street sweeping contract for another three years
- We have several new businesses (e.g., American Tire, new barber shop)
- Improved online utility payment system
- Bought a new Explorer car that is used as a pool car
- Council approved a new MOU for the Groundwater Sustainability Act (GSA) which would be the first step in the Groundwater Sustainability System
- Initiated contact with CalTrans for safety along Highway 108 and ADA improvements near the Catholic Church
- Using conservation goals at the LRA
- Ongoing residential development on the Eastside with 72 low-income apartments almost constructed
- \$900,000 economic development grant
- Expanded sphere of influence to expand the City Limits
- Three new tenants at RIC

- Five new CMAQ (Congestion Mitigation Air Quality) grant totaling over \$1.4 million
- Complete Morrill Road overlay and ADA improvements
- Began the classification and compensation study
- Amended ordinance to prohibit smoking marijuana in public places
- Started to expand the City's website and social media components
- Fixed the broken wall on Oakdale Road and Prouty
- Hired new Accounting Manager
- Big savings in election costs this year
- Replaced the oars on the statue at Squire Well
- Approved the Emergency Operations Plan
- Worked to improve communications between the City and nonprofits
- Sold the Del Rio Theater
- Created a citywide calendar of nonprofit organizations

WHAT ARE THE CITY OF RIVERBANK'S CURRENT INTERNAL WEAKNESSES/ CHALLENGES?

Brainstormed List of Perceptions

- Lack of billeted or positioned employees
- Lack of teamwork
- Lack of organizational flexibility
- Lack of funding for infrastructure
- Low compensation
- Structural deficit
- Lack of cross training
- Slow speed of government
- Phone lines and Internet have severe problems
- Inability to recruit quality personnel
- Lack of dedicated website person
- Labor negotiations are tense
- No room for advancement
- Lack of matching funds for grant requests
- Short staff—heaving workloads
- Poor dispersion of City offices
- Overbearing staff regulations for water conservation
- Unable to implement the new phone system
- Challenge keeping legal costs in check
- Inability to maintain landscape
- Territorial duties and attitudes
- Lack of online payment and permitting options
- Lack of funding for zoning code update
- General ordinances are outdated
- Ordinances not being enforced
- Lack of staff to enforce ordinances
- Lack of funding and staff to complete stormwater requirements
- Horrible GIS system
- Time keeping system not working
- Lack of retention and training of new deputies

- Lack of accurate financial processing
- Financial flow of information not working
- Lack of staff
- Lack of ability to bring in industrial and large scale businesses
- Inability to garner public participation
- Lack of policy responding to State marijuana initiatives
- Systems not integrated
- Lack of funding to complete ADA issues in Transition Plan
- Website not updated
- Low staff morale
- Lack of incident training
- Customer service not as good as it should be
- Outdated personnel and administrative policy

WHAT ARE THE EXTERNAL FACTORS/TRENDS THAT WILL/MIGHT HAVE A POSITIVE IMPACT ON THE CITY OF RIVERBANK IN THE COMING YEAR?

Brainstormed List of Perceptions

- Business growth optimism in general
- Rain
- Board of Equalization increased excise tax on gasoline, which gives more money to the City
- Construction on homes and development has improved and increased
- Crossroads West will bring more business to the city
- Nonprofit organizations
- League of California Cities
- Fair Political Practice Commission disclosure system
- San Joaquin Valley Air Pollution Control District began online project review
- Opportunities Stanislaus reorganization
- COPS grant
- Grants to revitalize downtown
- Potential grant matching funds from Measure L
- Measure L passed—increased transportation funding
- Prop 64 passed—could bring more funding to the City
- Unfilled positions in the City
- Housing starts are up
- Purchase of the hotel
- Environmental regulators' support of Clean Up Plan at RIC
- County jail expansion
- Relationships with CalTrans
- Positive relations with Congressman Denham
- Positive relationships with the Army
- Development of Del Rio Theater improving the look of downtown
- Stanislaus County Continuum of Care
- Two projects in the Stanislaus Comprehensive Economic Strategy
- CDBG grants available
- CDBG grant for ADA improvements throughout the city
- Emergency public drinking water grants
- Retracting Federal environmental laws

WHAT ARE THE EXTERNAL FACTORS/TRENDS THAT WILL/MIGHT HAVE A NEGATIVE IMPACT ON THE CITY OF RIVERBANK IN THE COMING YEAR?

Brainstormed List of Perceptions

- Immigration
- North County calendar
- Presidential administration
- State water and environmental regulations
- Minimum wage
- Uncertainty in the health care system
- Passing of Prop 57 (redefines violent crimes, allows for early release from prison)
- Dalai Lama
- War
- Natural disaster
- Governor Brown's tunnels
- Possible increase in homeless population
- 68% attrition rate of deputy sheriffs hired in Stanislaus County
- AT&T lack of response
- Crime
- Public pessimism of government
- Ransom ware
- Russian hacking
- Cyber attack
- California Air Resources Board
- China
- North Korea
- Possible increase in social problems due to decisions by our new President
- No rain
- Increased online shopping
- Terrorism
- Federal budget proposals
- Increase in State unfunded mandates
- Lack of workforce development
- Stagnant State budget
- CalPERS
- Unfunded liabilities
- Completion of large State projects
- Prop 64—marijuana legalization
- General lack of interest in local government
- Train derailment
- State's water grab
- Feral cats
- Increased drain on local infrastructure
- Flooding resulting in mosquito problem
- Lack of grant money
- Lack of support from the County
- Unfilled positions in the City
- Urban migration
- Conversion of traditional retail to online

- Loosening of gun regulations to allow the mentally ill to own guns
- Care homes
- City of Modesto General Plan update
- Increased threats for electronic fraud
- Insect pestilence affecting crops

NEXT STEPS/FOLLOW-UP PROCESS

WHEN	WHO	WHAT
March 21, 2017	City Manager	Distribute the Strategic Plan Session record to attendees.
Within 48 hours	All recipients	Read the retreat record.
March 22, 2017	Management Team (City Manager – lead)	Review the “Current Internal Weaknesses/ Challenges” list for possible action items.
March 23, 2017	City Manager	Post the Plan, including “Strengths,” on the City’s website.
March 28, 2017	City Manager	Present the updated Strategic Plan to the public.
By March 31, 2017	Management Team	Share and discuss the Strategic Plan with staff face-to-face.
Monthly	City Council, City Manager and Management Team	Monitor progress on the goals and objectives and revise objectives (add, amend and /or delete), as needed.
Monthly	City Manager	Prepare and distribute the updated Strategic Plan Monitoring Matrix to the Mayor, City Council and Management Team.
October 12, 2017 8:30-3:00	City Council, City Manager and Management Team	Strategic Planning Session to: - more thoroughly assess progress on the Goals and Strategic Objectives. - develop Strategic Objectives for the first six months for each of the new goals.

STRATEGIC PLAN ELEMENTS

Marilyn Snider, Strategic Planning Facilitator * Snider and Associates (510) 531-2904

“SWOT” ANALYSIS

Assess the organization's:

- Internal **S**trengths - Internal **W**eaknesses
- External **O**pportunities - External **T**hreats

MISSION/PURPOSE STATEMENT

States WHY the organization exists and WHOM it serves

VISION STATEMENT

A vivid, descriptive image of the future—what the organization will BECOME

CORE VALUES

What the organization values, recognizes and rewards—strongly held beliefs that are freely chosen, publicly affirmed, and acted upon with consistency and repetition

THREE YEAR GOALS

WHAT the organization needs to accomplish (consistent with the Mission and moving the organization towards its Vision) – usually limited to 4 or 5 key areas

KEY PERFORMANCE MEASURES

What success will look like upon achievement of the goal

SIX MONTH STRATEGIC OBJECTIVES

HOW the Goals will be addressed: By when, who is accountable to do what for each of the Goals

FOLLOW-UP PROCESS

Regular, timely monitoring of progress on the goals and objectives; includes setting new objectives every six months

CITY OF RIVERBANK * SIX-MONTH STRATEGIC OBJECTIVES
March 20, 2017 – September 15, 2017

THREE-YEAR GOAL: ACHIEVE AND MAINTAIN FINANCIAL STABILITY AND SUSTAINABILITY						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. At the April 25, 2017 closed session City Council meeting	City Manager, working with the HR Analyst	Present the results of the Classification and Compensation Study to the City Council for direction.				
2. By May 1, 2017	Assistant City Manager/Finance Director	Explore the feasibility of implementing online business licenses and renewals and make a recommendation to the City Manager.				
3. By May 1, 2017	City Manager, working with the Assistant City Manager/Finance Director and City Attorney	Evaluate alternative revenue sources and present their findings to the City Council.				
4. By May 15, 2017	Assistant City Manager/Finance Director	Explore options to transition to monthly billing or monthly payment of billings for water, sewer and garbage and recommend to the City Council for action.				
5. At the June 13, 2017 closed session City Council meeting	City Manager	Present to the City Council the proposed labor contracts with the City's two bargaining units for direction.				

THREE-YEAR GOAL: <i>ATTRACT, DEVELOP AND RETAIN QUALITY STAFF</i>						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By August 1, 2017	HR Analyst, working with the UC Merced Customer Service Academy	Arrange for and begin implementation of customer service training for all staff.				
2. By August 1, 2017	HR Analyst (lead), City Manager and Assistant City Manager/Finance Director	Present to the City Council for action an updated, agency-wide travel policy.				
3. By September 1, 2017	City Manager and HR Analyst	Complete a survey of all departments with their priority staffing needs identified.				
4. By September 1, 2017	City Manager and HR Analyst	Develop and begin implementation of methods for rewarding and acknowledging staff accomplishments and present the results to the City Council.				
5. By September 1, 2017	City Manager and Assistant City Manager/Finance Director, working with each Department Head	Develop additional cross-training for staff.				

THREE-YEAR GOAL: <i>MAINTAIN AND IMPROVE THE CITY'S INFRASTRUCTURE AND SERVICE DELIVERY SYSTEMS</i>						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By June 1, 2017	Parks and Recreation Director and the Development Services Administration Manager	Present to the City Council a list of major capital improvements and maintenance needs/costs to prioritize for CIP and possible General Fund expenditure.				
2. By June 1, 2017	City Manager, working with AT&T	Implement a new phone system.				
3. At the June 13, 2017 City Council meeting	City Manager	Present to the City Council for action internship and/or communication grants available to assist with social media outreach.				
4. By August 1, 2017	City Manager and Assistant City Manager/Finance Director	Assess the feasibility of hiring a part-time staff to administer GIS and a staff member to assist with the Stormwater Program and the Fats, Oil and Grease Program and make a recommendation to the City Council for action.				
5. By September 1, 2017	Public Works Supt and Assistant City Manager/Finance Director	Oversee completion of the water meter installation.				
6. By September 15, 2017	Development Services Administration Manager	Identify funding source for the Stormwater Master Plan and present the findings to the City Manager and Assistant City Manager/Finance Director.				
7. By September 15, 2017	Assistant City Manager/Finance Director	Develop a process to check accounts daily.				
FUTURE: By _____	Building and Planning Manager and the Public Works Superintendent	Conduct a Water and Sewer Capacity Study for new and proposed development and share the results with the City Council.				

THREE-YEAR GOAL: EXPAND ECONOMIC DEVELOPMENT OPPORTUNITIES FOR BUSINESSES						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. At the April 25, 2017 City Council meeting	Planning and Building Manager, working with the Planning Consultant	Propose to the City Council for consideration a phasing strategy to fund the East Riverbank Master Plan.				
2. By June 15, 2017	Mayor O'Brien	Meet with at least 10 local businesses to identify the positives and negatives for the business community and provide concrete feedback to the City Council.				
3. By July 1, 2017	Planning and Building Manager, working with the City Manager	Implement the online database of commercial properties.				
4. By July 1, 2017	Planning and Building Manager and the Planning Consultant	Identify which permits can be available online and present the results to the City Manager.				
5. By September 1, 2017	LRA Executive Director and Planning Consultant, with input from the Mayor	If needed, create, distribute, analyze and share the results of a LRA Tenant Survey with the Mayor and City Council.				
6. By September 15, 2017	Planning and Building Manager (lead) and City Manager, working with the Planning Consultant	Present to the City Council for direction an expedited permitting process to facilitate commercial and retail development.				
7. At the LAFCO September 27, 2017 meeting	Planning Consultant	Present to the LAFCO Commission for approval an Annexation Plan for Crossroads West.				

FUTURE: By _____	Planning and Building Manager, with the Planning Consultant and Development Services Administration Manager	Provide the City Council with an update on the removal of obstacles to commercial development at Patterson and Estelle.				
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THREE-YEAR GOAL: <i>ENHANCE PUBLIC SAFETY</i>						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. At the April 11, 2017 City Council meeting	City Attorney	Recommend to the City Council for consideration marijuana option(s) for Riverbank.				
2. At the June 13, 2017 City Council meeting	City Manager	Present to the City Council for consideration the need for Code Enforcement Personnel to conduct marijuana oversight.				
3. By August 1, 2017	Chief of Police	Conduct a Junior Police Academy for 6 th , 7 th and 8 th graders.				
4. By September 1, 2017	Chief of Police	Conduct a critical incident training for all City Staff.				
5. By September 1, 2017	Mayor O'Brien and Chief of Police	Request that local legislators consider improved controls, boundaries and procedures for care home operators' interaction with law enforcement and report the results to the City Manager and City Council.				
6. By September 1, 2017	Chief of Police	Present to the City Council information regarding any available COPS grants.				

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 4.1

SECTION 4: UNFINISHED BUSINESS

Meeting Date: April 11, 2017

Subject: Second Reading by Title Only and Adoption of Proposed **Ordinance No. 2017-005** of the City Council of the City of Riverbank, California, Repealing Chapter 96: Trees of Title IX: General Regulations and Substituting it with a new Chapter 96: Trees, of the City of Riverbank Code of Ordinances

From: Sean Scully, City Manager

Submitted by: John B. Anderson, Consulting Planner

RECOMMENDATION

It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2017-005 and consider its adoption by roll call vote.

INTRODUCTION

A Public Hearing was conducted at the regular City Council meeting on March 28, 2017, to receive public opinions or evidence for or against the proposed Ordinance after its first reading and introduction by title only. The City Council approved the first reading and introduction of the proposed ordinance (now titled Ordinance No. 2017-005) which moved said Ordinance to the April 11, 2017, regular City Council meeting for its second reading by title only and consideration for adoption. The City Council expressed concerns related to the ability of the General Public to understand the requirements being imposed, as well as, the ability of the public to secure a Street Tree Permit electronically. Council also expressed the concern regarding the vagueness of the fine structure. The proposed Ordinance has been corrected to reflect concerns expressed during the Council deliberations on this matter.

SUMMARY

The proposed Ordinance completely replaces Chapter 96: Trees with a new Chapter 96: Trees that provides additional clarification on regulations related to planting and removing trees, hazards, permits, private tree maintenance, abusing trees and mutilating trees. This Ordinance is City-wide.

BACKGROUND

The existing Chapter 96: Trees was adopted in 1967 and has been amended a number of times, with the most recent amendment in 1985. The existing street tree ordinance regulates the planting and removal of trees within the City, both existing and in new subdivisions/projects.

ANALYSIS

The purpose of the proposed Ordinance is to regulate “Street Trees” within the City. Street Trees means all trees planted or growing within public rights-of-way, public easements, streets, parking strips, roads and ways within the City. The locations herein referred to shall be known as “street tree areas.”

In summary, the proposed Ordinance provides the following regulations as it relates to street trees:

- Requires a permit to be obtained from the Public Works Department to remove, damage, prune, or encroached upon any street tree.
- Authorizes the City Manager to issue to any person doing business as a public utility a permit which shall authorize the cutting or removal of trees necessary for the safety and property maintenance of said utilities service.
- Prohibits the abuse, destruction or mutilation of any street tree.
- Requires a permit to be obtained from the Public Works Department when the erection, repair, alteration or removal of any building, house or structure necessitates the trimming, pruning, or removal of any street tree.
- No person shall allow or maintain any tree on private property in such a way that creates a hazard to pedestrian or vehicular traffic by obstructing vision or impairing necessary clearance, or other public property.
- Requires new subdivision projects to submit a street tree plan for review.
- Provides procedures for amending the variety of approved trees.

On September 27, 2016, the City Council adopted a Resolution to accept the updated Riverbank Street Tree Plan List. This updated list includes detailed information such as Botanical Name, Common Name, Water Use, Type, Height, and Width, possible conflict with power lines, USDA Zone, and Use. This list is used in conjunction with Chapter 96: Trees in the event a new street tree is planted and within new subdivisions.

To implement Chapter 96: Street Trees, City Staff will upload permit requirements to the City’s website for ease of use. There are two Tree permit types which will be addressed by staff during this action which will include:

1. Major or Minor Tree Conservation Permit; and
2. Street Tree Permit.

Both permits will be fillable PDFs that can be submitted electronically or in persons to City Hall for processing. The Major or Minor Tree Conservation Permit is used to preserve heritage trees and native Oaks. The Street Tree Permit is used for all other activities associated with designated City Street Trees, such as street tree modification/trimming, removal, planting, etc.

ENIRONMENTAL DETERMINATION

Staff has determined that the proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) Section 15061 (3), under the General Rule that CEQA only applies to projects which have potential for causing a significant effect on the environment.

STRATEGIC PLAN

The City's Strategic Planning Session is a plan and set of goals that the City will work towards for the next three years. The proposed project is not specifically called out as part of these goals.

FINANCIAL IMPACT

No additional expenditures are anticipated.

ATTACHMENT

1. Proposed Ordinance 2017-005
2. Adopted Riverbank Street Tree Plant List

**CITY OF RIVERBANK
IN THE CITY COUNCIL
ORDINANCE 2017-005**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AMENDING THE RIVERBANK MUNICIPAL CODE BY REPEALING IN
ITS ENTIRETY CHAPTER 96: TREES AND SUBSTITUTING IT WITH A NEW
CHAPTER 96: TREES**

WHEREAS, the City of Riverbank has an adopted Street Tree List to permit specific trees within the City; and

WHEREAS, the proposed Ordinance amendment repeals and substitutes the existing Chapter 96: Trees to clarify requirements and add regulations related to the planting and removing of trees within the City; and

WHEREAS, the City Council reviewed and considered, pursuant to the California Environmental Quality Act (CEQA), the proposed ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15061, under the General Rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment.

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

SECTION 1: Chapter 96: Trees of Title IX: General Regulations of Riverbank's Municipal Code shall be repealed in its entirety and substituted with a new Chapter 96: Trees as follows:

Chapter 96: TREES

Sections:

- 96.01 Title.**
- 96.02 Definitions.**
- 96.03 Street tree plan.**
- 96.04 Plan administration.**
- 96.05 Authority of City Manager.**
- 96.06 Planting generally.**
- 96.07 Permits required.**
- 96.08 Abusing or mutilating trees prohibited.**
- 96.09 Open ground maintenance.**
- 96.10 Interference prohibited.**
- 96.11 Building construction necessitating altering or removing tree; permit and deposit required.**

- 96.12 Private tree maintenance; failure a nuisance; notice.**
- 96.13 Planting in new subdivisions; plan and deposit submission.**
- 96.14 Emergency situations; public utilities may trim without permit.**
- 96.15 Changing the variety of approved trees; procedure.**
- 96.16 Liability of property owner.**
- 96.17 Responsibility of property owner or occupant.**
- 96.18 Appeal from decision.**
- 96.19 Penalty for violations; civil action.**

96.01 Title.

This chapter shall be known and may be cited as the “Street Tree Ordinance of the City of Riverbank.”

96.02 Definitions.

For the purposes of this chapter the following terms, phrases, and words shall have the meaning given herein:

A. “Approved trees” means trees planted and growing in accordance with the street tree plan, both as to variety and location. All other street trees shall be known as “nonconforming trees.”

D. “Street trees” means all trees planted or growing within public rights-of-way, public easements, streets, parking strips, roads and ways within the City. The locations herein referred to shall be known as “street tree areas.”

96.03 Street tree plan.

The Development Services Department may prepare a street tree plan specifying a list of approved street trees, a uniform method of street tree planning, and designating certain streets or blocks of certain specimens of trees, plants or shrubs. The street tree plan shall subsequently be reviewed by the Planning Commission.

The plan shall be submitted to the Planning Commission and after adoption of the plan, as submitted or modified, in accordance with law it shall become the street tree plan of the city.

96.04 Plan administration.

The City Manager shall have the authority and powers to administer the **street tree** program in accordance with the provisions of this Chapter.

96.05 Authority of City Manager.

The City Manager shall have the authority to order any work to prune, trim, clip, spray, maintain and care for street trees, or private trees to the extent that they overhang or project within public rights-of-way, or public roads of the city, as needed, to remove or require the removal by the owner of the adjoining property of diseased or dead trees, and encourage planting of approved trees throughout the city. The City Manager shall also have the authority to deviate from the designated tree for each block if circumstances warrant. Street tree pruning and tree removals shall be done in accordance with the street tree policy approved by the Planning Commission.

96.06 Planting generally.

A. Upon the adoption of a street tree plan, all street trees shall hereafter be planted in accordance therewith and the provisions of this chapter. At the property owner's request and cost, the City will remove and replace existing, non-conforming street trees with an approved tree.

B. Each interior residential lot shall have at least one approved street tree. Each corner residential lot shall have at least two approved street trees. The City Manager may, in his or her discretion, approve a greater or lesser number of trees per lot, upon a review of the circumstances.

96.07 Permits required.

A. It is unlawful for any person to remove, damage, prune, or encroach upon, or cause to be removed, damaged, pruned, or encroached upon any street tree without first having obtained a permit from the Public Works Department. Said permit shall be issued only for work to be done in compliance with the street tree plan and this chapter. The City Council may establish and set from time to time a fee for such permits. All work done pursuant to a permit shall be completed under the supervision of the Public Works Department. Whenever any street tree, whether approved or nonconforming, is removed or needs replacing, it must be replaced with a tree approved for that specific street tree area in accordance with the street tree plan and the provisions of this Chapter.

B. Notwithstanding the foregoing, the City Manager shall issue to any person doing business as a public utility, subject to the jurisdiction of the California Public Utilities Commission and holding a valid franchise, a permit which shall authorize the cutting or removal of trees necessary for the safety and proper maintenance of said utilities

service pursuant to the orders, rules and regulations of said California Public Utilities Commission. Such a permit, unless renewed, shall expire at the end of one year after the date of issuance, or it may be revoked for good cause. Even with a valid permit, utilities are prohibited from topping street trees. Directional pruning or other ISA-approved methods are allowed. The City's pruning guidelines are contained in the City's street tree pruning policy.

96.08 Abusing or mutilating trees prohibited.

No person shall abuse, destroy or mutilate any street tree. Topping, severe pruning, or other inappropriate pruning techniques shall be considered mutilation. Directional pruning or other ISA-approved methods of pruning are allowed and do not constitute mutilation. Any such harm to street trees constitutes an immediate hazard to the public health, safety and welfare of the community and a public nuisance. Upon notice by the City, any person who violates the provisions of this section to the extent that the street tree must be removed or replaced, shall remove and replace the tree to the specifications of the street tree plan and the provisions of this Chapter at their own expense. At the owner's request and cost, the City may provide a tree to the property owner who shall be responsible for all planting and associated work.

96.09 Open ground maintenance.

No person shall place or maintain any stone, cement, or other substance as to impede the free access of water or air to the roots of any street tree; not less than twelve square feet of open ground shall be left and maintained around every street tree.

96.10 Interference prohibited.

No person shall in any way interfere with the City Manager, other city employees, or their contractors while they are lawfully engaged in planting, mulching, pruning, trimming, spraying, treating or removing any street tree, or in removing any stone, cement or other substance from the trunk of any street tree or the surrounding open ground area.

96.11 Building construction necessitating altering or removing tree; permit and deposit required.

A written permit issued by the Public Works Department shall be obtained when the erection, repair, alteration or removal of any building, house or structure necessitates the trimming, pruning, or removal of any street tree. The City Council shall set from time to time by resolution a permit fee for such permits. As a condition to a permit granted pursuant to this section, the applicant shall deposit a security with the City, in an amount

to be determined by the City Manager, sufficient to defray the cost of replacing the removed tree with an approved tree in conformance with the street tree plan.

96.12 Private tree maintenance; failure a nuisance; notice.

No person shall allow or maintain any tree on private property in such a way that creates a hazard to pedestrian or vehicular traffic by obstructing vision or impairing necessary clearance, or in any manner endangering the security or usefulness of any public street, sewer, sidewalk, or other public property. Any such private tree allowed or maintained contrary to the provisions of this section is a public nuisance; upon a determination by the City Manager that such private tree constitutes a nuisance, he shall give written notice to the owner of the property upon which said nuisance exists to trim, remove, or otherwise control such tree in such a manner as will abate such nuisance. Failure to comply with such written notice within ten days thereafter is a violation of this section. Such written notice may be given by a personal service of a copy thereof, or by placing a copy of the notice in the United States mail, postage prepaid, addressed to the owner of the property as shown by the last assessment roll of the city.

96.13 Planting in new subdivisions; plan and deposit submission.

A. With or before the filing of any final map of any new subdivision, the subdivider shall either file with the Development Services Department a proposed plan of street tree planting showing the location and variety of trees proposed to be planted in the subdivision, or shall request the Planning Commission to designate the type and location of street trees for such subdivision before approval of the final subdivision map.

B. Subdividers are required to deposit a security, to be determined by the City Manager, sufficient to cover the cost of the number and variety of trees needed as determined by the Development Services Department for planting street trees within their subdivisions. Prior to the approval of the final subdivision map by the City Council, the deposit shall have been either paid or guaranteed by the subdividers bond.

96.14 Emergency situations; public utilities may trim without permit.

Public utilities providing gas, water, electric, telephone or telegraph service to residents of the city may, in those emergency cases where street trees are interrupting the service, trim or remove branches of the trees to the extent necessary to restore services without securing a permit. However, once the emergency situation has been corrected, the public utility must finish the trimming through the use of directional pruning, v-

pruning or other approved methods to leave the tree with a correct structure and a balanced shape.

96.15 Changing the variety of approved trees; procedure.

A. In the event that any approved trees become subject to pests or otherwise unsuitable as street trees, the owners of not less than fifty percent of the front footage on any block and not less than fifty percent of the frontage of the block facing the same on the opposite side of the street may apply to the Planning Commission for change in the variety of approved trees on such block. "Block" means the block fronting on any street between cross streets. The Planning Commission shall schedule and conduct a hearing upon receipt of such notice. At least ten days prior to the hearing, the City Clerk shall provide written notice of the hearing to the owners of lands on the block to be affected by such proposed change by mail to the addresses shown on the current assessment roll and may publish a notice of the hearing at least once in a newspaper published in the city. At the hearing the Planning Commission shall hear the evidence presented and shall take into consideration the effect of the change on the general tree planting program of the city. The Planning Commission shall issue a written decision, which the City Clerk shall be mail to all affected property owners as defined herein.

B. Any person dissatisfied with the decision of the Planning Commission may appeal the same to the City Council within ten days after notice of such decision. The City Council shall consider such appeal at its next regular meeting or at such time as it may be continued, and its decision shall be final.

96.15 Liability of property owner.

Nothing contained in this chapter shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley or public place within the city.

96.16 Responsibility of property owner or occupant.

The property owner or occupant, as the case may be, shall be responsible for maintaining and otherwise watering street trees located in rights-of-way or easements abutting the property.

96.18 Appeal from decision.

Notwithstanding any other provisions of this Chapter, appeals from any direction or order given or made under the provisions of this Chapter may follow the procedures set forth in this code for a hearing by a Hearing Officer or the Appeals Board.

96.19 Penalty for violations.

Any person violating any of the provisions of this chapter is guilty of an infraction punishable by a warning on the first offense, a fine of one hundred dollars (\$100) on the second offense, and a fine of two hundred and fifty dollars (\$250) on the third offense and a fine of five hundred dollars (\$500) on the fourth and subsequent offenses thereafter.

The city may enforce any of the provisions of this chapter through nuisance abatement or any other administrative remedies available under this code.

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 or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again 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 held on March 28, 2017. Said ordinance was given a second reading at a regular meeting of said Council on April 11, 2017, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard O'Brien
Mayor



Riverbank Street Tree List

Botanical Name	Common Name	Water Use	Type	Height (Ft.)	Width (Ft.)	Power Lines	USDA Zone	Use
Acer platanoides	Norway Maple	Moderate	D	40-50	30-50	N	3-7	S
Acer rubrum	Red Maple	Moderate	D	40-70	30-50	N	3-9	S
Afrocarpus gracilior (Podocarpus gracilior)	African Fern Pine	Moderate	E	40-60	20-43	N	9-11	S
Arbutus "Marina"	Marina Arbutus	Low	E	40-50	25-40	N	8-9	A
Carpinus betulus 'Fastigiata'	European Hornbeam	Moderate	D	30-40	20-30	N	4-8	S
Celtis occidentalis	Common Hackberry	Low	D	40-60	40-60	N	2-9	S
Cercis canadensis	Eastern Redbud	Moderate	D	20-30	25-35	Y	4-8	S
Chilopsis linearis	Desert Willow	Very Low	D	12-20	10-15	Y	6-9	A
Chionanthus retusus	Chinese Fringe Tree	Moderate	D	10-20	10-20	Y	5-9	A
Crataegus spp. (Native and non-native species)	Hawthorn	Moderate	D	20-35	20-35	Y	3-8	S
Fraxinus americana	White Ash	Moderate	D	60-80	60-80	N	3-9	S
Fraxinus uhdei	Evergreen Ash	Moderate	E	60-80	40-60	N	9-11	S
Ginkgo biloba (MALE only)	Maiden Hair Tree	Moderate	D	35-50	35-50	N	4-9	S
Koelreuteria paniculata	Golden Rain Tree	Moderate	D	30-40	30-40	N	5-9	S
Lagerstroemia spp., hybrids and cvs.	Crape Myrtle	Low	D	10-30	10-30	Y	6-9	A
Laurus "Saratoga"	Saratoga Laurel	Low	E	20-30	15-25	Y	5-9	S
Laurus nobilis	Sweet Bay	Low	E	10-25	10-20	Y	8-11	A
Liriodendron tulipifera	Tulip Tree	Moderate	D	60-90	30-50	N	4-9	S
Magnolia grandiflora	Southern Magnolia	Moderate	E	60-80	30-50	N	7-9	S
Magnolia x soulangeana	Saucer Magnolia	Moderate	D	20-25	20-25	Y	4-9	A
Melaleuca linariifolia	Flax Leaf Paper Bark	Low	E	20-30	10-20	Y	9-11	A
Parkinsonia 'Desert Museum'	Desert Museum Palo Verde	Very Low	D	15-25	15-25	Y	6-9	A
Parkinsonia florida (Cercidium florida)	Blue Palo Verde	Very Low	D	25-35	20-30	N	9-11	A
Pistacia chinensis	Chinese Pistache	Low	D	30-35	20-30	N	6-9	S
Podocarpus macrophyllus	Yew Pine	Moderate	E	15-20	6-10	Y	7-11	A
Prunus caroliniana	Carolina Laurel Cherry	Low	E	15-20	15-20	Y	7-10	A
Prunus cerasifera 'Krauter Vesuvius'	Cherry Plum	Low	D	15-20	15-20	Y	5-8	A
Quercus agrifolia	Coast Live Oak	Very Low	E	20-60	20-60	N	7-10	S
Quercus coccinea	Scarlet Oak	Moderate	D	50-70	40-50	N	4-9	S
Quercus douglasii	Blue Oak	Very Low	D	20-30	15-25	N	6-9	S
Quercus ilex	Holly Oak	Low	E	30-60	30-60	N	7-9	S
Quercus lobata	Valley Oak	Low	D	30-75	30-50	N	5-10	S
Quercus palustris	Pin Oak	Moderate	D	50-70	40-60	N	4-8	S
Quercus robur	English Oak	Moderate	D	40-70	40-70	N	5-8	S
Quercus rubra	Red Oak	Moderate	D	50-75	50-75	N	4-8	S
Quercus suber	Cork Oak	Low	E	40-70	40-70	N	8-10	S
Quercus virginiana	Southern Live Oak	Moderate	E	40-80	60-100	N	8-10	S
Raphiolepis "Majestic Beauty"	Majestic Beauty	Low	E	15-25	8-10	Y	7-11	A
Styphnolobium japonicum (Sophora japonica)	Japanese Pagoda Tree	Low	D	50-75	50-75	N	4-8	A
Thuja plicata	Western Red Cedar	Moderate	E	50-70	15-25	N	5-7	A
Ulmus parvifolia	Chinese Evergreen Elm	Moderate	D	40-50	25-40	N	4-9	S
Zelkova serrata	Saw Leaf Zelkova	Moderate	D	50-80	50-80	N	5-8	S

Small Trees 15' - 25' Height - Minimum Recommended Planter Width 4'

Medium Trees 25' - 35' Height - Minimum Recommended Planter Width 6'

Medium to Large Trees 36' - 50' Height - Minimum Recommended Planter Width 8'

Very Large Trees > 50' - Minimum Recommended Planter Width 10'

Type:

D = Deciduous

E = Evergreen

Use:

A = Accent Tree

S - Street Tree

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date: April 11, 2017

Subject: The First Reading and Introduction by Title Only of a Proposed **Ordinance** Approving the Development Agreement No. 01-2015 – Hayes 4, Phase One Tentative Map – APN: 062-022-019 and 062-022-022 Residential Project

From: Sean Scully, City Manager

Submitted by: John B. Anderson, Contract Planner

RECOMMENDATION

It is recommended that the City Council approve the proposed ordinance to initiate a second reading by title only and consider its adoption on April 25, 2017, for the approval of the proposed project that consists of a Development Agreement that clarifies the original conditions of map approval specific to the Hayes 4, Phase One development, adds map life, and sets forth criteria for developing a paseo between Claus Road and Central Ave. The project consists of 9.36 gross acres and would result in 43 to 45 single-family detached residential lots consists of about 5,000 square feet (overall residential density between 4.59 and 4.801 du/acre), three (3) storm drainage/park basins to be known as a Central Paseo, and associated street, sewer, water, and storm drainage improvements. The Planning Commission recommends approval for a forty-five (45) residential lot layout and adopt the Initial Study, based on the analysis provided and based on the findings in the published Initial Study for the Project.

SUMMARY

The Hayes 4, Phase One development (the “Project”) consists of a Development Agreement to (1) clarify original conditions of a Tentative Subdivision Map approval specific to Hayes 4, Phase One, (2) extend the map life and (3) set forth criteria for the ultimate development of a Paseo between Claus and Central Avenues. The City approved both projects, Hayes 4, Phase One and Hayes 4, Phase Two, under a common set of conditions. The Conditions of Approval applied to both Phases, because in 2007, a common interest controlled both properties. In the interim, ownership interests have changed, and each Phase is now owned by separate entities. The property owners for each Phase wish to develop their respective properties independently. The original Conditions of Approval stipulated for improvements that

benefited the entire area collectively. As a result of the altered ownership interests, compliance with the original Conditions of Approval for the Tentative Subdivision Maps would have been nearly impossible without clarification.

BACKGROUND

The Project is located on the Western edge of Riverbank and is bounded by Claus Road to the west and Central Ave to the east, with ranchette/single-family parcels to the north, south and east. An irrigated pasture with no infrastructure improvement of value currently exists on the Project site. The Project site is surrounded by lands transitioning to more urban uses, but consists primarily of ranchette parcels. Riverbank High School is located to the north of the site.

Stanislaus County LAFCO approved the City's annexation of the Project site in 2005. As part of the annexation process, the City prepared a Negative Declaration, which suggested that "the project will incrementally increase the need for additional police officers." The collection of property tax and other revenue generated by development of the property will partially mitigate the cost of additional police officers. The annexation staff report concluded that the Project would generate the need for an additional 0.28 police officers. In addition, the Bruinville Public Facilities Master Plan calls for the formation of a Public Safety Community Facilities District. The subject property agreed to participate in the recently formed Public Services Community Facilities District CFD 2016-1, and has successfully annexed to the District.

Pursuant to Resolution No. 2006-115, the Project must be included in the Bruinville Public Facilities Master Plan as a planning tool. The Bruinville Public Facilities Master Plan remains a valid document, and the City is moving forward with property development within the boundaries of the Bruinville Master Plan Area.

The Project is the first of two phases approved by Tentative Subdivision Map 07-004. The original intent of the Project was the development of 91 single family home sites in two phases. Tentative Subdivision Map 2007-004 remains a valid map due to California Statutes that extended the Map's life. The City first approved the Hayes Tentative Subdivision Map by adopting Resolution No. 2005-046. The City later modified the approval upon adoption of Resolution No. 2005-105 and again by minute action taken on September 24, 2007. Resolution No. 2005-105 referenced 47 lots and not the 42 lots suggested in the original presentations of the Project proponent. For this reason, planning staff believes the City should be flexible regarding the total lots proposed under the Development Agreement. This Development Agreement will memorialize all prior entitlements for the Project granted by the City Council.

ANALYSIS

A. Site Design

The design of the Project as proposed is a standard small lot detached residential subdivision. The applicant processed a Planned Development Zoning to accommodate 5,000 square foot lots because the proposed lot sizes dropped below the RMC R-1

standard of 6,000 square feet. Project proponents plotted the subdivision to include the development of a “Central Paseo” or green belt area running east to west through the Project site. A Central Paseo would serve as both park open space and municipal storm water collection, treatment, and percolation.

The basic design of the subdivision has remained unchanged, with two exceptions. First, the Project’s streets accommodate the City’s new street designs in consideration of Low Impact Development Standards (LID) and to encourage complete use of the streets by vehicles and pedestrians.

B. Architecture / Residential Design Guidelines

The Projects’ residential construction must conform to the Community and Character Design elements of the General Plan. Specifically, General Plan Policies Designs 3, 4, and 5 apply to this project. The design of each home will be subject to site plan review and may include Planning Commission review of the proposed architecture.

C. Transportation and Circulation

The original design of the subdivision provided two access points to properties south of the Project site. It also included a street connection to Hayes 4 Phase Two located to the north of the subject site at the south western intersection of Central and California Avenues. The connection points promote connectivity between adjacent neighborhoods and create an ease of access to community amenities like the “Central Paseo” and the pocket park proposed in the Hayes 4 Phase Two project. Proposed lot number 43 was originally planned as a primary access point to a proposed gated project promoted by Lynn Tremain (TM 02-2006) south of the subject site. However, Tentative Subdivision Map 02-2006 has expired on October 24, 2016.

The original design planned a second access point to the south as a through street connecting Hayes 4 Phase Two to Kentucky Avenue through the Project site. The project engineer has suggested the elimination of this access point in favor of the creation of lots 44 and 45. The project engineer prepared an exhibit demonstrating how the property at the north western corner of Central and Kentucky Avenues might be developed with elimination of this access point. The Tentative Subdivision Map, presented with this application, shows a possible subdivision layout that relies on double frontage lots along Kentucky. The intended future uses of the property south of proposed lots 44 and 45 are currently unknown. General Plan Goal DESIGN 1, states “Street and circulation patterns that encourage walking, bicycling, transit use and reduced traffic congestion” will be encouraged. The following General Plan Policies apply specifically to this case:

General Plan Policy DESIGN – 1.1 states, “Approved projects, plans and subdivision requests in new growth areas shall arrange streets in an interconnected block pattern, so that local pedestrian, bicycle, and automobile traffic do not have to use arterial streets to circulate within neighborhoods”.

General Plan Policy DESIGN - 1.3 states, “the City will ensure frequent street and trail connections between new residential developments and established neighborhoods”.

D. Low Impact Development (LID) Standards

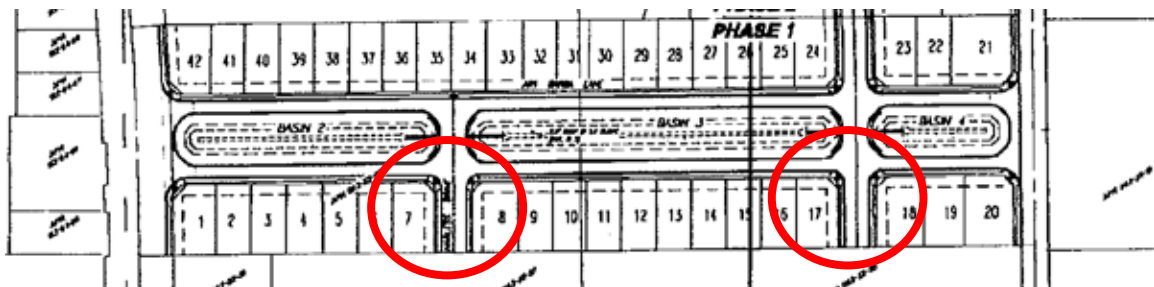
The City has developed LID guidelines in anticipation of new storm water discharge standards through the SM4 permit process. The proposed Project embraces and promotes the City’s LID guidelines. Proposed street sections create a storm water swale between the curb and sidewalk (as a parkway strip). The swale serves as a primary filtration device for storm water generated by the Project. All Project storm water is then collected and disposed of on-site through the use of terminal storm water retention basins. The Project is designed to retain the storm water collected within the boundaries of the map, however, planning staff remains concerned that the LID systems may fail in the future. In this regard, planning staff will require participation in the funding of the Nolte Storm Water Solution by Bruinville Developers, per the adopted Master Plan. The fees are articulated in the City’s Nexus Fee Study and imposed on all new development in the City of Riverbank.

PLANNING COMMISSION

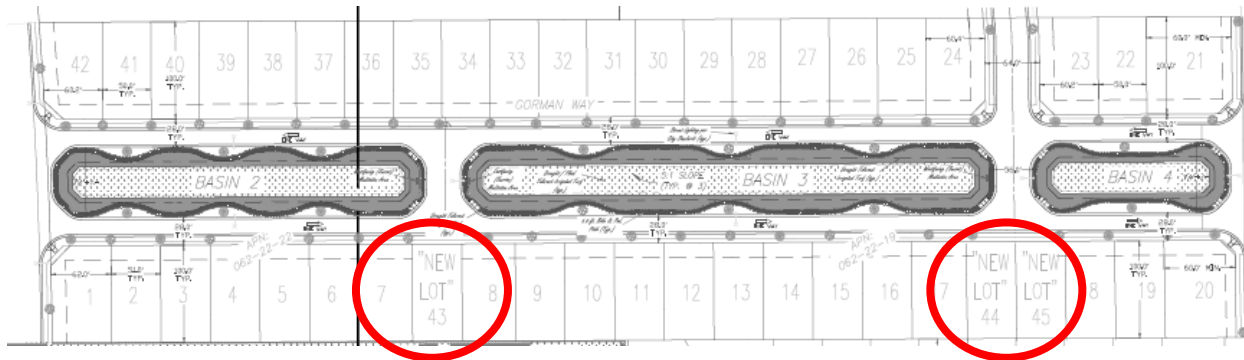
On March 21, 2017, the Planning Commission held a duly noticed public hearing to consider the proposed Project. Five (5) Planning Commissioners were present at this meeting, including Chairman McKinney, Vice-Chair King, Commissioner Stewart, Commissioner Tabacco, and Commissioner Villapudua.

During their deliberation, the Planning Commission raised some concerns regarding the connectivity between the proposed project and the properties to the south. Specifically, Commissioner Tabacco raised concern that the proposed lot configuration at forty-five (45) lots would remove two (2) important connection points from the Hayes 4 Phase 1 project to two (2) properties to the south (east and west connection). As shown in the exhibits below, the Hayes 4 Phase 1 Project proposes to create three (3) additional lots for a total of forty-five (45), opposed to the original forty-two (42) lots in the Tentative Subdivision Map approved in 2007.

Original Access (42 lots) – TSM 07-004:

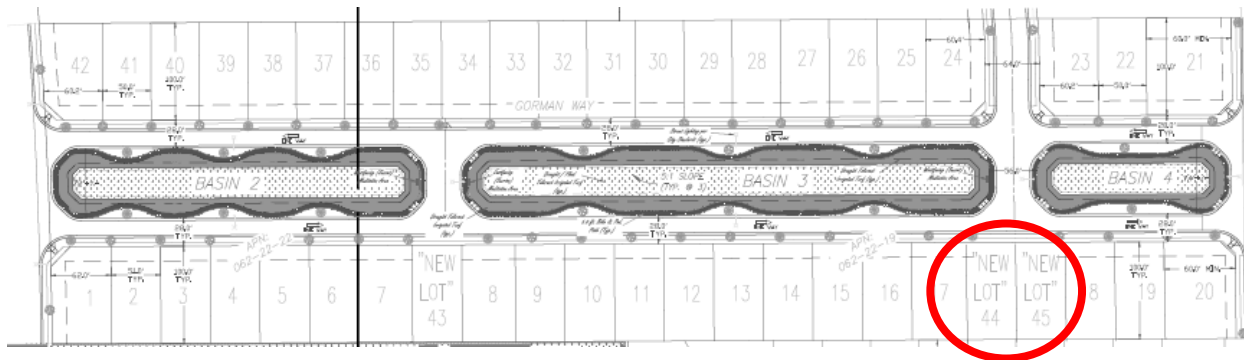


Forty-Five (45) Lot Configuration (proposed):



Commissioner Tabacco raised concern that removing these two (2) connection points (circled in red) would result in 1) decrease in neighborhood connectivity and pedestrian/bicycle access and 2) limit the development potential of the properties south of the Hayes 4 Phase 1 project due to limited access.

Planning Staffs' Recommendation to Planning Commission:



Staffs' recommendation to Planning Commission was to recommend City Council approval of the proposed project with a forty-three (43) lot layout. This layout eliminates the western connection to a now expired Tentative Subdivision Map, while preserving the connection/circulation to the east (circled in red).

Commissioner King made the motion to adopt Resolution No. 2017-006, recommending to the City Council to adopt the proposed Ordinance and approve a Development Agreement for the development of a 9.36 acre residential subdivision, resulting in forty-five (45) residential lots. Chair McKinney seconded the motion and Resolution No. 2017-006 was approved with a 4-1 vote. Commissioner Tabacco voted no due to concerns raised during planning commission deliberation related to connectivity with the properties to the south.

ENVIRONMENTAL DETERMINATION

Staff has prepared and circulated an Initial Study to evaluate possible environmental impacts with the Project. According to the Initial Study, the proposed Development Agreement will not have an adverse impact on the environment.

STRATEGIC PLAN

The City's Strategic Planning Session is a plan and set of goals that the City will work towards for the next three years. The proposed Project is not specifically called out as part of these goals.

FINANCIAL IMPACT

The Project is, in essence, a clean-up of an older pre-approved residential project. The fiscal impacts associated with providing municipal services to new residential projects will be partially off-set by the future property owners obligation to fund a Maintenance Community Facilities District (CFD 2016-1). CFD 2016-1 will off-set expenses associated with street lighting, road maintenance, storm drainage maintenance, common area landscaping and police services. The Stanislaus County Consolidated Fire District has asked for a similar Community Facilities District to compensate for additional expenses associated with emergency fire services.

In light of the obligation to participate in the above mentioned CFDs, the Project should not have a negative fiscal impact on the City.

ATTACHMENTS

1. Vicinity Map and General Plan Map
2. Draft City Council Ordinance
3. Planning Commission Resolution No. 2017-006
4. Hayes 4, Phase One TM as modified 9/1/16
5. Hayes 4, Phase One Park/Basin Paseo Exhibit
6. Hayes 4, Phase One DA – Initial Study and OPR Letter
7. Hayes 4, Phase One DA
8. Hayes 4, Phase One Consolidated Conditions of Approval

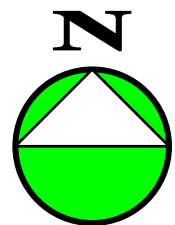


PLANNING DIVISION
Vicinity Map

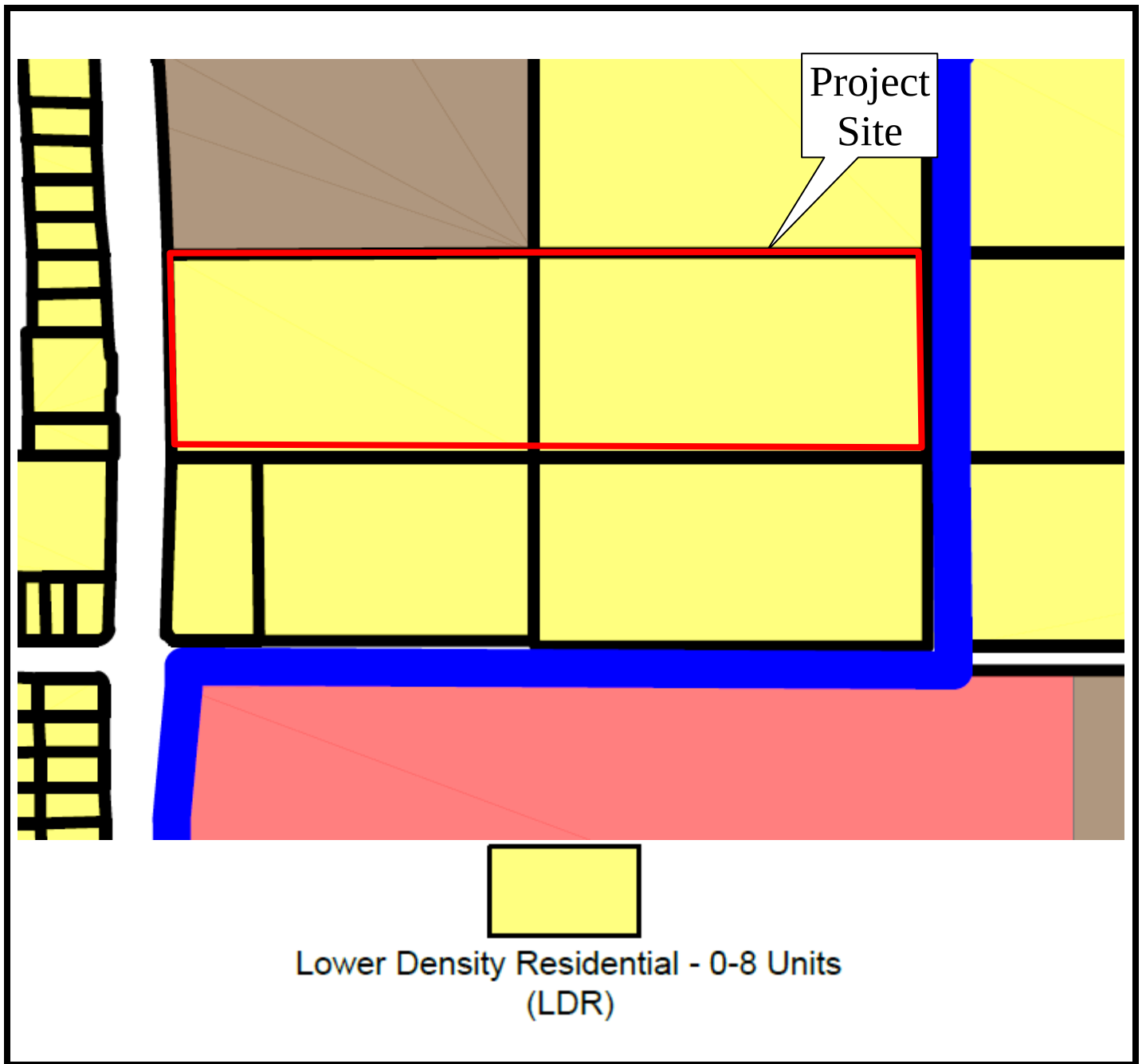


Development Agreement No. 01-2015
Hayes 4 Phase 1

APN: 062-022-019 and 022



(Not to Scale)

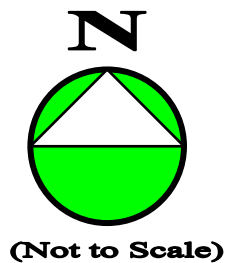


PLANNING DIVISION
General Plan Map



Development Agreement No. 01-2015
Hayes 4 Phase 1

APN: 062-022-019 and 022



**DRAFT
CITY OF RIVERBANK
ORDINANCE NO. 2017-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
APPROVING DEVELOPMENT AGREEMENT NO. 01-2015 FOR THE HAYES 4,
PHASE ONE RESIDENTIAL PROJECT**

WHEREAS, Chris Hayes and Geneva Hayes, husband and wife, dba Hayes Development, Carroll S. Hayes and Renetta J. Hayes, husband and wife, and Kim Hayes and Cynthia Hayes, husband and wife (collectively, "Hayes") propose to develop 45 residential lots in the City of Riverbank ("City") and related public improvements in conformance with the provisions of the proposed Development Agreement and related project approvals (the "Project"); and

WHEREAS, On April 25, 2005, the City Council adopted Resolution No. 2005-046, approving tentative subdivision map 07-2004 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 88 residential lots on 18.74 acres; and

WHEREAS, On August 28, 2006, the City Council adopted Resolution No. 2006-105, approving the Hayes 4 Phase One Vesting Tentative Subdivision Map 07-2004; and

WHEREAS, the City of Riverbank Planning Commission held a duly noticed public hearing on Tuesday, October 18, 2016 to consider the Project, and provided their recommendations to the City Council; and

WHEREAS, in order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 *et. seq.* ("Development Agreement Statute"), which authorizes the City and property owner to enter into a development agreement that establishes certain development rights in real property that is the subject of a development project application; and

WHEREAS, consistent with the requirements of the Development Agreement Statute, the City has adopted Resolution No. 99-39 establishing rules, regulations, and limitations for Development Agreements; and

WHEREAS, the City and Hayes Development intend to enter into a Development Agreement concerning the Project pursuant to California Government Code section 65864 and Resolution No. 99-39; and

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on April 11, 2017 to consider the introduction of the Hayes 4 Development Agreement for first reading; and

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on [REDACTED], 2017 to consider the approval of the Project and the Hayes 4 Development Agreement; and

WHEREAS, the City Council for City of Riverbank, based on its independent review and analysis of the EIR, the staff analysis, oral and written testimony, and the record as a whole, finds, after due study, deliberation and public hearing, and based on its independent judgment, that the following circumstances exist:

1. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank; and
2. The City Council finds that the Hayes 4 Development Agreement:
 - a. Is consistent with the objectives, policies, and programs and residential land uses established by the 2005 Riverbank General Plan; and
 - b. Is consistent with the provisions of Government Code Section 65864 through 65869.5; and
 - c. Is in conformity with the public convenience and general welfare and good land use practices because the terms of the agreement establish appropriate and adequate mechanisms to fund and install infrastructure needed to support public services to the Project and General Plan planning area; and
 - d. Will provide funding and infrastructure to support the Project, and will not adversely affect the orderly development of property or the preservation of property values; and
 - e. Will provide funding and infrastructure to ensure that adequate public services are available to serve the Project without being detrimental to the health, safety, and general welfare of the City of Riverbank; and
 - f. Provides sufficient benefit to the City to justify entering into the Hayes 4, Phase One Development Agreement.

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

Section 1: The City Council of the City of Riverbank approves a Development Agreement by and between Hayes 4 Development and the City of Riverbank relating to the development known as “Hayes 4, Phase One Residential Project TM 07-004” located on the following APNs:

062-022-019 and 062-022-022.

Section 2: The City shall review the Development Agreement for compliance with its terms and conditions not less than once every twelve (12) months from the effective date of the Development Agreement.

Section 3: Notice of the public hearing on the proposed Development Agreement Ordinance was published in the Riverbank News, a newspaper of general circulation, on March 29, 2017; and Notices of the public hearing on the proposed Zoning Ordinance Amendment were mailed to all interested parties and property owners within 300 feet of the property, according to the most recent assessor’s roll, on March 29, 2017.

Section 4: The City Council finds that Pursuant to the California Environmental Quality Act (CEQA), the Lead Agency (Riverbank) has prepared an Initial Study/Negative Declaration which concluded that the proposed Development Agreement will have a less than significant impact on the environment.

Section 5: 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.

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 or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again 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 Eleventh day of April, 2017; 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

**CITY OF RIVERBANK
RESOLUTION NO. 2017-006**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK,
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE TO
APPROVE A DEVELOPMENT AGREEMENT FOR THE DEVELOPMENT OF A 9.36
ACRE RESIDENTIAL SUBDIVISION, KNOWN AS HAYES 4, PHASE ONE,
LOCATED ON STANISLAUS COUNTY APNS 062-022-019 AND 062-022-022.**

WHEREAS, Chris Hayes and Geneva Hayes, husband and wife, dba Hayes Development, Carroll S. Hayes and Renetta J. Hayes, husband and wife, and Kim Hayes and Cynthia Hayes, husband and wife (collectively, "Hayes") propose to develop 45 residential lots in the City of Riverbank ("City") and related public improvements in conformance with the provisions of the proposed Development Agreement and related project approvals (the "Project"); and

WHEREAS, the City received an application for the Project that includes a proposal to execute a Development Agreement by and between the City and Hayes ("Development Agreement") clarifying original conditions of map approval specific to the Project, adding map life, and setting forth criteria for the development of a Paseo between Claus Road and Central Ave.; and

WHEREAS, the project site is currently zoned Single Family Residential (R-1) with a General Plan Land Use Designation of Low Density Residential (LDR); and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 18, 2016, to consider Development Agreement and make recommendations to the City Council; and

WHEREAS, upon review the Development Agreement the Planning Commission finds that it complies with Government Code section 65864 *et. seq.*, the City's General Plan, and the Riverbank Municipal Code; and

WHEREAS, upon review the Development Agreement the Planning Commission finds that the public health, safety and general welfare are advanced by City Council's adoption of the Development Agreement; and

WHEREAS, pursuant to Government Code sections 65867 and 65090, notice of the public hearing on the Development Agreement Ordinance was published in the *Riverbank News*, a newspaper of general circulation, on March 8, 2017; and

WHEREAS, pursuant to Government Code sections 65867 and 65091, all property owners within 300 feet of the property, according to the most recent assessor's roll were properly noticed of the public hearing on the Development Agreement Ordinance, on March 9, 2017.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT:

The Planning Commission of the City of Riverbank hereby recommends City Council approval of Ordinance No. 2016-XXX authorizing a Development Agreement for the development of the residential subdivision known as the Hayes 4, Phase One development attached hereto and incorporated herein by reference, based on the following findings:

1. Pursuant to California Government Code Section 65855, the recommendation to the City Council shall include the relationship to the applicable general or specific plan.
 - a. The properties identified as part of this action have a General Plan Land Use Designation of Low Density Residential (LDR) and the current zoning of single family residential (R-1). This action will authorize a Development Agreement which, amongst other matters, will clarify the original conditions of approval;
 - b. The proposed Development Agreement on these properties will achieve consistency between the General Plan and the Zoning Code, pursuant to Government Code Section 65860;
 - c. The Development Agreement complies with the public convenience, general welfare, and good land use practices. The terms of the agreement establish appropriate and adequate mechanisms to fund and install infrastructure needed to support public services to the Hayes 4, Phase One development and General Plan planning area.
2. CEQA. The City finds that Pursuant to the California Environmental Quality Act (CEQA), the City of Riverbank as Lead Agency has prepared an Initial Study/Negative Declaration, which concludes that the proposed Development Agreement will not have a significant effect on the environment.
3. 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.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the Twenty-first day of March, 2017; motioned by Commissioner King, seconded by Commissioner McKinney, and upon roll call was carried by the following vote of 4-1:

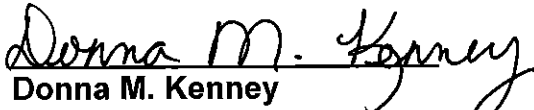
AYES: Commissioners': McKinney, King, Stewart and Villapudua

NAYS: Commissioner: Tabacco

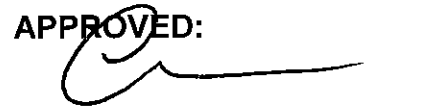
ABSENT: None

ABSTAIN: None

ATTEST:

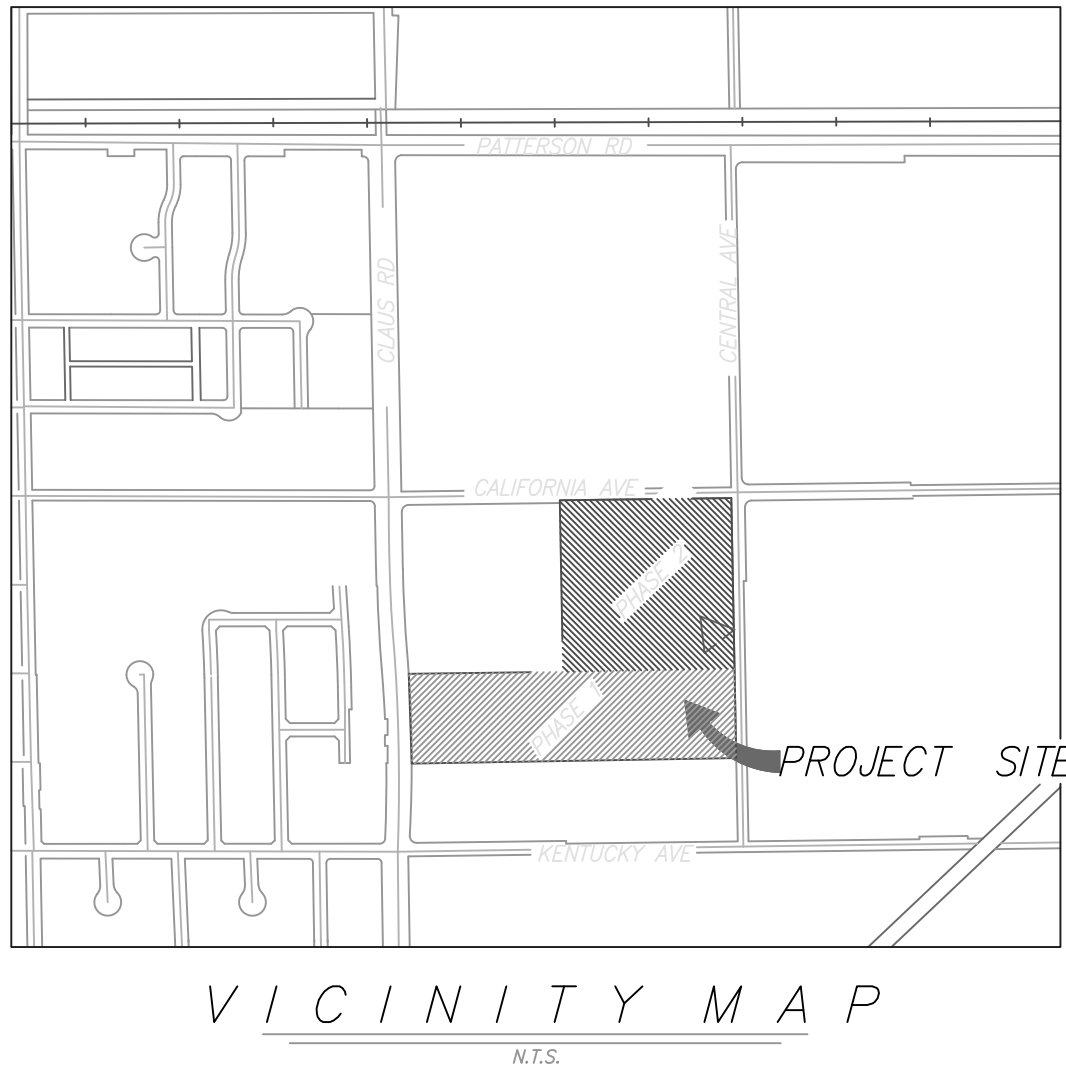
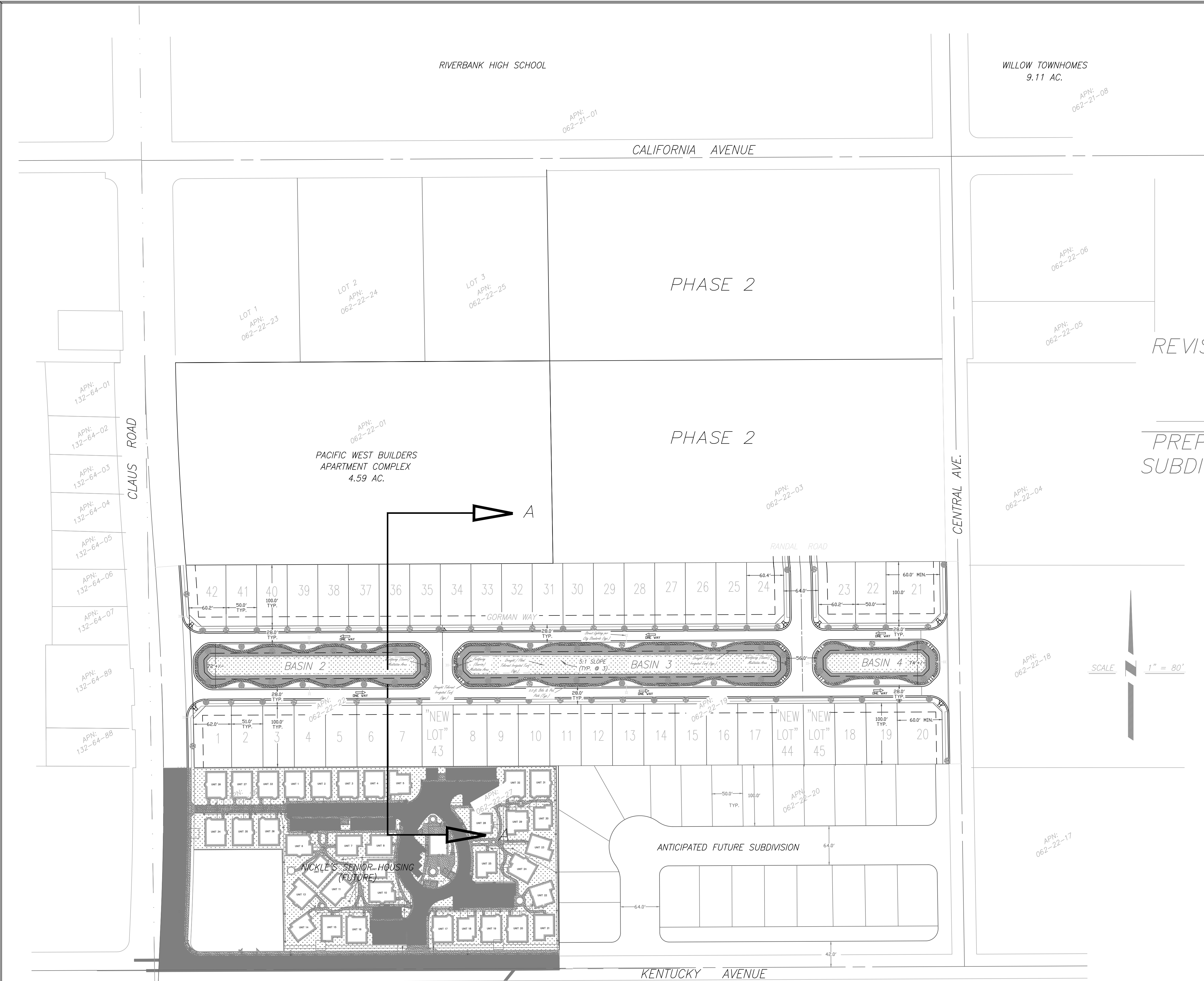

Donna M. Kenney
Planning and Building Manager

APPROVED:


Anthony McKinney
Planning Commission Chair

Attachments:

Exhibit "A" – Draft City Council Ordinance



9/1/16
REVISED TENTATIVE SUBDIVISION MAP
and
LANDSCAPING EXHIBIT

PREPARED FOR HAYES 4 ~ PHASE 1
SUBDIVISION DEVELOPMENT AGREEMENT
RIVERBANK, CALIFORNIA

TOSCHI CIVIL ENGINEERING
2937 PARKVIEW DR. MODESTO, CA 95355

OWNER: HAYES 4 DEVELOPMENT
10535 OLD DON PEDRO RD.
JAMESTOWN, CA 95327
ATTN: CARROLL HAYES

AS APPROVED: PHASE 1 = 9.36 AC
45 LOTS, & 3 PARKS
(LOTS 1-45 & BASINS 2,3&4)

SUBDIVIDER:

HAYES 4 DEVELOPMENT
10535 OLD DON PEDRO RD.
JAMESTOWN, CA 95327
(209) 968-7333

STATEMENT OF SUBDIVIDER:

- ASSESSORS PARCEL NO'S: 062-22-03, 062-22-19, 062-22-22
- SIZE: 9.36 ACRES± - 42 LOTS (45 LOTS)
- EXISTING ZONING: R-1
- PROPOSED ZONING: R-1
- EROSION CONTROL PER CITY OF RIVERBANK ORDINANCES AND STANDARDS.
- SETBACKS AND BUILDING LINES PER R-1 ZONING.
- WATER SUPPLY: BY CITY OF RIVERBANK AS SHOWN ON THIS MAP. PER THE BRUINVILLE (SOUTH) INFRASTRUCTURE REPORT (APPENDIX 'B')
- SEWAGE DISPOSAL: BY CITY OF RIVERBANK AS SHOWN ON THIS MAP. PER THE BRUINVILLE (SOUTH) INFRASTRUCTURE REPORT (APPENDIX 'B')
- STORM DRAINAGE: BY CITY OF RIVERBANK AS SHOWN ON THIS MAP. PER THE BRUINVILLE (SOUTH) INFRASTRUCTURE REPORT (APPENDIX 'B')
- A 10' PUBLIC UTILITY EASEMENT SHALL BE DEDICATED ALONG ALL STREET FRONTAGES.
- TREE TYPE AND LOCATION SHALL BE DETERMINED BY CITY OF RIVERBANK.
- ALL IMPROVEMENTS AND PUBLIC FACILITIES WILL BE INSTALLED OR CONSTRUCTED AT THE TIME OF DEVELOPMENT. ALL IMPROVEMENTS SHALL BE CONSTRUCTED IN COMPLIANCE THE MUNICIPAL CODE, REGULATIONS AND CITY STANDARDS.
- DEPTH TO GROUND WATER PER CALIFORNIA DEPARTMENT OF WATER RESOURCES: 50 TO 80 FT

NOTES:

- STREET IMPROVEMENTS SHALL BE CONSTRUCTED AS SHOWN PER APPROVED CITY OF RIVERBANK STANDARD SPECIFICATIONS. (SEE DETAILS SHEET 2/2).
- ALL WELLS AND SEPTIC TANKS TO BE ABANDONED PER HEALTH DEPARTMENT REQUIREMENTS.
- EXISTING IMPROVEMENTS SHOWN WERE ACQUIRED FROM RECORD INFORMATION AND ARE TO BE VERIFIED IN THE FIELD.
- EXISTING ON SITE IRRIGATION FACILITIES TO BE ABANDONED AND REMOVED, IF NOT REQUIRED, OR RELOCATED IN PIPELINES PER OLD REQUIREMENTS.
- OWNERS RESERVES THE RIGHT TO FILE MULTIPLE FINAL MAPS.

LOTS ARE A MIN. OF:
50' X 100' & 5000SF (INTERIOR)
60' X 100' & 6000SF (CORNERS)

PASEO LANDSCAPING LEGEND

- CITY STANDARD ELECTROLIER
- PISTACIA CHINENSIS (50) (CHINESE PISTACHE)
- KOELREUTERIA PANICULATA (40) (GOLDENRAIN)
- CYNODON DACTYLON (HYBRID BERMUDAGRASS)
- BUCHLOE DACTYLOIDES (BUFFALOGRASS)
- PEDESTRIAN / BICYCLE PATH
- MEDITATION AREA (CONCRETE BENCH W/LATTICE OVERHEAD TRELLIS)

PASEO LANDSCAPING NOTES:

- ADDED 3 LOTS & REVISED RANDAL RD., CENTRAL & KENTUCKY AVE. STREET SECTIONS AS ADVISED PER DISCUSSIONS WITH CITY PLANNER.
- LANDSCAPING SHALL PROVIDE A MINIMUM TOTAL OF 2 TREES PER LOT IN CONFORMANCE WITH CONDITION NO. 11C.
- ALL LANDSCAPING SHALL BE DROUGHT TOLERANT / LOW WATER USAGE IN CONFORMANCE WITH STATE APPROVED SPECIES.
- ALL TREES SHALL BE IN CONFORMANCE WITH THE CITY OF RIVERBANK LANDSCAPE STANDARDS.
- ALL STREET LIGHTING SHALL BE IN CONFORMANCE WITH THE CITY OF RIVERBANK PUBLIC WORKS STANDARDS.
- ALL STREET SECTIONS SHALL BE IN CONFORMANCE WITH THE SECTIONS SHOWN ON SHEET 2 OF THIS REVISED MAP.

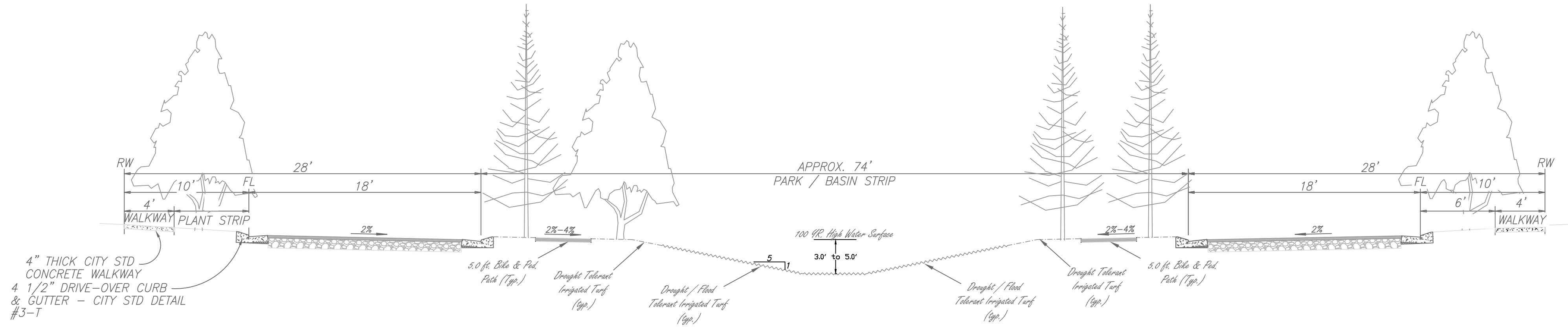
PREPARED UNDER THE DIRECTION OF:			
ALLEN G. TOSCHI RCE26654		DATE:	9/1/16
NO	DESCRIPTIONS	DATE	APPROVED
1.	ADDED YFSM SUBDIVISION NOTES: LOT DIMENS. & 1WAYS	9/8/16	

TOSCHI CIVIL ENGINEERING INC.
2937 PARKVIEW DR. MODESTO, CA 95355
209-601-5039

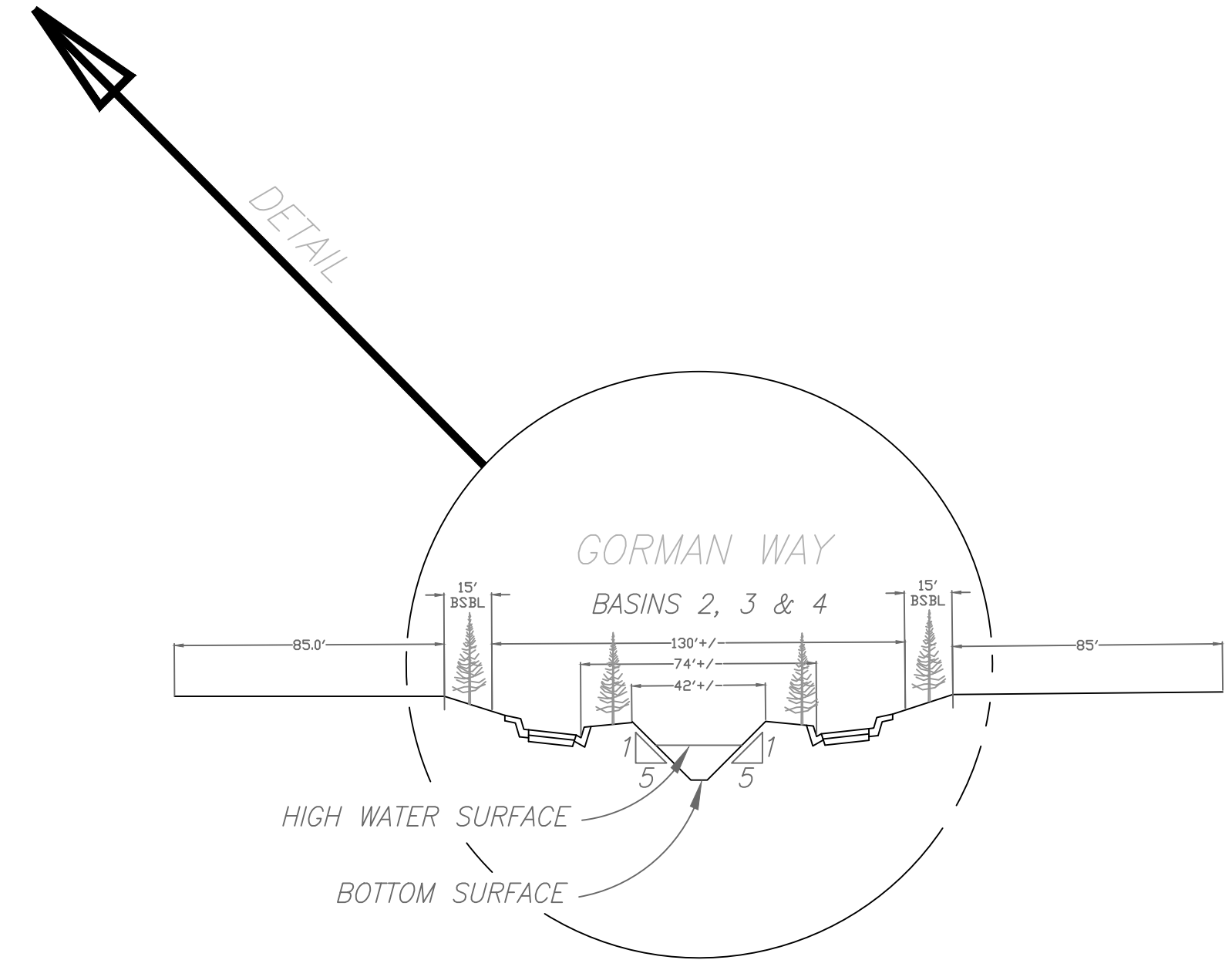
9/1/16
TENTATIVE SUBDIVISION MAP
and LANDSCAPING EXHIBIT
PREPARED FOR:
HAYES 4 ~ PHASE 1 SUBDIVISION
AND DEVELOPMENT AGREEMENT

JOB NO. _____
DATE _____
DR BY _____
CK BY _____
SCALE _____

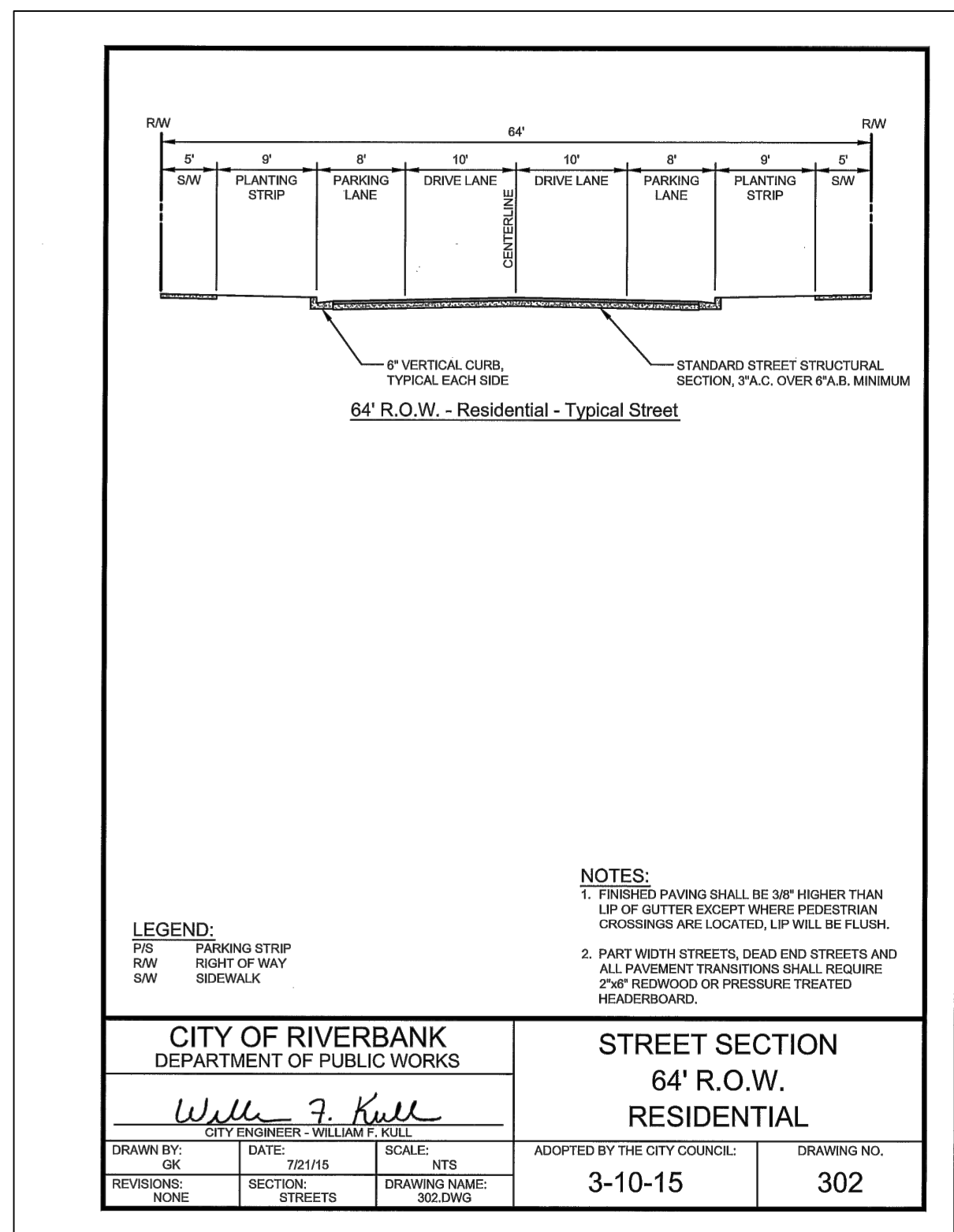
SHEET NUMBER
1
OF 2 SHEETS



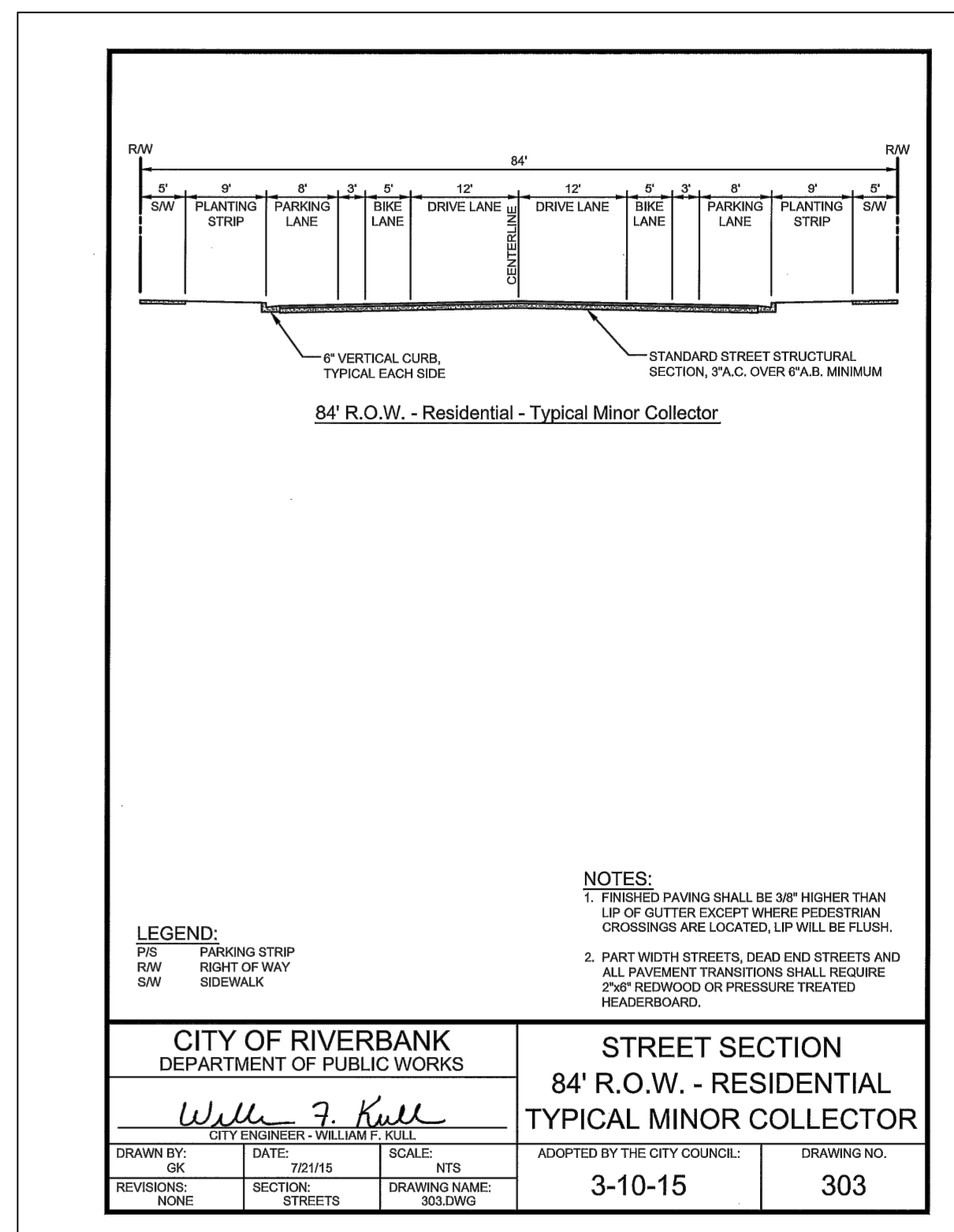
SECT. A-A
WIDENED STREET SECTION W/ PARK / BASIN STRIP
GORMAN WAY



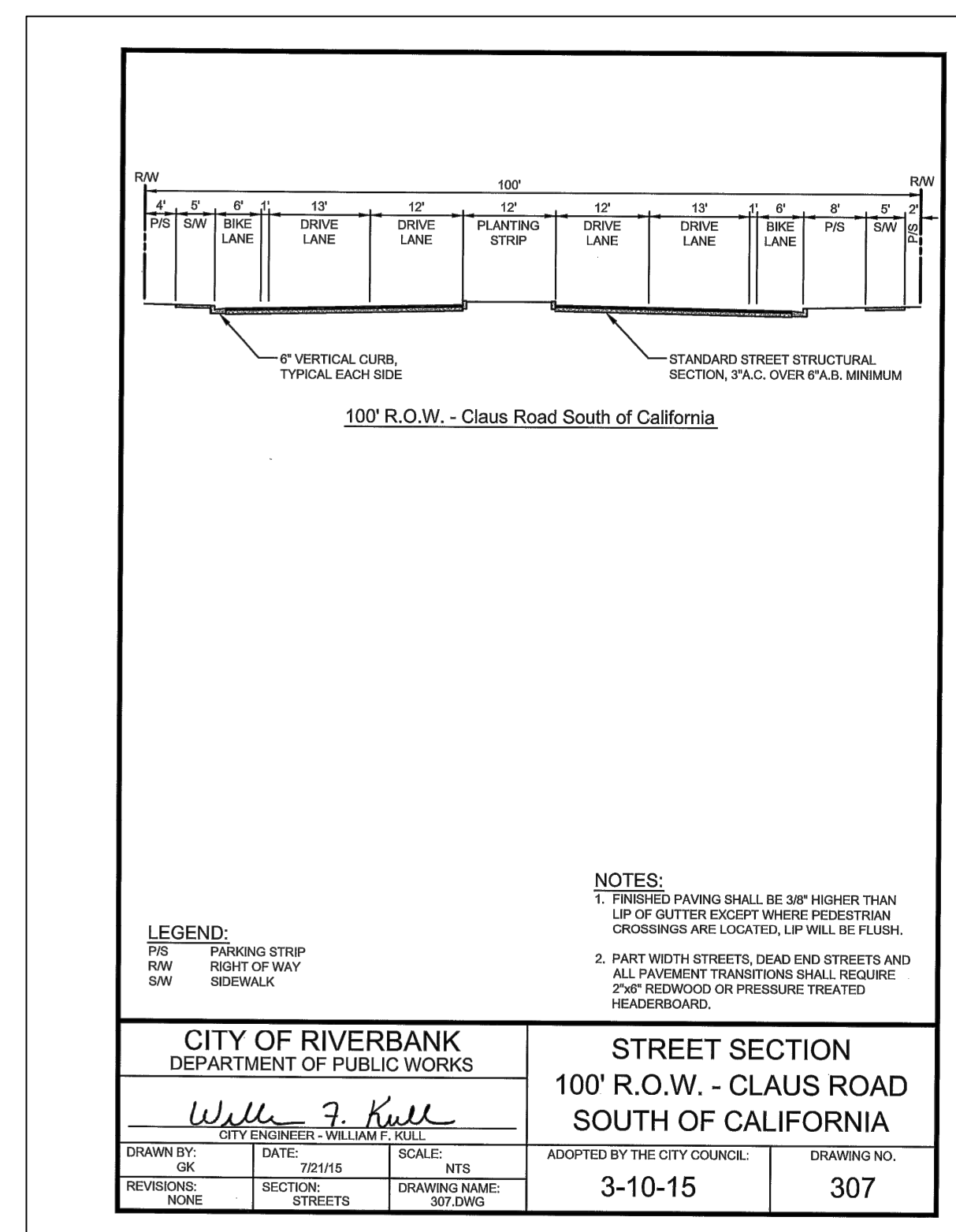
TYPICAL SECTION THROUGH PH 1 SUBDIVISION
SECT. A-A



RANDAL ROAD STREET SECTION



CENTRAL AVE. STREET SECTION



CLAUS ROAD STREET SECTION

PREPARED UNDER THE DIRECTION OF:		9/1/16
ALLEN G. TOSCHI RCE26654		DATE:
REVISED		DATE
NO		DESCRIPTIONS
		APPROVED

TOSCHI CIVIL ENGINEERING INC.
2937 PARKVIEW DR. MODESTO, CA 95355
209-601-5039

9/1/16
TENTATIVE SUBDIVISION MAP
and LANDSCAPING EXHIBIT
PREPARED FOR:
HAYES 4 ~ PHASE 1 SUBDIVISION
AND DEVELOPMENT AGREEMENT

JOB NO.
DATE
DR BY
CK BY
SCALE

SHEET
NUMBER
2
OF 2 SHEETS

**INITIAL STUDY/
NEGATIVE DECLARATION**

for the

CITY OF RIVERBANK

**DEVELOPMENT AGREEMENT
FOR
TENTATIVE MAP NO. 07-2004**

HAYES 4 - PHASE ONE SUBDIVISION

August 2016



TABLE OF CONTENTS

	Page
NEGATIVE DECLARATION	1
SECTION 1.0 INTRODUCTION	3
SECTION 2.0 EVALUATION INSTRUCTIONS	7
SECTION 3.0 INITIAL STUDY CHECKLIST	9
I. Aesthetics	9
II. Agriculture and Forestry Resources	11
III. Air Quality	13
IV. Biological Resources	16
IV. Cultural Resources	18
V. Geology and Soils	19
VI. Greenhouse Gas Emissions	21
VII. Hazards and Hazardous Materials	23
IX. Hydrology and Water Quality	25
X. Land Use and Planning	28
XI. Mineral Resources	29
XII. Noise	30
XIII. Population and Housing	32
XIV. Public Services	33
XV. Recreation	35
XVI. Transportation/Traffic	36
XVII. Utilities and Service Systems	38
XVIII. Mandatory Findings of Significance	40
SECTION 4.0 REFERENCES	42

NEGATIVE DECLARATION

Lead Agency:

City of Riverbank

6707 3rd Street

Riverbank, California 95367

PROJECT NAME:

Development Agreement for Tentative Map Application No. 07-2004

PROJECT PROPONENT AND LEAD AGENCY:

Owner: Carroll and Renetta Hayes
10535 Old Don Pedro Road
Jamestown, CA 95327-9136

Lead Agency: City of Riverbank
6707 3rd Street
Riverbank, California 95367

PROJECT LOCATION:

The proposed project is located within the City of Riverbank, County of Stanislaus. Specifically, the proposed project is bordered by Claus Avenue to the West, Central Avenue to the East. The location is directly North of Kentucky Avenue, and directly South of California Avenue. The project site is further identified as being Assessor Parcel Numbers (APN) 062-022-022 and 062-022-019.

PROJECT DESCRIPTION:

The proposed project consists of the City's approval of a Development Agreement ("DA") between the City and the developers of the Hayes 4, Phase 1 subdivision. The land covered by this DA has been previously approved by the City of Riverbank as Tentative Map No. 07-2004 on August 28, 2006 and modified by City Council Resolution No. 2006-105 (collectively, the "Tentative Map"). The DA will extend the duration of the Tentative Map and is proposed to expire 5 years from the date of approval. In addition to extending the duration of the Tentative Map, the purpose of the DA is to clarify the number of lots, storm drainage concepts, and the conditions of approval for the Tentative Map.

ENVIRONMENTAL DETERMINATION:

The Lead Agency has prepared this Initial Study, which considers the potential environmental effects of the proposed project. The Initial Study shows that there will no significant effects in this case as a result of revisions in the project have been made by or agreed to by the project proponent. A NEGATIVE DECLARATION will be prepared.

MITIGATION MEASURES:

None Required.

Donna M. Kenney
Donna M. Kenney, Planning and Building Manager

8-31-16

Date

SECTION 1.0

INTRODUCTION

PROJECT TITLE

Development Agreement for Tentative Map No. 07-2004
"Hayes 4 Phase One Subdivision"

LEAD AGENCY NAME AND ADDRESS

City of Riverbank
6707 3rd Street
Riverbank, California 95367

CONTACT PERSON AND PHONE NUMBER

Donna M. Kenney, Planning and Building Manager
(209) 863-7124
dkenney@riverbank.org

PROJECT SPONSOR'S NAME AND ADDRESS

Chris Hayes, dba Hayes 4 Development
29900 Lone Tree Road
Oakdale, CA 95361

PROJECT LOCATION AND SETTING

The proposed project is located within the City of Riverbank, County of Stanislaus. Specifically, the proposed project is bordered by Claus Avenue to the West, and Central Avenue to the East. The location is directly North of Kentucky Avenue, and directly South of California Avenue. The project site is further identified as being Assessor Parcel Numbers (APN) 062-022-022 and 062-022-019.

GENERAL PLAN AND ZONING DESIGNATIONS

The 9.36 +/- acre project site currently has a General Plan designation of Lower Density Residential (LDR) and is located within the Single Family Residential (R-1) zoning district.

PUBLIC AGENCY APPROVALS REQUIRED (E.G., PERMITS, FINANCING APPROVAL, OR PARTICIPATION AGREEMENT)

City of Riverbank - Development Services Department/Public Works

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture and Forestry Resources		Air Quality
	Biological Resources		Cultural Resources		Geology and Soils
	Greenhouse Gas Emissions		Hazards and Hazardous Materials		Hydrology and Water Quality
	Land Use and Planning		Mineral Resources		Noise
	Population and Housing		Public Services		Recreation
	Transportation/Traffic		Utilities and Service Systems		Mandatory Findings of Significance

LEAD AGENCY DETERMINATION:

On the basis of this initial evaluation:

X	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Donna M. Kenney, Planning and Building Manager

8-31-16
Date

SECTION 2.0 EVALUATION INSTRUCTIONS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

- c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance

SECTION 3.0

INITIAL STUDY CHECKLIST

This section of the Initial Study incorporates the most current Appendix "G" Environmental Checklist Form, contained in the CEQA Guidelines.

I. AESTHETICS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X

DISCUSSION:

- I-a) The proposed project will have no effect on scenic vistas and therefore will have no environmental impact.
- I-b) The proposed project is located within the City of Riverbank, and is not located on a state designated highway. Based on a review of the California Department of Transportation website (<http://www.dot.ca.gov/hq/LandArch/scenic/schwy.htm>), the nearest state scenic highway is Interstate 5, which runs for approximately 28.1 miles (North/South) in Stanislaus County from the Merced County line to the San Joaquin County line. The proposed project is not located on or adjacent to Interstate 5, and therefore will have no impact to a state scenic highway.
- I-c, d) The proposed Development Agreement would not directly create new sources of light or glare that would adversely affect day or night-time views in areas of the City. The subject property was subject to site-specific CEQA analysis previously where the appropriate design review,

City of Riverbank

Development Agreement for Tentative Map No. 07-2004

August 2016

standards, conditions, and mitigation measures (if necessary) were determined at that time. Therefore, the Development Agreement alone would not directly result in physical changes in the City and would not degrade the existing visual character or quality of the City. Therefore, the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

II. AGRICULTURE AND FORESTRY RESOURCES: WOULD THE PROJECT:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104 (g))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X

DISCUSSION:

II-a, b) The project site is not located in an area identified as prime farmland, nor is the site being used or zoned for agriculture use. Furthermore, the site is not currently enrolled into a Williamson Act contract. Review of the Farmland Mapping and Monitoring Program of the California Resources Agency showed that the Project Location or the City of Riverbank is not mapped as Prime Farmland, Unique Farmland or Farmland of Statewide Importance. Therefore, the proposed project will not result in a significant impact on the City's or Region's agriculture resources and have no impact.

II-c, d) No forest land zoning exists at the site and there is no timberland zoned for Timberland Production and therefore will not conflict with existing zoning and therefore will have no impact to this resource.

II-e) Please refer to the discussion under items (a) and (c), above.

MITIGATION MEASURES:

Mitigation is not required for this topic.

III. AIR QUALITY -- WOULD THE PROJECT:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?			X	

BACKGROUND DISCUSSION:

The proposed project is located in east Stanislaus County, which is a portion of the San Joaquin Valley Air Basin (SJVAB). Air quality management under the federal and state Clean Air Acts is the responsibility of the San Joaquin Valley Air Pollution Control District (SJVAPCD).

The federal and state governments have adopted ambient air quality standards (AAQS) for the primary air pollutants of concern, known as “criteria” air pollutants. Air quality is managed by the SJVAPCD to attain these standards. Primary standards are established to protect the public health; secondary standards are established to protect the public welfare. The attainment statuses of the SJVAB for Stanislaus County with respect to the applicable AAQS are shown in the following table.

The SJVAB is considered non-attainment for ozone and particulate matter (PM₁₀ and PM_{2.5}), because the AAQS for the pollutants are sometimes exceeded. The SJVAB is Attainment/Unclassified for carbon monoxide, but select areas, not including the City of Riverbank, are required to abide by adopted carbon monoxide maintenance plans.

The California Air Resources Board (CARB) through the Air Toxics Program is responsible for the identification and control of exposure to air toxics, and notification of people that are subject to significant air toxic exposure. A principal air toxic is diesel particulate matter, which is a component of diesel engine exhaust.

The SJVAPCD has adopted regulations establishing control over air pollutant emissions associated with land development and related activities. These regulations include:

- Regulation VIII (Fugitive Dust Rules)
- Rule 4101 (Visible Emissions)
- Rule 9510 (Indirect Source Review)

SAN JOAQUIN VALLEY FEDERAL AND STATE AAQS ATTAINMENT STATUS

Pollutant	Designation / Classification Federal Standards^a	State Standards^b
Ozone, 1-hour	No federal standard ^f	Nonattainment / Severe
Ozone, 8-hour	Nonattainment / Extreme ^e	Nonattainment
PM10	Attainment ^c	Nonattainment
PM2.5	Nonattainment ^d	Nonattainment
Carbon Monoxide	Attainment / Unclassified	Attainment / Unclassified
Nitrogen Dioxide	Attainment / Unclassified	Attainment
Sulfur Dioxide	Attainment / Unclassified	Attainment
Lead (particulate)	No designation	Attainment
Hydrogen Sulfide	No federal standard	Unclassified
Sulfates	No federal standard	Attainment
Visibility-Reducing Particles	No federal standard	Unclassified
Vinyl Chloride	No federal standard	Attainment

^aSee 40 CFR Part 81

^bSee CCR Title 17 Sections 60200-60210

^cOn September 25, 2008, EPA redesignated the San Joaquin Valley to Attainment for the PM10 National AAQS and approved the PM10 Maintenance Plan

^dThe SJV is designated nonattainment for the 1997 PM2.5 NAAQS. EPA designated the SJV as nonattainment for the 2006 PM2.5 on November 13, 2009 (effective December 14, 2009).

^eThough the SJV was initially classified as serious nonattainment for the 1997 8-hour ozone standard, EPA approved reclassification of the SJV to extreme nonattainment in the Federal Register on May, 2010 (effective June 4, 2010).

^fEffective June 15, 2005, the EPA revoked the federal 1-hour ozone standard, including associated designations and classifications. EPA has previously classified the SJV as extreme nonattainment for this standard. EPA approved the 2004 Extreme Ozone Attainment Demonstration Plan on March 8, 2010 (effective April 7, 2010). Many applicable requirements for extreme 1-hour ozone nonattainment areas continue to apply to the SJVAB.

The SJVAPCD has adopted a CEQA impact analysis guideline titled *Guide for Assessing and Mitigating Air Quality Impacts* (GAMAQI). The GAMAQI is utilized in the following air quality impact analysis where applicable. The GAMAQI establishes impact significance thresholds for the non-attainment pollutant PM10 and precursors to the non-attainment pollutant ozone: reactive organic gases (ROG) and oxides of nitrogen (NOx).

ROG	10 tons/year
NOx	10 tons/year
PM10	15 tons/year

Projects that do not generate emissions in excess of these thresholds are considered to have less than significant air quality impacts. Furthermore, within the GMAQI, the SJVAPCD has established and outlines a three-tiered approach to determining significance related to a project's quantified ozone precursor emissions. Each tier or level requires a different degree of complexity of emissions calculation and modeling to determine air quality significance. The three-tiers established to date (from least significant to most significant) are: *Small Project Analysis Level (SPAL)*, *Cursory Analysis Level (CAL)*, and *Full Analysis Level (FAL)*. In each of the tiers, the SJVAPCD has pre-calculated the emissions on a large number and types of projects to identify the level at which they have no possibility of exceeding the emissions thresholds. In accordance with Table 5-3(a) of GMAQI, the proposed project is considered to be at a Small Project Analysis Level (SPAL), as it will not cross the SJVAPCD adopted threshold of 152 single-family (dwellings) units. Exceeding this limit would push the project into a separate tier as identified in the GMAQI. Because the proposed project qualifies as SPAL, GMAQI notes that it has no possibility of exceeding emission thresholds.

DISCUSSION:

III-a-e) This Development Agreement does not result in any direct physical changes to the environment, including air quality. The subject property was previously subject to its own environmental review where project-specific impacts associated with air quality were analyzed and mitigated/conditioned for. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

IV. BIOLOGICAL RESOURCES -- WOULD THE PROJECT:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?			X	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

DISCUSSION:

IV-a-d) The City's 2005-2025 General Plan indicates that natural habitats consist primarily of isolated wetlands, as well as wetlands and riparian habitat associated with the Stanislaus River corridor along the northernmost part of the City. The Stanislaus River corridor area is the largest and most important area for sensitive habitat and wildlife in the Riverbank planning area.

As previously stated, the Development Agreement does not directly result in any physical changes to the environment, and site-specific CEQA review and analysis was previously prepared to address any potential impacts. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

IV-e) All new residential development projects within the City of Riverbank are required to comply with the policies of the 2005-2025 General Plan, and address biological resources in order to minimize impacts. General Plan Goals CONS-4 and CONS-5 as well as the associated policies established requirements in which Fish and Wildlife Habitat shall be preserved and protected within the Riverbank planning area. The Development Agreement will be done in compliance with the 2005-2025 General Plan, and thus, minimize any potential impacts to local policies related to biological resources. In addition, site-specific CEQA review and analysis was previously prepared to address any potential impacts to these policies. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

IV-f) There are no Habitat Conservation Plans, Natural Community Conservation Plans, or other local, regional, or state Habitat Conservation Plan within the City of Riverbank. Therefore, the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

No mitigation is required for this topic.

V. CULTURAL RESOURCES -- Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	
d) Disturb any human remains, including those interred outside of formal cemeteries?			X	

DISCUSSION:

V-a-d)The Riverbank Branch Library, also referred to as the Riverbank Carnegie Library, located at 3237 Santa Fe Street, is the only structure within the City to be identified on the National Register for Historic Places. According to the California Office of Historic Preservation (www.ohp.parks.ca.gov), there are no other properties or structures identified on either the National Register or State Register of Historic Places.

In addition, as discussed previously, the Development Agreement does not include a specific development project, instead it provides the City and the Hayes 4 Phase One Developer, the framework to record and physically develop the approved subdivision. Therefore, the Development Agreement would not cause a substantial adverse change in the significant of any cultural resources, including archeological, paleontological, and human remains. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

MITIGATION MEASURES:

No mitigation is required for this topic.

VI. GEOLOGY AND SOILS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

DISCUSSION:

VI-a-d) The Development Agreement will not directly result in physical changes in the City that would expose people or structures to seismic activity or landslides, result in the loss of soil or substantial erosion, or locate structures on unstable or expansive soils. Impacts related to geology and soils can generally be addressed through compliance with applicable State and/or Local policies and regulations including; California Building Code (Title 24), Riverbank Municipal Code, Alquist-Priolo Earthquake Fault Zoning Act, California Public Resources Code (Seismic Hazards Mapping Act), CEQA, and the National Pollution Discharge Elimination System (NPDES). Therefore, the Development Agreement will have a **Less Than Significant Impact**.

VI-e) In general, all residential development within the City of Riverbank would be required to connect to the City's Wastewater System. Therefore, no new septic tanks or on-site septic systems would be permitted and the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

VII. GREENHOUSE GAS EMISSIONS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	

BACKGROUND DISCUSSION:

Human-generated emissions greenhouse gases (GHGs) are understood to be an important cause of global climate change, which is a subject of increasing scientific, public concern, and government action. Atmospheric concentrations of GHGs that trap heat in the earth's atmosphere and lead to a variety of effects, including increasing temperature, changes in patterns and intensity of weather and various secondary effects resulting from those changes, including potential effects on public health and safety.

California AB 32 identifies global climate change as a "serious threat to the economic well-being, public health, natural resources and the environment of California." As a result, global climate change is an issue that needs to be considered under CEQA.

GHGs include carbon dioxide (CO₂), the most abundant GHG, as well as methane, nitrous oxide and other gases, each of which have GHG potential that is several times that of CO₂. GHG emissions result from combustion of carbon-based fuels; major GHG sources in California include transportation (40.7%), electric power generation (20.5%), industrial (20.5%), agriculture and forestry (8.3%) and others (8.3%).

The State of California is actively engaged in developing and implementing strategies for reducing GHG emissions. State programs for GHG reduction include a regional cap-and-trade program, new industrial and emission control technologies, alternative energy generation technologies, advanced energy conservation in lighting, heating, cooling and ventilation, reduced-carbon fuels, hybrid and electric vehicles, and other methods of improving vehicle mileage reduction programs. Using these and other strategies, the State's Global Climate Change Scoping Plan, adopted in December 2008, proposes to achieve a 29% reduction in projected business-as-usual emission levels for 2020.

The SJVAPCD adopted a Climate Change Action Plan in 2008, and issued guidance for development project compliance with the plan in 2009. The guidance adopted an approach that relies on the use of

Best Performance Standards to reduce GHG emissions. Projects implementing Best Performance Standards would be determined to have a less than cumulatively significant impact. For projects not implementing Best Performance Standards, demonstration of a 29% reduction in GHG emissions from business-as-usual conditions is required to determine that a project would have a less than cumulatively significant impact.

DISCUSSION:

VII-a, b) Although not originally intended to reduce GHGs, California Code of Regulations (CCR) Title 24, Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. Since then, Title 24 has been amended with recognition that energy efficient buildings require less electricity and reduce fuel consumption, which in turn decreases GHG emissions. The current Title 24 standards were adopted in response to the requirements of AB 32. Specifically, new development projects within California after January 1, 2011, are subject to the mandatory planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and environmental quality measures of the California Green Building Standards (CALGreen) Code (California Code of Regulations, Title 24, Part 11). As such, it is anticipated that the proposed Development Agreement will not generate greenhouses gas emissions, either directly or indirectly, that may have a significant impact on the environment or conflict with any plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

VIII. HAZARDS AND HAZARDOUS MATERIALS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
--	--	--	--	---

DISCUSSION:

VIII-a-h) The subject property covered in the Development Agreement is not located near any sites known to contain toxic or radioactive materials. The project site is not situated within an Airport Clear Zone or Accident Potential Zone. The project will not create a risk of explosion, release of hazardous substances or other dangers to public health. The project will not contribute hazardous materials to the vicinity either in its construction or upon its completion. The proposed Development Agreement will not interfere with any emergency response plan or emergency evacuation plan. Therefore, the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

IX. HYDROLOGY AND WATER QUALITY -- Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X	

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X	
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			X	
j) Inundation by seiche, tsunami, or mudflow?				X

Discussion:

IX-a-e) Presently, all residential development within the City of Riverbank is required to comply with the applicable Federal, State, and local policies and regulations related to water quality including; Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) program, and the Riverbank Municipal Code. Potential water quality issues related to the violation of applicable water quality standards or waste discharge requirements would be analyzed upon the submittal of a site-specific development application. The Development Agreement does not include site-specific development projects, rather, it provides a framework in which the subject property's approved Tentative Map will be recorded and how the subdivision will be developed. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

IX-f-h) The 100-year flood event is primarily contained within the Stanislaus River channel, which includes the northern portion of the City of Riverbank. The City's 2005-2025 General Plan incorporated Policies PUBLIC-4.3, SAFE-1.6 through SAFE-1.7 in order to protect new development in this area from flood damage. The Development Agreement does not consist of any site-specific development that was not considered in the related Tentative Map approval. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

IX-i) Existing Federal and State oversight and inspections render the likelihood of dam failure as remote. Therefore, the Development Agreement will have a **Less Than Significant Impact**

IX-j) Inundation by a tsunami is unlikely due to the location of Riverbank and its proximity to the Pacific Ocean. And, although the topography of Riverbank is relatively flat, mudflows along the banks of the Stanislaus River could be possible. However, as noted previously, approval of the Development Agreement would not directly result in any physical changes, not previously analyzed during the Tentative Map approval. Therefore, the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

X. LAND USE AND PLANNING - Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

DISCUSSION:

- X-a) The Development Agreement for the new residential development would occur on a site that is now basically vacant with no agricultural activity or any use. Thus, an established community would not be divided or affected by the project. The area surrounding the site includes small ranchette parcels, with limited agricultural activity and single-family dwellings. All of these uses would remain with project development. Therefore, the proposed project will have **No Impact**.
- X-b) The Development Agreement for the new residential development does not conflict with any land use plan, policy, or regulation of the City of Riverbank that was adopted for the purpose of mitigating an environmental effect. Therefore, the proposed project will have **No Impact**.
- X-c) No habitat conservation plan or community conservation plan applies to the project site. Thus, the project would have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XI. MINERAL RESOURCES -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

DISCUSSION:

XI-a,b) The project site is located outside of any area designed by the California Department of Conservation - State Mining and Geology Board (SMGB) as containing known mineral resources. The proposed project is located within an area defined in the 2005-2025 General Plan as being a future residential area. Specifically, the land use designation of the project site is listed as Residential in the General Plan. As such, the Development Agreement will have **No Impact** to mineral resources of Statewide or local importance.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XII. NOISE -- WOULD THE PROJECT RESULT IN:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?			x	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

DISCUSSION:

XII-a-f) Construction noise associated with demolition, grading, and excavation activities could result in temporary or short-term noise impacts including ground-borne vibration or an increase in noise levels, while operational noise associated with vehicular traffic, outdoor activities, and stationary mechanical equipment could result in a permanent ambient increase in noise levels. Noise attenuation standards and requirements are regulated by the 2005-2025 General Plan, as well as Chapter 93 of the City's Municipal Code (Noise Ordinance). Any new residential development would be required to comply with the policies and standards contained Health and Safety Element of the 2005-2025 General Plan, Chapter 93 of the Riverbank Municipal Code, and

City of Riverbank

Development Agreement for Tentative Map No. 07-2004

August 2016

are subject to site-specific CEQA analysis as residential development applications are submitted to the City for consideration.

The Development Agreement does not consist of any new site-specific residential development, but rather, provides a policy framework to record and physically develop the approved subdivision. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

XII-e) As noted previously, the Development Agreement does not include specific development projects, and instead, provides a policy framework to record and physically develop the approved subdivision. Potential impacts related to this previously approved development was analyzed in the past. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

XII-f) There are no documented or known private airstrips within the City of Riverbank. Therefore, the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XIII. POPULATION AND HOUSING -- Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

DISCUSSION:

XIII-a) The previously approved Tentative Subdivision Map was found to be consistent with the general plan land use designation and densities and City zoning classification for the site. The proposed Development Agreement would contribute to the subdivision that have already been assessed and mitigated to the extent possible as part of the previous project's CEQA process. As such, the proposed project will serve as an implementation tool for the subject property, which is located in an area designated as future residential growth under the City's General Plan. Therefore, the Development Agreement will have **No Impact**.

XIII-b,c)The proposed project will not require the displacement of existing housing which would necessitate the construction of replacement housing. Currently the project site contains no dwellings or structures and will not displace a substantial number of people. Therefore, the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XIV. PUBLIC SERVICES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:			X	
Fire protection?			X	
Police protection?			X	
Schools?			X	
Parks?			X	
Other public facilities?			X	

DISCUSSION:

XIV-a) The Stanislaus Consolidated Fire Protection District provides fire protection and first response services for emergencies within the City of Riverbank. All law enforcement services in the City are performed under contract by the Stanislaus County Sheriff's Department. The Riverbank Unified School District (RUSD) provides elementary, junior high, and high school level education services to students within its District boundary. The Riverbank Parks and Recreation Department is responsible for administering and operating the sixteen (16) parks located throughout the City.

As previously discussed, the Development Agreement would not directly result in physical changes in the City not previously analyzed during the Tentative Map approval phase. As discussed in the Development Agreement, when new residential development occurs, the City will collect Public Facilities Fees on a per unit basis. These Fees, which include fees for fire protection, police protection, and parks, are intended to mitigate any potential impact created

by new residential development. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XV. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	

DISCUSSION:

XV-a) Payment of fees in lieu of parkland dedication, in accordance with the General Plan, would be required by the City of Riverbank as part of the standard development review and building permit process for the project. Payment of these fees would provide for park improvements elsewhere in Riverbank. For this reason, the project would not be expected to increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. The Development Agreement's impact in relation to this would be **Less than Significant**.

XV-b) As noted under Item (a) above, the recreational needs of project residents are expected to be met by the existing recreational facilities in the area, and the project would not require construction or expansion of other recreational facilities. The project's impact would therefore be considered **Less than Significant**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XVI. TRANSPORTATION/TRAFFIC -- Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?			X	
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards establishes by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities:				X

DISCUSSION:

- XVI-a) The Development covered in the Development Plan does not conflict with the City's 2005-2025 General Plans Circulation Element or Municipal Code. As such, the Development Agreement will have a **Less Than Significant Impact**.
- XVI-b) The Development Agreement will not directly result in an increase or conflict to the level of service standards and travel demand for the City of Riverbank. The project will be required to and does conform to, the circulation standards and policies set forth by the City's 2005-2025 General Plan. Therefore, the Development Agreement will have **No Impact**.
- XVI-c) The Development Agreement will not result in the change of air patterns. Therefore, the Development Agreement will have **No Impact** in this area.
- XVI-d) Street improvements discussed within the Development Agreement will not result in immediate construction or design hazards. As such, hazards due to a design feature are not anticipated to occur. Therefore, the Development Agreement will have **No Impact**.
- XVI-e) The Development Agreement, in itself, will not result in inadequate emergency access. Therefore, the Development Agreement will have **No Impact**.
- XVI-f) The proposed project will not conflict with any adopted policies, plans or programs regarding public transit, or bicycle facilities. Therefore, the Development Agreement will have **No Impact**.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XVII. UTILITIES AND SERVICE SYSTEMS -- WOULD THE PROJECT:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?			X	
f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste?			X	

DISCUSSION:

XVII-a,b,e) New residential growth and development discussed within the Development Agreement would result in population growth assumed under and consistent with the City's 2005-2025 General Plan. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

XVI-c) Adoption of the Development Agreement does not require, or result in, the construction of new storm water facilities. Rather, the Development Agreement provides the framework necessary for the City and the project's Developer to implement the construction of the approved Tentative Subdivision Map as it was approved. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

XVI-d) Potable water services within the City are provided by the City of Riverbank. It was determined, during the Tentative Map approval phase, that the City has sufficient groundwater supply to provide potable water services to the new residential units contemplated as part of the subdivision. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

XVI-f,g) Solid waste disposal in the City of Riverbank is provided via a franchise agreement with Gilton Solid Waste. Solid waste generated within the City is collected and then delivered to the Fink Road Landfill located in Crows Landing (Stanislaus County). As previously determined, during the Tentative Map approval phase, the Fink Road Landfill has the capacity to provide solid waste services to the subdivision discussed in the Development Agreement. Therefore, the 2014-2023 Housing Element will have a **Less Than Significant Impact**.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

DISCUSSION:

XVIII-a) The Development Agreement, in itself, does not regulate or provide entitlements for new development, and would not directly result in any physical changes to the environment. As a result, no new environmental effects that would have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory are anticipated. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

- XVIII-b) Under the Development Agreement, no specific development would occur. Rather, the Development Agreement would facilitate the development of the previously approved Tentative Map. Therefore, these less than significant impacts would not combine with impacts from other projects to cause a cumulative impact. In addition, the Development Agreement is not considered to be growth inducing or a document that provides entitlements. Therefore, the Development Agreement will have a **Less Than Significant Impact**.
- XVIII-c) As noted previously throughout this Initial Study, the Development Agreement would not have an environmental effect that would cause substantial adverse effects on human beings either directly or indirectly. Therefore, the Development Agreement will have a **Less Than Significant Impact**.

SECTION 4.0

REFERENCES

In accordance with Section 15063(a)(3) of the CEQA Guidelines, the following expert opinion, technical studies, and substantial evidence has been referenced and/or cited in the discussion included in Section 3.0, Initial Study Checklist:

1. City of Riverbank 2005 – 2025 General Plan, dated April 2009.
2. City of Riverbank 2005 - 2025 General Plan Environmental Impact Report (EIR), dated April 2009.
3. City of Riverbank Zoning Ordinance.
4. City of Riverbank Noise Control Ordinance, Article IX, Chapter 93.
5. California Department of Transportation Online Database of State Scenic Highways (www.dot.ca.gov/hq/LandArch/scenic/cahisys.htm).
6. California Department of Conservation Farmland Mapping and Monitoring Program, published October 2007.
7. Guide for Assessing and Mitigating Air Quality Impacts, adopted August 20, 1998, and as revised January 10, 2002, prepared by the San Joaquin Valley Air Pollution Control District.
8. Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA, dated December 17, 2009, prepared by the San Joaquin Valley Air Pollution Control District.
9. Flood Insurance Rate Map (FIRM) No. 06099C0335E, dated September 26, 2008, and No. 06099C0330E, dated September 26, 2008 prepared by the Federal Emergency Management Association (FEMA).
10. California Department of Toxic Substances Control, DTSC's Hazardous Waste and Substances Site List – Site Cleanup (Cortese List), evaluation completed in August 2016.



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

October 3, 2016

Donna M. Kenney
City of Riverbank
6707 Third Street
Riverbank, CA 95367

RECEIVED
OCT 10 2016

Subject: Hayes 4 - Phase One Subdivision Development Agreement
SCH#: 2016092001

BY:

Dear Donna M. Kenney:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 30, 2016, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures

cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2016092001
Project Title Hayes 4 - Phase One Subdivision Development Agreement
Lead Agency Riverbank, City of

Type Neg Negative Declaration

Description The proposed project consists of the City's approval of a development agreement between the City and the developers of the Hayes 4, Phase 1 subdivision. The land covered by this DA has been previously approved by the City of Riverbank as Tentative Map No. 07-2004 on August 28, 2006 and modified by City Council Resolution No. 2006-105). The DA will extend the duration of the Tentative Map and is proposed to expire 5 years from the date of approval. In addition to extending the duration of the Tentative Map, the purpose of the DA is clarify the number of lots, storm drainage concepts, and the conditions of approval for the tentative map.

Lead Agency Contact

Name Donna M. Kenney
Agency City of Riverbank
Phone 209/863-7124 **Fax**
email
Address 6707 Third Street
City Riverbank **State** CA **Zip** 95367

Project Location

County Stanislaus
City Modesto
Region
Lat / Long 37° 43' 36" N / 120° 55' 15" W
Cross Streets Clause Rd and Central Ave
Parcel No. 062-022-022, 019
Township 2S **Range** 10E **Section** 30 **Base** MDBM

Proximity to:

Highways SR 108
Airports
Railways BNSF
Waterways Stanislaus River
Schools Riverbank HS
Land Use Ranch Homes, Ag/Single family res/Lower density res

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Geologic/Seismic; Noise; Minerals; Population/Housing Balance; Public Services; Recreation/Parks; Toxic/Hazardous; Traffic/Circulation; Landuse

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 4; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 10; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; Public Utilities Commission

Date Received 09/01/2016 **Start of Review** 09/01/2016 **End of Review** 09/30/2016

Central Valley Regional Water Quality Control Board

23 September 2016

Governor's Office of Planning & Research

Donna Kenney
City of Riverbank
6707 3rd Street
Riverbank, CA 95367

SEP 27 2016

STATE CLEARINGHOUSE

CERTIFIED MAIL

91 7199 9991 7035 8362 8721

COMMENTS TO REQUEST FOR REVIEW FOR THE NEGATIVE DECLARATION, HAYES 4 – PHASE ONE SUBDIVISION DEVELOPMENT AGREEMENT PROJECT, SCH# 2016092001, STANISLAUS COUNTY

Pursuant to the State Clearinghouse's 1 September 2016 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Negative Declaration* for the Hayes 4 – Phase One Subdivision Development Agreement Project, located in Stanislaus County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

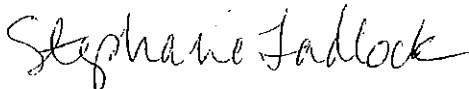
NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attn: City Clerk

Recording fees exempt (Gov. Code §§ 6103, 27383)

(Space above line for recorder's use only)

**APN: 062-022-019
062-022-022**

**DEVELOPMENT AGREEMENT BY AND BETWEEN THE
CITY OF RIVERBANK**

AND

**CHRIS HAYES AND GENEVA HAYES, HUSBAND AND WIFE (DBA HAYES
DEVELOPMENT), CARROLL S. HAYES AND RENETTA J. HAYES, HUSBAND AND
WIFE, AND KIM HAYES AND CYNTHIA HAYES, HUSBAND AND WIFE**

**RELATING TO THE DEVELOPMENT KNOWN AS THE
"HAYES NO. 4 SUBDIVISION, PHASE 1"**

Adopted by City Council Ordinance No. _____
on _____

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF RIVERBANK, a California municipal corporation ("City") and Chris Hayes and Geneva Hayes, husband and wife, dba Hayes Development, Carroll S. Hayes and Renetta J. Hayes, husband and wife, and Kim Hayes and Cynthia Hayes, husband and wife (collectively, "Developer"). Developer and City may hereinafter be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement.

This Agreement is made with reference to the following facts:

RECITALS

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development, the Legislature of the State of California adopted Government Code section 65864 *et seq.* (the "Development Agreement Statute"), which authorizes the City to enter into a development agreement with any persons and entities having a legal or equitable interest in real property, to provide for the development of such property and establish certain development rights therein.

B. Pursuant to the Development Agreement Statute, the City Council has adopted rules and regulations for considering and processing development agreements. This Agreement has been processed, considered, and executed in accordance with those City rules and regulations.

C. Developer represents that, as of the recordation of this Agreement, it will have a legal or equitable interest in land consisting of approximately 9.36 gross acres, as shown on the map attached hereto as **Exhibit A**, and legally described in **Exhibit B** (the "Property").

D. In addition to this Agreement, and the consolidated conditions of approval attached and incorporated hereto as **Exhibit C** ("Conditions of Approval") the Property is subject to the following land use plans and entitlements ("Project Approvals"):

(i) On April 25, 2005, the City Council adopted Resolution No. 2005-046, approving tentative subdivision map 07-2004 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 88 residential lots on 18.74 acres

(ii) On August 28, 2006, the City Council adopted Resolution No. 2006-105, approving the Phase 1 Vesting Tentative Subdivision Map for Tentative Map 07-2004 (the "Tentative Map").

E. On _____, 20__, the City Council approved an Initial Study/Negative Declaration in connection with its adoption of Ordinance No. _____ approving this Agreement.

F. Developer has proposed to develop the Property into 45 residential lots and related public improvements in conformance with the provisions of this Agreement and the Project Approvals (the "Project").

G. Subsequent to the approval of this Agreement, City and Developer understand that additional land use approvals, entitlements and permits may be necessary to implement the Project ("Subsequent Approvals"). The Subsequent Approvals will include, but may not be limited to, a System Development Fee Reimbursement Agreement, a draft copy of which is attached hereto for reference as **Exhibit D**, and a Subdivision Improvement Agreement, a draft copy of which is attached hereto for reference as **Exhibit E**.

H. The City finds that development of the Project in accordance with this Agreement, the Project Approvals and Subsequent Approvals will provide for orderly growth within the City consistent with the goals, policies, and provisions of the General Plan.

I. In exchange for these benefits to the City, together with the public benefits that will result from the development of the Project pursuant to the Project Approvals, Developer seeks assurance that it may proceed with development of the Project in accordance with the terms and conditions of this Agreement.

J. The City shall maintain all documents mentioned in this Agreement and place them in a three ring binder, to be maintained at all times by the Development Services Department.

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

The following defined terms in this Agreement shall have the meanings set forth below:

1.01. "Agreement" means this Development Agreement entered into by and between the City and Developer relating to the development known as "Hayes No. 4 Subdivision, Phase 1".

1.02. "City" shall mean the City of Riverbank, a California municipal corporation.

1.03. "City Council" shall mean the City Council of the City of Riverbank.

1.04. "City Code" shall mean the Riverbank Municipal Code.

1.05. "Conditions of Approval" shall mean the consolidated conditions of approval for the Project, attached and incorporated hereto as Exhibit C. The Conditions of Approval supersede previous conditions adopted in connection with City Resolution Nos. 2005-046 and 2006-105.

1.06. “Developer” shall mean, collectively, Chris Hayes and Geneva Hayes, husband and wife (dba Hayes Development), Carroll S. Hayes and Renetta J. Hayes, husband and wife, and Kim Hayes and Cynthia Hayes, husband and wife, and may include Developer’s assignees where such assignment is validly made pursuant to this Agreement.

1.07. “Effective Date” shall mean the earliest date on which the following have both occurred: (a) the thirtieth (30th) day following the adoption by the City Council of the ordinance approving this Agreement, and (b) execution of this Agreement by both Parties.

1.08. “Facilities Districts” or “CFDs” shall mean a Mello-Roos Community Facilities District that City and Developer may form or annex into for the purpose of facilitating the long-term maintenance of public improvements serving the Property.

1.09. “General Plan” shall mean the 2005-2025 Riverbank General Plan, as amended.

1.10. “Growth Control Measure” shall mean any ordinance, resolution, minute order, policy, moratorium, rule, regulation, decision, standard or any other action taken by the City other than pursuant to voter initiative or referendum, which would otherwise be applicable to the Project, and which would (a) limit or restrict the number of building permits issued by the City for the Project; (b) limit or restrict the Project’s ability to connect to the City’s sewer system, water system, storm drainage system or any other City service; (c) alter the Project Approvals without consent of Developer, (d) limit the number of final occupancies issued by the City; or (e) any combination of the foregoing.

1.11. “Improvements” shall mean those water, sewer, storm drainage and traffic improvements identified in the Tentative Map and this Agreement.

1.12. “Landowner” shall mean the record owner of any legal parcel of the Property, whether one or more persons or entities, of fee simple title to any Unit including contract sellers, but excluding those having such interest merely as security for the performance of an obligation; provided, however, that Landowner shall mean and include any person or entity which is a security holder in actual possession of a Unit.

1.13. “Planning Commission” shall mean the Planning Commission of the City of Riverbank.

1.14. “Project” shall mean the land uses, densities and improvements to the Property as depicted in the Project Approvals.

1.15. “Property” shall mean 9.36 acres of real property located north of Kentucky Avenue, east of Claus Road, west of Central Avenue and south of California Avenue, in the City of Riverbank and the County of Stanislaus, State of California, as shown on the map attached as Exhibit A.

1.16. “Subsequent Approvals” shall mean those approvals necessary to implement the Project Approvals that have not been conferred as of the Effective Date of this Agreement.

1.17. "System Development Fees" or "SDF" shall mean the City's capital facility programs and impact fee schedule adopted pursuant to Government Code section 66000 *et seq.*

1.18. "Tentative Map" shall refer to the Phase 1 Vesting Tentative Subdivision Map for the Project, as approved by the City Council on August 28, 2006 by Resolution No. 2006-105, attached and incorporated hereto as Exhibit A, which may be amended from time to time in compliance with this Agreement.

1.19. "Unit" shall mean a single family residential detached dwelling to be constructed on the land pursuant to the Project Approvals.

ARTICLE 2 GENERAL PROVISIONS

2.01. **Findings.** The City hereby finds and determines that entering into this Agreement will further the public health, safety and general welfare of the City and that the provisions of this Agreement are consistent with the City's General Plan.

2.02. **Recitals.** The Recitals above are true and correct and are hereby incorporated into and made a part of this Agreement. In the event of any inconsistency, however, between the Recitals and Articles 1 through 10 of this Agreement, Articles 1 through 10 shall prevail.

2.03. **Exhibits.** The following exhibits, as they may be amended from time to time, are attached hereto and incorporated as part of this Agreement (the "Exhibits"):

Exhibit A:	Project Tentative Map
Exhibit B:	Legal Description of the Property
Exhibit C:	Consolidated Conditions of Approval
Exhibit D:	Draft System Development Fee Reimbursement Agreement
Exhibit E:	Draft Subdivision Improvement Agreement

2.04. **Property Description and Binding Covenants.** Developer represents that they have a legal or equitable interest in the Project and that all other persons holding legal or equitable interests in the Project (excepting owners or claimants in easements) agree to be bound by this Agreement. The Parties intend and determine that the provisions of this Agreement shall constitute covenants which shall run with said Project, and the burdens and benefits hereof shall bind and inure to all successors in interest to the Parties hereto.

2.05. **Term.**

(a) Term. This Agreement shall only become effective upon commencement of the Effective Date and shall extend for period of five (5) years thereafter, unless said Term is terminated, modified or extended pursuant to this Agreement. Following the expiration of said Term, this Agreement shall be deemed terminated and of no further force and effect.

(b) Extension. Developer may request to extend the term of the Agreement one time for the length of five (5) years. The City Council may approve a one-time extension. If

approved, the extension shall be recorded on the Property in the official records of Stanislaus County.

(c) Termination. This Agreement shall automatically terminate with respect to any residentially zoned parcel of the Property that receives a final inspection in connection with the construction of a residential unit, provided that all improvements required to serve the parcel, as determined by City, have been accepted by City. Although such termination will be automatic, Developer or a then-existing Landowner may request that the City record a written notice of termination with the County Recorder for the applicable parcel. Termination of this Agreement for any such residential parcel shall in no way be construed to terminate or modify any assessment district, CFD, or lien previously recorded against such parcel at the time of termination.

(d) Tolling During Legal Challenge. In the event that this Agreement, or any of the Project Approvals are subjected to legal challenge by a third party, and Developer is unable to or elects not to proceed with the Project due to such litigation, the City may, in its sole discretion, toll the term of and timing for obligations imposed pursuant to this Agreement, provided that Developer must request, and if agreeable the City must provide, in writing, the terms of such tolling and any other timing considerations necessary to facilitate the tolling of this Agreement.

2.06. Amendment. This Agreement may be amended by mutual written consent of the Parties, in accordance with the provisions of Government Code sections 65867 and 65868 and this Agreement.

(a) Major Amendment. Any amendment to this Development Agreement which affects or relates to permitted uses of the Project, the density or intensity of land uses on the Property or neighboring properties or land uses, or any other material change, shall be deemed a "Major Amendment" and shall require noticed public hearings before both the Planning Commission and City Council. The City, in its sole discretion, shall determine whether a proposed amendment constitutes a material change necessitating a Major Amendment.

(b) Minor Amendment. The Parties acknowledge that refinement and further implementation of the Project may demonstrate that minor changes to this Agreement may be appropriate with respect to the details and performance of the Parties. The Parties desire to retain flexibility with respect to the details of the Project and with respect to items covered by the general terms of this Agreement. If the City finds that clarifications, minor changes or minor adjustments are necessary or appropriate and do not constitute a Major Amendment, the Parties may effectuate such clarifications, minor changes and adjustments in a "Minor Amendment" approved in writing by Developer and the City Manager. Unless otherwise required by law, a Minor Amendment shall not require noticed public hearings.

2.07. Recordation. Once fully executed, this Agreement and any subsequent amendment or termination shall be recorded in the official records of Stanislaus County within ten (10) days after City executes such agreement, amendment or termination. Any amendment or termination of the Agreement that affects less than all of the Property shall clearly describe the portion thereof that is the subject of such amendment or termination.

ARTICLE 3 DEVELOPMENT OF THE PROPERTY

3.01. Vested Rights of Developer. By developing the Property consistent with the Project and during the Term of this Agreement, Developer is assured, and City agrees, that the development rights, obligations, terms and conditions specified in this Agreement, including without limitation, the terms and conditions in the attached Exhibits and the Project Approvals are fully vested in Developer.

3.02. Permitted Uses. The Project's permitted uses, density and intensity of use, maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location of public improvements and utilities, payment of fees, and other terms and conditions of development applicable to the Project shall be those set forth in this Agreement and the Project Approvals. Project Approvals shall not be changed without the approval of the City and Developer, except as provided herein.

3.03. Priority of Enactment. The Parties intend that this Agreement, together with the Project Approvals, shall serve as the definitive and controlling documents for all subsequent actions, discretionary or ministerial, relating to the development of the Project. In the event of conflict between various documents referenced in this Agreement, the Parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (1) the Development Agreement; (2) the Project Approvals; (3) the General Plan; and (4) the ordinances, resolutions, policies and regulations adopted by the City in effect on the Effective Date including the ordinances governing the permitted uses of land, the density and intensity of uses, the timing of development, and the design, improvement, construction standards, policies and specifications applicable to the development of the Property, including, but not limited to, the General Plan, the zoning ordinance and all other ordinances, codes, rules, policies and regulations of the City.

3.04. Character Design. Each home built as part of the Project shall conform to the Community and Character Design elements of the General Plan, specifically the policies of Goal Design-3, 4, and 5. The design of each home shall be subject to site plan review which may include review of the proposed architecture in front of the planning commission.

3.05. Improvement Standards. The Project shall comply with all improvement standards and specifications of the City, including street cross-sections, storm drainage, water, sewer, and drought tolerant landscape standards, which exist at the time that a site plan application is submitted to the City.

3.06. Storm Water Impact Standards. The Project shall adhere to the Low Impact Development Model Standards and Specifications as adopted by the City in January 2013. The project shall comply with the most current MS4 program elements imposed by the State of California, and City Ordinance.

3.07. Subdivision Maps.

(a) Time Period for Tentative Map. As provided in Government Code section 66452.6, the term of the Tentative Map is hereby extended so that it will remain valid through the Term of this Agreement. The Project Approvals shall also remain valid through the Term of this Agreement, notwithstanding any condition of approval or any other provision of the Project Approvals to the contrary.

(b) Dedication of Public Lands. This Agreement shall have no effect on dedication requirements and procedures under the Subdivision Map Act (Gov. Code § 66410 *et seq.*)

3.08. Changes to Existing Land Use Regulations. The Parties acknowledge that the following changes to existing laws, ordinances and regulations shall apply to the development standards of the Project:

(a) No Growth Control Measure. Except as expressly provided in this Section or other provisions of this Agreement, no Growth Control Measure shall be applicable to the Project, any portion or phase of the Project, or this Agreement.

(b) Changes Mandated by Federal or State Law. As provided in section 65869.5 of the Development Agreement Statute, this Agreement shall be modified or suspended as necessary to comply with state or federal laws or regulations enacted after the Effective Date, which prevent or preclude compliance with one or more provisions of this Agreement. Upon discovery of a subsequently enacted and conflicting state or federal law, City or Developer shall provide the other Party with written notice of the state or federal law or regulation, and a written statement of the conflicts thereby raised with the provisions of City Law or this Agreement. Promptly thereafter, City and Developer shall meet and confer in good faith in a reasonable attempt to modify this Agreement, as necessary, to comply with such federal or state law. In such discussions, City agrees to process, in accordance with the provisions of this Agreement, Developer's proposed changes to the Project that are necessary to comply with such state or federal law and that such proposed changes shall be deemed to be consistent with this Agreement without further need for any amendment to this Agreement or the Project Approvals.

(c) Construction and Technical Design Standards. Development of the Project shall be subject to changes occurring from time to time to the California Building Code, California Fire Code and subsequent citywide changes to construction or technical design standards or specifications for public improvements which are reasonably and directly related to durability or longevity of the public improvements.

(d) Other Public Agencies. The Parties acknowledge that other public agencies outside of the control and authority of the City may regulate aspects of the development of the Project. This Agreement does not limit the authority of any such public agency. To the extent Developer requires permits or approvals from other public agencies, however, City agrees to cooperate with Developer to obtain such permits and approvals for the Project.

(e) Health and Safety Emergencies. In the event that any future public health and safety emergencies arise with respect to the development contemplated by this Agreement, City agrees that it shall attempt, if reasonably possible, to address such emergency in a way that does not have a material adverse impact on the Project in accordance with the Project Approvals and any Subsequent Approvals. If City determines that it is not reasonably possible to address the health and safety emergency in a way that avoids any material adverse impact on the Project, City, after consultation with Developer, shall select an option for addressing the situation that minimizes, so far as reasonably possible, the impact on development of the Project.

(f) Initiatives and Moratoria. Notwithstanding any other provision of this Agreement, the Project shall be subject to any initiative or referendum that specifically overturns City's approval of the Project Approvals, and any growth limitation ordinance, resolution, rule, regulation, policy or moratorium that is adopted and applied on a uniform, city-wide basis and directly concerns an imminent public health or safety issue. In such case, City shall apply such ordinance, resolution, rule, regulation or policy uniformly, equitably and proportionately to Developer and the Property and to all other public or private owners and properties directly affected thereby. By way of example only, an ordinance which would preclude the issuance of a building permit due to a city-wide lack of adequate sewage treatment capacity to meet additional demand would directly concern an imminent public health issue under the terms of this paragraph and would support a denial of a building permit within the Project or anywhere else in the City if approval would require additional sewage treatment capacity. In all other cases,

(g) City Ordinances of General Applicability. The City may apply to the Project any subsequently enacted ordinances, only if all of the following conditions apply: (i) such subsequently enacted ordinances or guidelines have general applicability to all other relevant parcels within the City; (ii) such ordinances are not in direct conflict with the adopted ordinances or guidelines that were in effect on the Effective Date, and (iii) the application of such ordinances or guidelines would not prevent development, or significantly increase the cost of development, of the Project.

3.09. Development Timing. Developer shall be obligated to comply with the terms and conditions at those times specified in either the Project Approvals or this Agreement. The Parties acknowledge that Developer cannot predict with certainty when or the rate at which phases of the Property would be developed. Such decisions depend upon numerous factors which are not all within the control of Developer, such as market orientation and demand, interest rates, competition and other factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development controlling the parties' agreement, it is the intent of the City and Developer to hereby acknowledge and provide for the right of Developer to develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment, subject to the terms, requirements and conditions of the Project Approvals and this Agreement. The City acknowledges that such a right is consistent with the intent, purpose and understanding of the parties to this Development Agreement, and that without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statute, City

Council Ordinance No. _____ and this Agreement. Developer shall use their best efforts, in accordance with their business judgment and taking into consideration market conditions and other economic factors influencing Developer's business decision, to commence or to continue development, and to develop the Project in a regular, progressive and timely manner in accordance with the provisions and conditions of this Agreement and with the Project Approvals.

3.10. Conflict Resolution. If Developer believes the City has acted in conflict with the Project Approvals, Developer shall provide to the City Manager written notice describing the legal and factual basis for Developer's position. The City Manager will then respond to the allegations within thirty (30) days. If Developer is unhappy with the City Manager's response, such response may be appealed to the City Council.

ARTICLE 4 FEES, COSTS AND REIMBURSEMENTS

4.01. Processing and Inspection Costs. Developer shall pay those processing, inspection and plan checking fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Developer hereunder.

4.02. City Impact Fees. Except as provided in this Agreement, Developer shall pay all fees subject to the Mitigation Fee Act, Government Code section 66000 *et seq.*, including System Development Fees, impact fees, connection fees, public facilities fees or similar fees adopted by the City, and all other fees imposed as conditions of approval of the Property ("Fees"), as of the Effective Date of this Agreement. New Fees enacted after the Effective Date of this Agreement shall not be imposed upon the Project. Notwithstanding the above, Fees adopted prior to the Effective Date of this Agreement applicable to the Project may be increased or reduced, provided that such revised fees (a) must be reasonable, (b) have a direct nexus to development of the Property and Project, (c) apply generally to similar private projects or works within the City, and (d) the application of any such fee to the Property shall not require an amendment to this Agreement or any Project Approvals.

4.03. System Development Fee Credits. City and Developer have agreed in concept to System Development Fee credits attributable to Developer, as provided in the agreement attached as **Exhibit C** (the "Reimbursement Agreement").

4.04. County Fees. Development of the Property is subject to County Development Fees. Developer must provide proof of payment of County Development Fees prior to the issuance of any building permits by City.

4.05. School District Fees. Developer agrees to pay all impact fees established pursuant to Education Code section 17620 and Government Code section 65996 to the Riverbank Unified School District, Modesto City School District and/or the Sylvan Unified School District (whichever District applies) prior to the issuance of any building permit.

ARTICLE 5 IMPROVEMENTS, SERVICES AND UTILITIES

5.01. Fire Protection. Developer acknowledges that, as of the Effective Date of this Agreement, fire protection for the Property is provided by Stanislaus County Consolidated Fire Protection District. This Agreement does not address special assessments or other fees that may or may not apply to the Property in connection with services provided by Stanislaus Consolidated Fire Protection District.

5.02. Police Services. Developer acknowledges that law enforcement services for the City are performed under contract with the Stanislaus County Sheriff's Department.

5.03. Subdivision Improvement Agreement. Developer is obligated to construct the improvements identified in the Tentative Map. Developer acknowledges that, in order for the City to process any final map in connection with the Property, Developer shall be required to enter into a Subdivision Improvement Agreement as one of the Subsequent Approvals related to the Project.

5.04. Storm Drainage Improvements. Developer agrees to construct a linear storm water retention facility to be known as a Paseo between Claus and Central Ave. The preliminary concept drawings for the Paseo are shown on sheet 2 of the modified Tentative Map illustrated on Exhibit A to this agreement. The storm drain aspects of the Paseo improvements shall be improved to a maximum depth of 4.5 feet and shall be improved as a condition to recording the final map, or in connection with the City's approval of a subdivision improvement agreement.

5.05. Parkland Dedication and Improvement. Developer may offer to dedicate parkland within the storm drainage area, in order to satisfy parkland dedication requirements in accordance with the Quimby Act (Gov. Code § 66477), currently 5 acres of parkland per 1,000 persons (1 acre of park per 58 new dwelling units) and provisions of City Code related to park improvement.

(a) Dedication. To receive reimbursement for dedication of parkland within the storm drainage area, Developer must submit concept landscape drawings to the satisfaction of the Community Development Director and the Parks and Recreation Director in connection with approval of the final subdivision map for the Property. Developer will be under obligation to install or bond for the landscaping improvements, which shall be in compliance with City Drought Tolerant Landscape Standards. As the Property is currently subject to a CFD to finance ongoing maintenance of public improvements, no additional financial mechanism shall be required for park maintenance, provided that the Property remains in the CFD.

(b) Parkland Credit. The dedicated parkland will create an Open Space "Paseo Park", which serves to solve the Project's storm water obligation. As a dual-use basin, the City shall only allow 50% credit, per net acre, in satisfaction of the parkland dedication requirements for the Property. The same 50% fee credit ratio will apply to the parkland fee category of the System Development Fees for the improved Paseo Park. City shall review the Paseo Park plans

and, if approved, City shall require full installation of all agreed park improvements, including irrigation.

(c) Oversizing. City and Developer may agree to the dedication of more parkland than legally required for the Project (factoring in the 50% credit as set forth above). In such case, the value of the neighborhood park improvements to be installed by the developer may be credited through the City's SDF program, up to the amount defined in the neighborhood park improvement budget in the adopted SDF program. The terms for dedicating such excess parkland shall be defined in a reimbursement agreement, in similar form as the sample provided in Exhibit C, provided that Developer will not be entitled to any fee credit or reimbursement for construction costs that exceed the defined neighborhood park improvement budget.

ARTICLE 6 CITY OBLIGATIONS

6.01. City Cooperation. City agrees to cooperate with Developer in securing all permits that may be required by City and, to the extent applicable, state and federal agencies. In the event state or federal laws or regulations enacted after this Agreement have been executed, or action of any governmental jurisdiction, prevent, delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended or suspended as may be necessary to comply with such state and federal laws or regulations or the regulations of other governmental jurisdictions. Each Party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

6.02. Applications for Permits and Subsequent Approvals. City agrees that it will accept, in good faith, for processing review and action, all applications for development permits or other entitlements for use of the Property in accordance with the Project Approvals and this Agreement, and shall exercise its best efforts to act upon such applications in an expeditious manner.

ARTICLE 7 DEFAULT, REMEDIES, TERMINATION

7.01. General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either Party to perform any term or provision of this Agreement shall constitute a default. Any Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which the default may be cured. During any such thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings. After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may terminate this Agreement and institute legal or equitable action to cure, correct or remedy any default, including but not limited to an action for specific performance of

the terms of this Agreement. In no event shall either Party be liable to the other for consequential damages for any default or breach of this Agreement.

7.02 Developers' Default; Enforcement. No building permit shall be issued or building permit application accepted for the building shell of any structure on the Property if the permit applicant owns or controls any property subject to this Agreement and if such applicant or any entity or person controlling such applicant is in default under the terms and conditions of this Agreement, unless such default is cured or this Agreement is terminated. Developer shall cause to be placed in any covenants, conditions and restrictions applicable to the Property, or in any ground lease or conveyance thereof, express provision for an owner of the Property, lessee or City acting separately or jointly to enforce the provisions of this Agreement and to recover attorneys' fees and costs for such enforcement.

7.03. Default by City. In the event City does not accept, review, approve or issue development permits, entitlements, or other land use or building approvals for use in a timely fashion as provided in this Agreement or as otherwise agreed to by the parties, or the City otherwise defaults under the terms of this Agreement, Developer shall have all rights and remedies provided herein or under applicable law or equity (except as limited herein). Developer shall provide City with written notice of the default and the City shall have thirty (30) days to notify Developer of City's initial action to cure the default and ninety (90) days from receipt of Developer's notice to cure the default.

7.04. Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. Provided, however, that Developer, its successors and assigns hereby waive any and all claims for monetary damages against City arising out of this Agreement at any time. All legal actions shall be initiated in the Superior Court of the County of Stanislaus, State of California.

7.05. Effect of Termination. Termination of this Agreement shall not affect Developer's obligations to comply with the General Plan and the terms and conditions of any and all remaining Project Approvals, nor shall it affect any other covenants of Developer which expressly continue after the termination of this Agreement.

7.06. Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Developer acknowledges and agrees that the City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity or meaning of this Agreement shall be that accorded to legislative acts of the City. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court.

ARTICLE 8 INDEMNIFICATION

8.01. Indemnification. Developer hereby agrees to indemnify the City, its elective and appointive boards, commissions, officers, agents and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage, which may arise from Developer or Developer's contractors, subcontractors, agents or employees operations under this Agreement, whether such operations be by Developer, or by any of Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by or acting as agent for Developer or any of Developer's contractors or subcontractors. In the event of any legal action instituted by a third party or any governmental entity or official arising out of the approval, execution or implementation of this Agreement (exclusive of any such actions brought by Developer), Developer agrees to and shall cooperate fully and join in the defense by the City of such action.

8.02. Third Party Legal Challenge. In the event of any legal or equitable act, action, or other proceeding instituted by a third party, other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending said action or proceeding. If Developer elects to file a validation action in order to confirm validity of this Agreement, City agrees to cooperate with Developer in this litigation and further agrees to refrain from raising any arguments that challenge the validity of this Agreement.

ARTICLE 9 ASSIGNMENT; MORTGAGEE PROTECTION

9.01. Mortgagee Protection. This Agreement, once executed, shall be superior and senior to any lien placed upon the Property or any portion thereof, including the lien of any deed of trust or mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against and shall run to the benefit of any person or entity, including any deed of trust beneficiary or mortgagee who acquires title or possession to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. Any such mortgagee or beneficiary shall be entitled to receive any notice of default under this Agreement provided that such mortgagee or beneficiary has submitted a written request to City to give such notice, setting forth the names and addresses of the persons to receive notices on behalf of such mortgagee or beneficiary and the kinds of notices to be sent to such persons. All provisions of this Agreement allowing Developer to cure any and all defaults shall also be available to any mortgagee or beneficiary entitled to notice above, should that mortgagee or beneficiary desire to cure said defaults.

9.02. Mortgagee Not Obligated. Notwithstanding the provisions of Section 9.01 above, no mortgagee shall have any affirmative obligation or duty under this Agreement to construct or complete improvements, or to guarantee such construction or completion. A mortgagee who takes lawful possession of the Property shall, however, assume any or all development rights consistent with any vested rights and this Agreement. Foreclosure under a mortgage, deed of trust, deed in lieu of foreclosure or sale following foreclosure or deed in lieu of foreclosure is permitted without the consent of the City. Following its acquisition of all or a

portion of the Project, such holder of any mortgage or deed of trust, or any successor in interest thereto, shall be entitled to the benefits of this Agreement, shall be bound by its terms and obligations, and shall have standing to enforce the provisions of this Agreement, including the terms and conditions of Project Approvals which pertain to the Project or such portion thereof in which it holds an interest. Any such holder or successor who comes into possession of the Project, or any portion thereof, shall take the Project, or such portion thereof, subject to any claims for payments or charges against the Project or such portion thereof, which accrue under this Agreement or Project Approvals prior to the time such holder or successor comes into possession of the Project or such portion thereof. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder or successor to devote the Project, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by Project Approvals and this Agreement, subject to all of the terms and conditions of this Agreement.

9.03. Assignment of Rights. Subject to compliance with Section 9.04 below, Developer may sell, assign or transfer the Project in whole or in part to any person or entity at any time during the Term of this Agreement. Developer shall seek City's prior written consent to any sale, assignment or transfer, which consent shall not be unreasonably withheld or delayed. Failure by City to respond within forty-five (45) days to any request made by Developer for such consent shall be deemed to be City's approval of the sale, assignment or transfer in question. City may refuse to give its consent only if, in light of the proposed assignee's reputation and financial resources, such assignee would not in City's reasonable opinion be able to perform the obligations proposed to be assumed by such assignee. Such determination shall be made by the City Manager, and may be appealable by Developer to the City Council. To the extent reimbursements or fee credits from City are required pursuant to this Agreement or the Project Approvals, any and all such reimbursements and credits shall be distributed to Developer unless Developer and the subsequent Landowner specifically direct City in writing to distribute such reimbursements, or apply such credits, otherwise.

9.04. Assumption of Rights. Express written assumption of this Agreement by a subsequent Landowner of the obligations and other terms and conditions of this Agreement shall relieve Developer of such obligations so expressly assumed. Any such assumption agreement shall be in recordable form and shall be approved as to form by the City Attorney, and shall provide for a subsequent Landowner to contractually assume all of the rights of Developer as a Party to this Agreement with respect to the Project site, or portions thereof, which is sold, assigned or transferred by Developer to the subsequent Landowner. The City Clerk shall cause any such assumption agreement received by him or her to be duly recorded in the official records of Stanislaus County within ten (10) days of receipt. Subject to City's approval of such transfer pursuant to Section 9.3 above, upon recordation of said assumption agreement, Developer shall automatically be released from those obligations assumed by the assignee.

ARTICLE 10 GENERAL

10.01. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of Developer and City and their successors and assigns, no other person shall have any right of action based upon any provision in this Agreement.

10.02. Project is a Private Undertaking. Both Parties acknowledge that the Project is a private development. No partnership, joint venture or other association of any kind between Developer and the City is formed by this Agreement. The only relationship between the City and Developer is that of a governmental entity regulating the development of private property and the owner of such private property.

10.03. Covenants Running with the Land. All of the terms and conditions contained in this Agreement are binding upon and benefit the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or any portion of the Property, whether by operation of law or in any manner whatsoever, during their ownership of the Property, or any portion thereof. All of the terms and conditions of this Agreement constitute covenants running with land pursuant to California law, including, without limitation, Civil Code section 1468.

10.04. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

10.05. Annual Review. The City shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer with the terms and conditions of this Agreement, pursuant to Government Code section 65865.1. If, following such review, the City Manager is not satisfied that Developer has demonstrated good faith compliance with all the terms and conditions of this Agreement, or for any other reason, the City Manager may refer the matter along with his or her recommendations to the City Council. Failure of the City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

10.06. Estoppel Certificate. City shall, within at least twenty (20) days prior written notice, execute, acknowledge and deliver to Developer, Developer's lender, potential investors and assignees, an Estoppel Certificate in writing which certifies that this Agreement is in full force and effect, that there are no breaches or defaults under the Agreement and that the

Agreement has not been terminated and is enforceable in accordance with its terms and conditions.

10.07. Construction. This Agreement shall be subject to and construed in accordance and harmony with the Riverbank Municipal Code, as it may be amended provided that such amendments do not impair the rights granted to the Parties by this Agreement.

10.08. Other Necessary Acts. Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

10.09. Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, 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 or communication shall be deemed to have been given when delivered to the Party to whom it is addressed. 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 3rd Street
Riverbank, CA 95367
Attn: City Manager

With a copy to: Churchwell White LLP
1414 K Street, 3rd Floor
Sacramento, CA 95814
Attn: Douglas L. White, Esq.

If to Developer: Chris Hayes
946 N. Ripon Rd.
Ripon, CA. 95366
Attn: Chris

10.10. Prevailing Wage. Developer shall be solely responsible for determining whether construction of any or all of the improvements required in connection with the Project trigger the obligation to pay prevailing wages under California or federal law. In the event and to the extent that the payment of prevailing wages is required, Developer shall use diligent good faith efforts

to ensure full compliance with those requirements. Developer shall defend, indemnify and hold harmless City, its agents, employees, officers and officials from any liability, loss, debts, costs or damages sought by a third party for a failure to pay prevailing wages in connection with the Project. The indemnification obligation set forth in this Section shall survive the termination of this Agreement.

10.11. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue shall be in the Superior Court of Stanislaus County.

10.12. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements whether oral or written. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by both Parties.

10.13. Counterparts. This Agreement and any and all amendments and supplements to it may be executed in notarized counterparts, and all counterparts together shall be construed as one document.

10.14. Waiver. No waiver by a Party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a Party of any right or remedy provided in this Agreement or provided by law shall not prevent the exercise by that Party of any other remedy provided in this Agreement or under the law.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date, as defined in Section 1.07 above.

CITY

The City of Riverbank, a California municipal corporation

By: _____
Richard O'Brien, Mayor

Date: 1-14-17

APPROVED AS TO FORM:

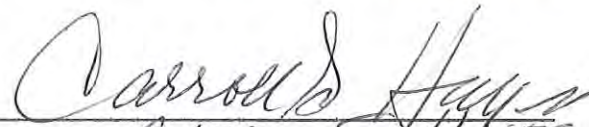
By: _____
Tom Hallinan, City Attorney

ATTEST:

By: _____
City Clerk

DEVELOPER


Print Name: Chris Hayes
On behalf of Chris Hayes and Geneva Hayes, husband and wife, ~~dba Hayes Development~~


Print Name: CARROLL S. HAYES
On behalf of on behalf of Carroll S. Hayes and Renetta J. Hayes, husband and wife,

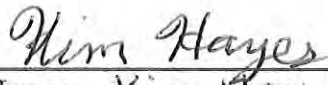
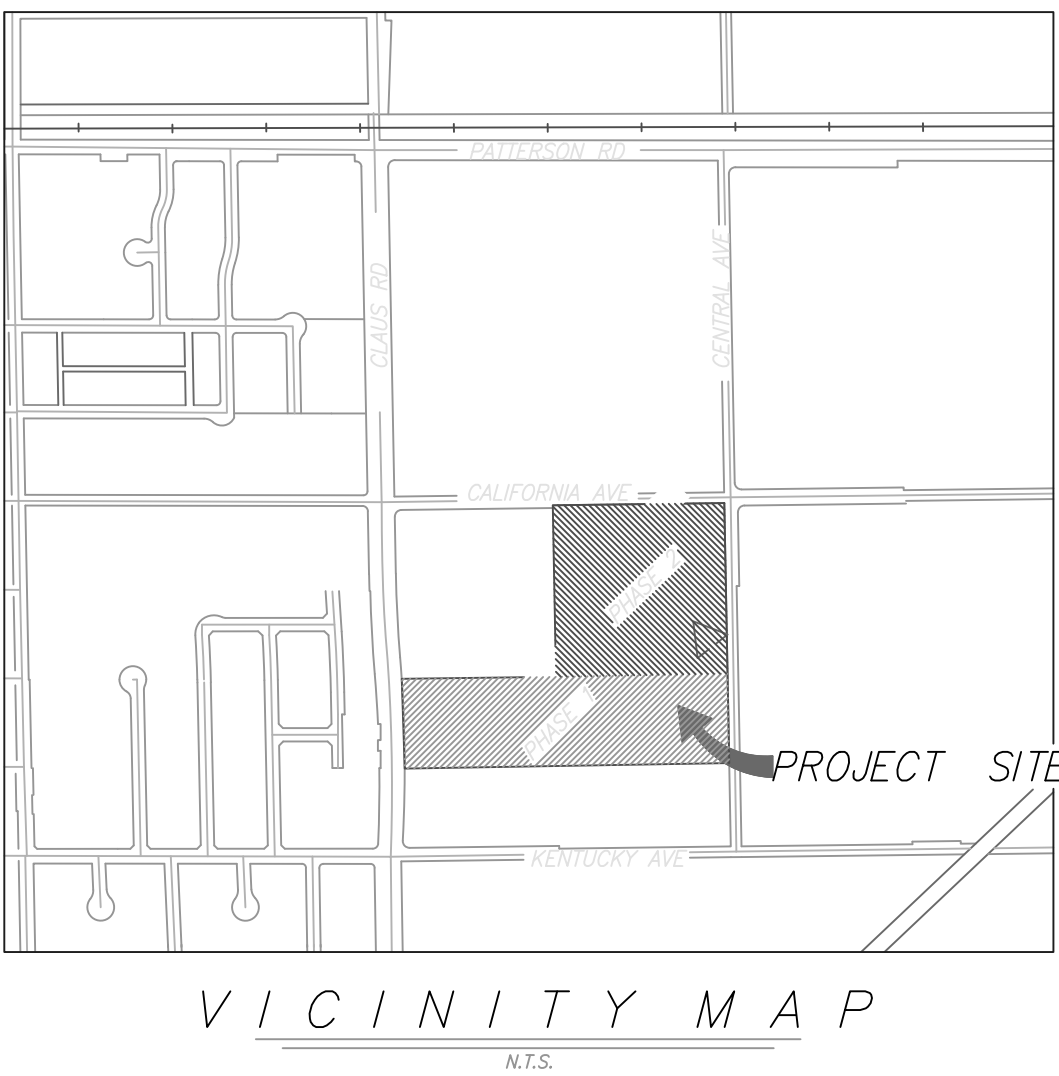
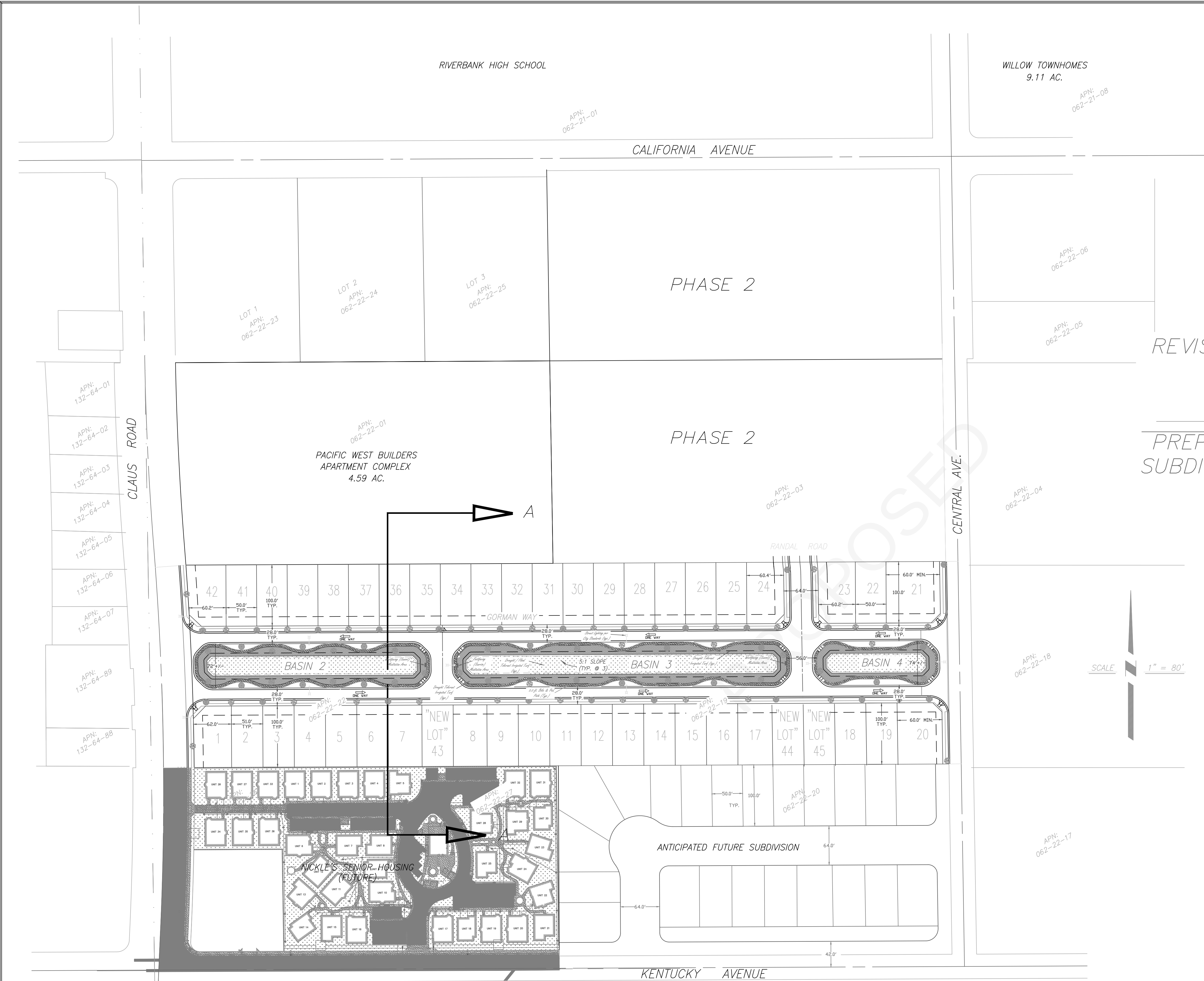

Print Name: Kim Hayes
On behalf of on behalf of Kim Hayes and Cynthia Hayes, husband and wife

EXHIBIT A

Project Tentative Map

DRAFT



9/1/16
REVISED TENTATIVE SUBDIVISION MAP
and
LANDSCAPING EXHIBIT

PREPARED FOR HAYES 4 ~ PHASE 1
SUBDIVISION DEVELOPMENT AGREEMENT

RIVERBANK, CALIFORNIA

TOSCHI CIVIL ENGINEERING

2937 PARKVIEW DR. MODESTO, CA 95355

OWNER:

HAYES 4 DEVELOPMENT
10535 OLD DON PEDRO RD.
JAMESTOWN, CA 95327
ATTN: CARROLL HAYES

AS APPROVED:

PHASE 1 = 9.36 AC
45 LOTS, & 3 PARKS
(LOTS 1-45 & BASINS 2,3&4)

SUBDIVIDER:

HAYES 4 DEVELOPMENT
10535 OLD DON PEDRO RD.
JAMESTOWN, CA 95327
(209) 968-7333

STATEMENT OF SUBDIVIDER:

- ASSESSORS PARCEL NO'S: 062-22-03, 062-22-19, 062-22-22
- SIZE: 9.36 ACRES ± - 45 LOTS
- EXISTING ZONING: R-1
- PROPOSED ZONING: R-1
- EROSION CONTROL PER CITY OF RIVERBANK ORDINANCES AND STANDARDS.
- SETBACKS AND BUILDING LINES PER R-1 ZONING.
- WATER SUPPLY: BY CITY OF RIVERBANK AS SHOWN ON THIS MAP. PER THE BRUINVILLE (SOUTH) INFRASTRUCTURE REPORT (APPENDIX 'B')
- SEWAGE DISPOSAL: BY CITY OF RIVERBANK AS SHOWN ON THIS MAP. PER THE BRUINVILLE (SOUTH) INFRASTRUCTURE REPORT (APPENDIX 'B')
- STORM DRAINAGE: BY CITY OF RIVERBANK AS SHOWN ON THIS MAP. PER THE BRUINVILLE (SOUTH) INFRASTRUCTURE REPORT (APPENDIX 'B')
- A 10' PUBLIC UTILITY EASEMENT SHALL BE DEDICATED ALONG ALL STREET FRONTAGES.
- TREE TYPE AND LOCATION SHALL BE DETERMINED BY CITY OF RIVERBANK.
- ALL IMPROVEMENTS AND PUBLIC FACILITIES WILL BE INSTALLED OR CONSTRUCTED AT THE TIME OF DEVELOPMENT. ALL IMPROVEMENTS SHALL BE CONSTRUCTED IN COMPLIANCE THE MUNICIPAL CODE, REGULATIONS AND CITY STANDARDS.
- DEPTH TO GROUND WATER PER CALIFORNIA DEPARTMENT OF WATER RESOURCES: 50 TO 80 FT

NOTES:

- STREET IMPROVEMENTS SHALL BE CONSTRUCTED AS SHOWN PER APPROVED CITY OF RIVERBANK STANDARD SPECIFICATIONS. (SEE DETAILS SHEET 2/2).
- ALL WELLS AND SEPTIC TANKS TO BE ABANDONED PER HEALTH DEPARTMENT REQUIREMENTS.
- EXISTING IMPROVEMENTS SHOWN WERE ACQUIRED FROM RECORD INFORMATION AND ARE TO BE VERIFIED IN THE FIELD.
- EXISTING ON SITE IRRIGATION FACILITIES TO BE ABANDONED AND REMOVED, IF NOT REQUIRED, OR RELOCATED IN PIPELINES PER OLD REQUIREMENTS.
- OWNERS RESERVES THE RIGHT TO FILE MULTIPLE FINAL MAPS.

LOTS ARE A MIN. OF:
50' X 100' & 5000SF (INTERIOR)
60' X 100' & 6000SF (CORNERS)

PASEO LANDSCAPING LEGEND

- | | |
|--|---|
| CITY STANDARD ELECTROLIER | BUCHLOE DACTYLOIDES (BUFFALOGRASS) |
| PISTACIA CHINENSIS (50) (CHINESE PISTACHE) | PEDESTRIAN / BICYCLE PATH |
| KOELREUTERIA PANICULATA (40) (GOLDENRAIN) | MEDITATION AREA (CONCRETE BENCH W/LATTICE OVERHEAD TRELLIS) |
| CYNODON DACTYLON (HYBRID BERMUDAGRASS) | |

PASEO LANDSCAPING NOTES:

- ADDED 3 LOTS & REVISED RANDAL RD., CENTRAL & KENTUCKY AVE. STREET SECTIONS AS ADVISED PER DISCUSSIONS WITH CITY PLANNER.
- LANDSCAPING SHALL PROVIDE A MINIMUM TOTAL OF 2 TREES PER LOT IN CONFORMANCE WITH CONDITION NO. 11C.
- ALL LANDSCAPING SHALL BE DROUGHT TOLERANT / LOW WATER USAGE IN CONFORMANCE WITH STATE APPROVED SPECIES.
- ALL TREES SHALL BE IN CONFORMANCE WITH THE CITY OF RIVERBANK LANDSCAPE STANDARDS.
- ALL STREET LIGHTING SHALL BE IN CONFORMANCE WITH THE CITY OF RIVERBANK PUBLIC WORKS STANDARDS.
- ALL STREET SECTIONS SHALL BE IN CONFORMANCE WITH THE SECTIONS SHOWN ON SHEET 2 OF THIS REVISED MAP.

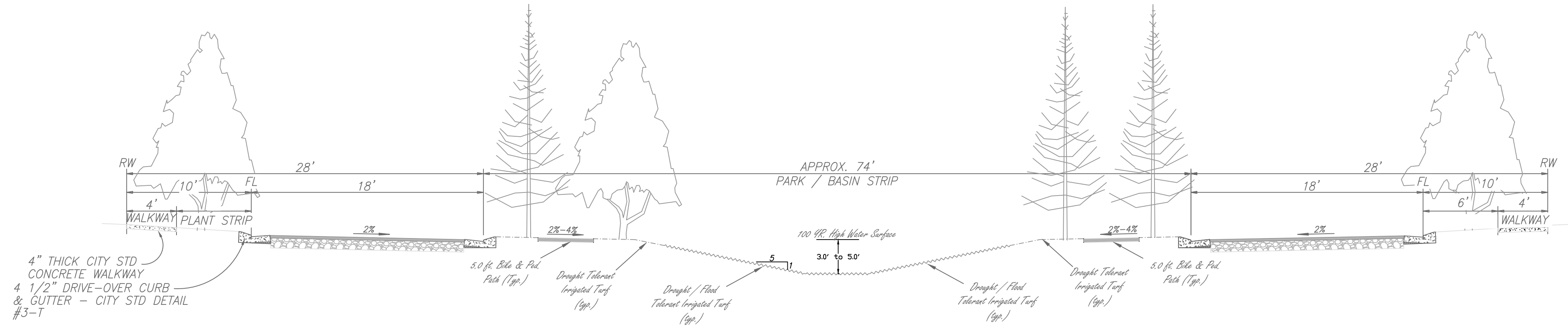
PREPARED UNDER THE DIRECTION OF:			
ALLEN G. TOSCHI RCE26654		DATE:	9/1/16
NO	DESCRIPTIONS	DATE	APPROVED
1.	ADDED YFSM SUBDIVISION NOTES: LOT DIMENS. & 1WAYS	9/8/16	

TOSCHI CIVIL ENGINEERING INC.
2937 PARKVIEW DR. MODESTO, CA 95355
209-601-5039

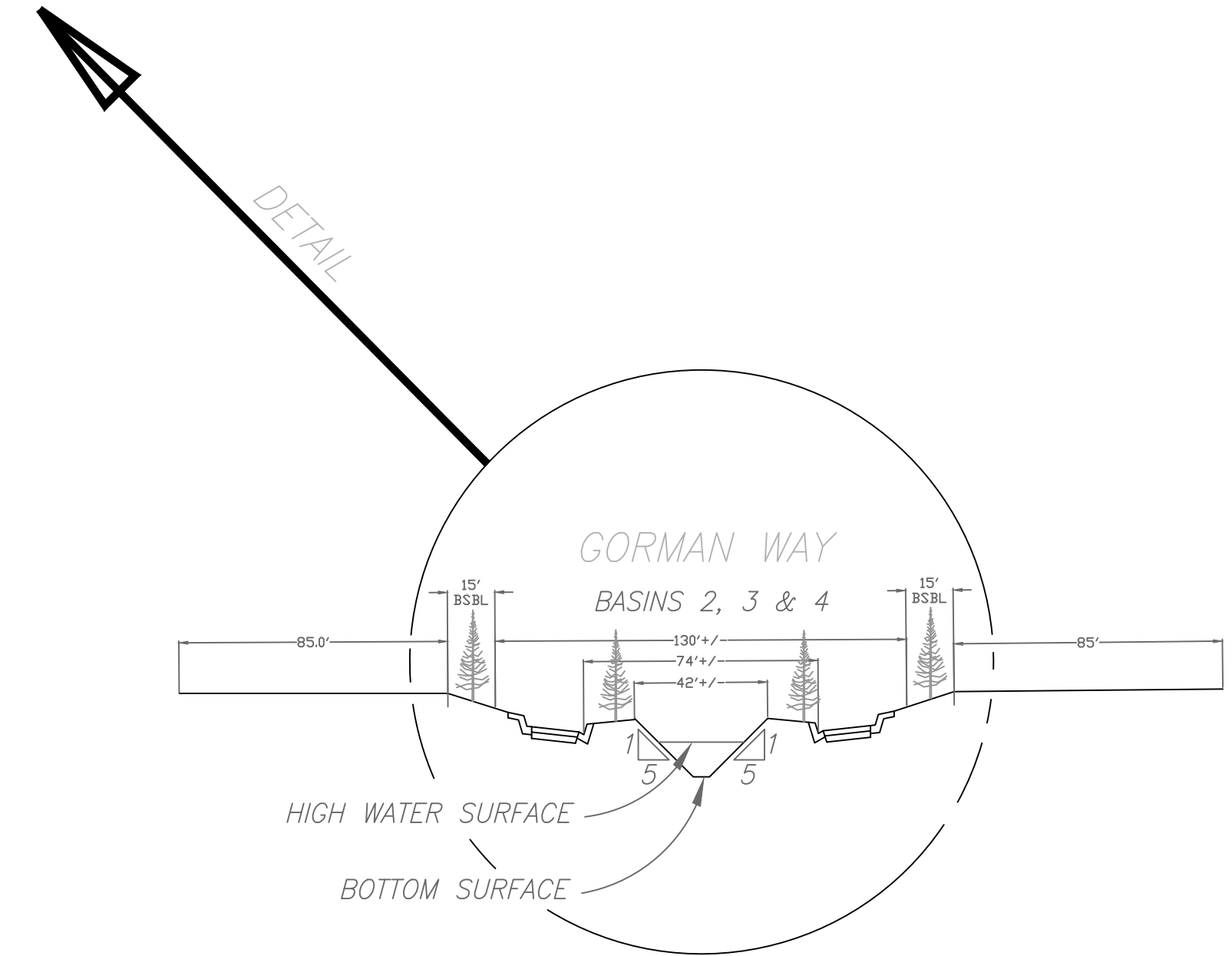
9/1/16
TENTATIVE SUBDIVISION MAP
and LANDSCAPING EXHIBIT
PREPARED FOR:
HAYES 4 ~ PHASE 1 SUBDIVISION
AND DEVELOPMENT AGREEMENT

JOB NO. _____
DATE _____
DR BY _____
CK BY _____
SCALE _____

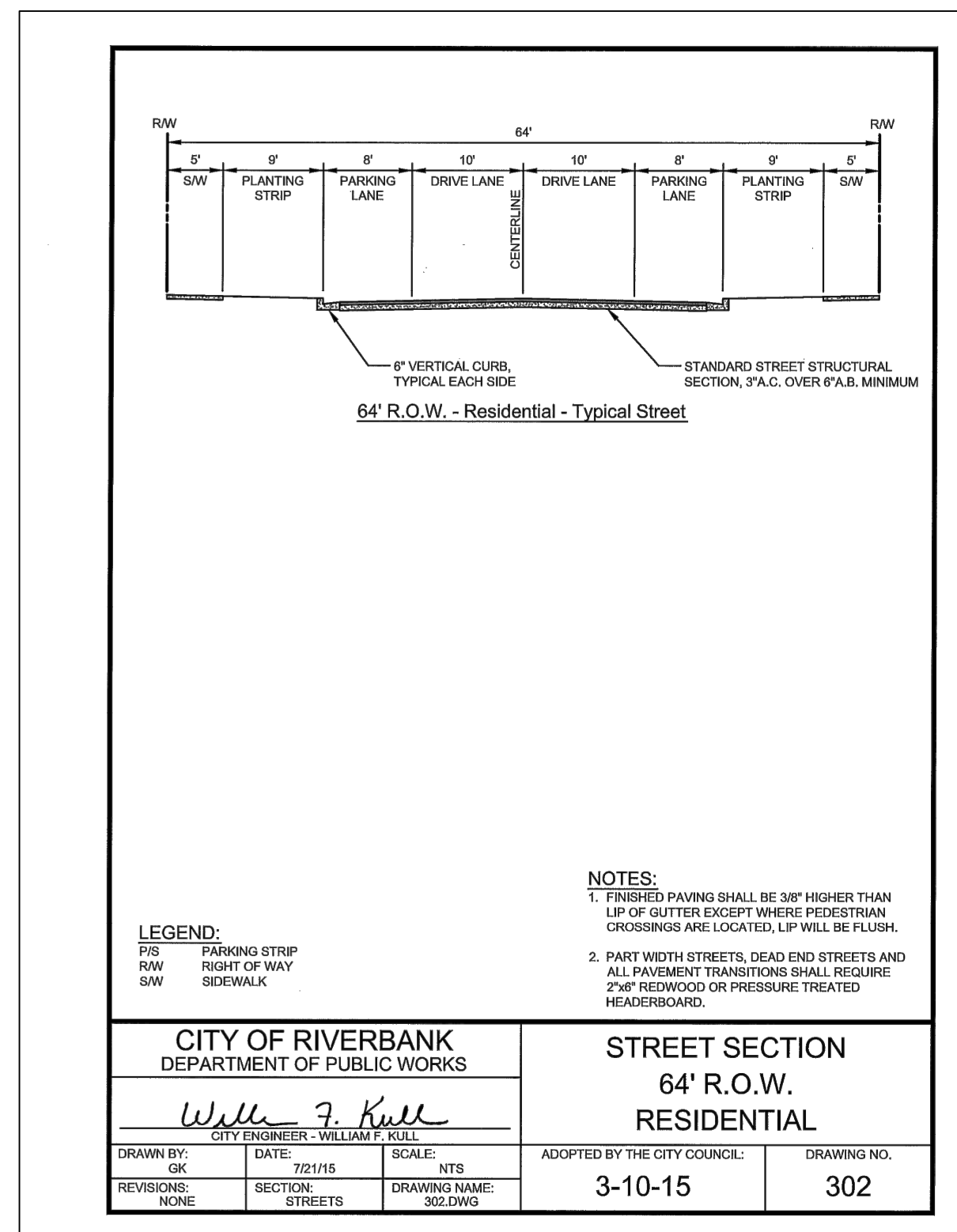
SHEET NUMBER
1
OF 2 SHEETS



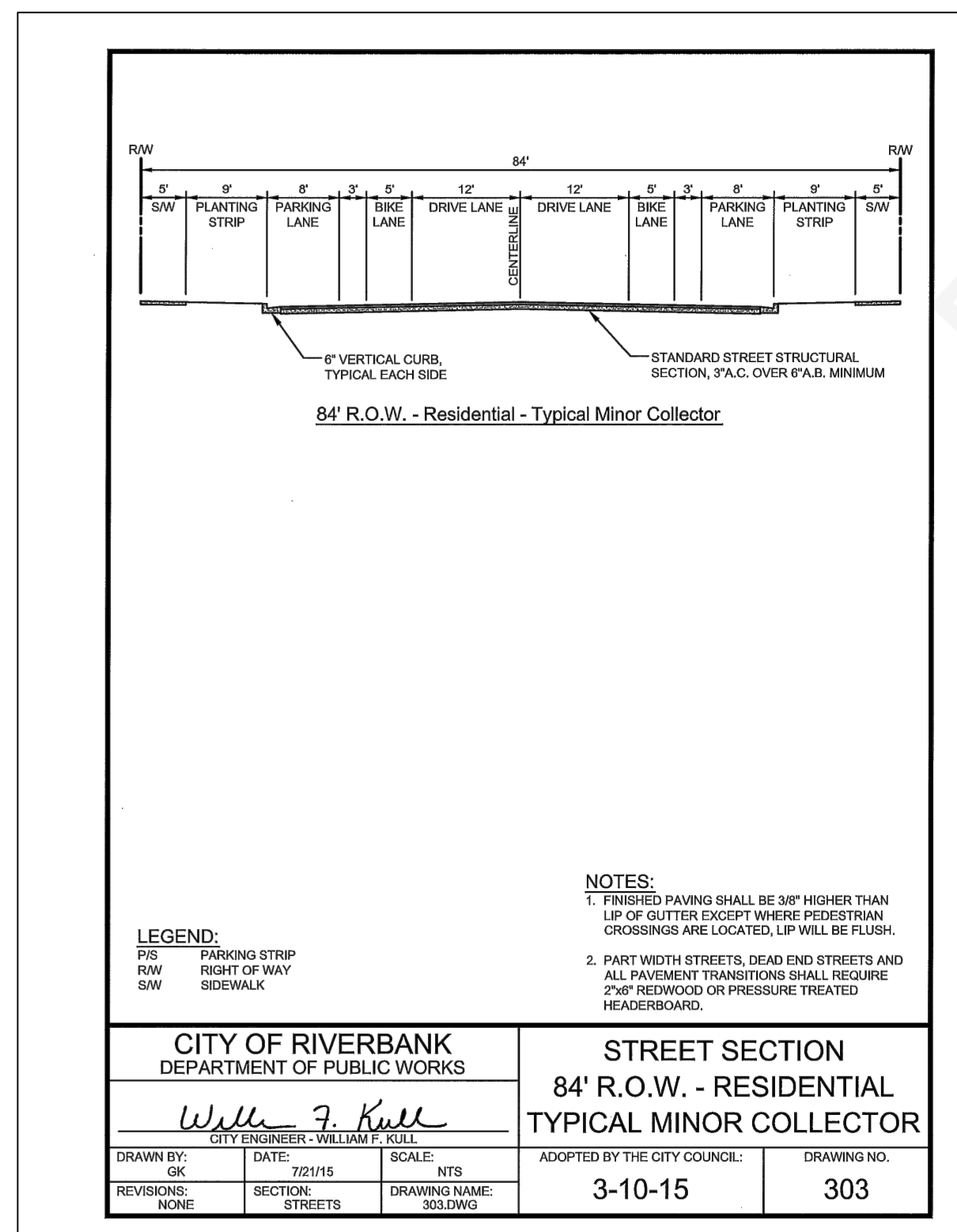
SECT. A-A
WIDENED STREET SECTION W/ PARK / BASIN STRIP
GORMAN WAY



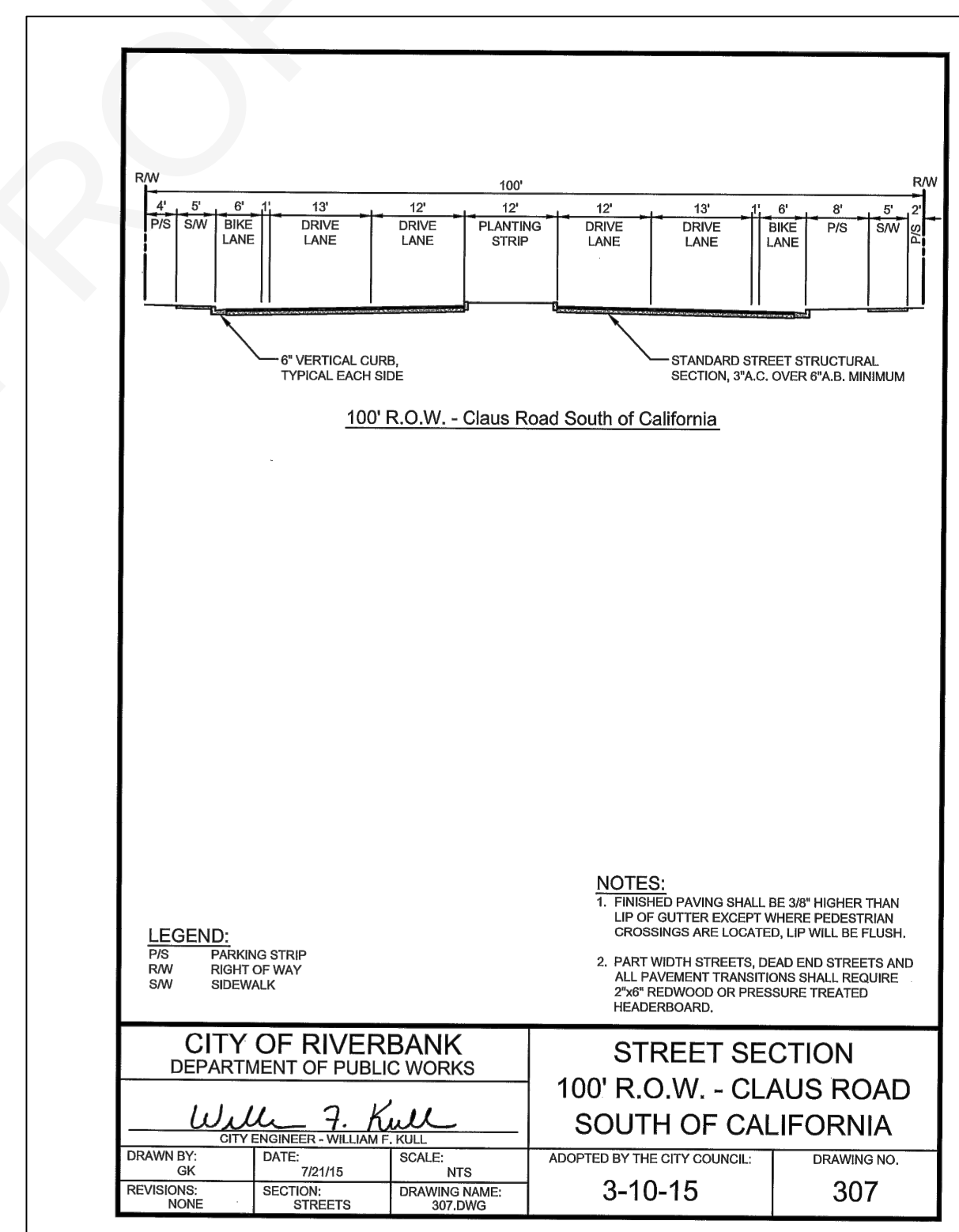
TYPICAL SECTION THROUGH PH 1 SUBDIVISION
SECT. A-A



RANDAL ROAD STREET SECTION



CENTRAL AVE. STREET SECTION



CLAUS ROAD STREET SECTION

PREPARED UNDER THE DIRECTION OF:		9/1/16
ALLEN G. TOSCHI RCE26654		DATE:
REVISED		DATE
NO		DESCRIPTIONS
		DATE
		APPROVED

TOSCHI CIVIL ENGINEERING INC.
2937 PARKVIEW DR. MODESTO, CA 95355
209-601-5039

9/1/16
TENTATIVE SUBDIVISION MAP
and LANDSCAPING EXHIBIT
PREPARED FOR:
HAYES 4 ~ PHASE 1 SUBDIVISION
AND DEVELOPMENT AGREEMENT

JOB NO.
DATE
DR BY
CK BY
SCALE

SHEET
NUMBER
2
OF 2 SHEETS

EXHIBIT B

Legal Description of the Project

APN: 062-022-019

LOT 336 OF THE RIVERBANK IRRIGATED FARMS, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN THE OFFICE OF THE RECORDER OF STANISLAUS COUNTY, CALIFORNIA, ON JANUARY 15, 1913, IN VOLUME 7 OF MAPS, AT PAGE 23.

APN: 062-022-022:

LOT 335 OF RIVERBANK IRRIGATED FARMS, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN THE OFFICE OF THE RECORDER OF STANISLAUS COUNTY, CALIFORNIA, ON JANUARY 15, 1913 IN VOLUME 7 OF MAPS, AT PAGE 23.

EXCEPTING THEREFROM A PORTION OF LOT 335 OF RIVERBANK IRRIGATED FARMS AS SHOWN ON THE MAP FILED IN VOL. 7 OF MAPS, PAGE 23, STANISLAUS COUNTY RECORDS, LYING IN SECTION 30, TOWNSHIP 2 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 30, BEING THE INTERSECTION OF THE CENTERLINE OF KENTUCKY AVENUE WITH THE CENTERLINE OF CLAUS ROAD; THENCE NORTH 0° 39' 36" WEST ON SAID CENTERLINE OF CLAUS ROAD; THENCE NORTH 0° 39' 39" WEST ON SAID CENTERLINE OF CLAUS ROAD, 330.78 FEET; THENCE NORTH 89° 58' 07" EAST, 20.0 FEET TO THE SOUTHWEST CORNER OF SAID LOT 335, BEING THE EAST LINE OF CLAUS ROAD THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 89° 58' 07" EAST, ON THE SOUTH LINE OF SAID LOT 335 A DISTANCE OF 49.85 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 5050.00 FEET, A CENTRAL ANGLE OF 3° 44' 44", AND FROM WHICH POINT THE RADIUS POINT OF SAID CURVE BEARS SOUTH 89° 47' 32" WEST; THENCE NORTHERLY ON THE ARC OF SAID CURVE, 330.13 FEET TO THE NORTH LINE OF SAID LOT 335; THENCE SOUTH 89° 58' 07" WEST ON SAID NORTH LINE, 41.66 FEET TO THE NORTHWEST CORNER OF SAID LOT 335, BEING THE EAST LINE OF CLAUS ROAD; THENCE SOUTH 0° 39' 36" EAST ON SAID EAST LINE, 329.89 FEET TO THE POINT OF BEGINNING.

EXHIBIT C

Consolidated Conditions of Approval

DRAFT

Exhibit _____

Consolidated Conditions of approval for Hayes 4, Phase One, Tentative Map as approved by City Council Resolution No. 2005-046 August 28, 2006 and Modified by City Council Resolution No. 2006-105. The City Council did approve a design exception as it related to storm water design specifications. This action is reflected in minute action of the Council on September 24, 2007.

1. This approval is dependent upon and limited to the proposals and plans contained and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation. Attached as Exhibit A to these Consolidated Conditions.
2. The applicant shall secure and comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
3. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site, either wind, water or transport, during the construction and operation of the project covered by this approval.
4. Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to be violated.
5. If a final map reflecting these conditions of approval is not approved by the City Council within the time frame as stipulated in the Hayes 4, Phase I Development Agreement, this Tentative Map shall lapse and the city applicant shall reapply to the City of Riverbank for a new Map. Applicant may not rely on this approval to begin construction of structures on parcels illustrated on the submitted map until a final map is recorded. Notwithstanding, the Applicant may commence all on and off site work upon issuance of a grading and construction permit. Reapplications for a tentative map shall state the reasons why the applicant was unable to gain approval of a final map and why within two years from the approval of a new tentative map the project is expected to be able to file a final map, if so granted. Reapplications for tentative maps may include information submitted in the initial application by reference. The zoning will not expire, nor will any associated applications (except tentative maps and vacation and abandonment applications), unless otherwise stated in the conditions of approval.
6. A copy of these consolidated conditions must be included in or attached to all contract bid specifications for the approved tentative map.
7. Development of the property must conform to the plans as approved by the Riverbank City Council and on file in the Development Services Department.

8. Although a courtesy reminder is typically mailed to the correspondent (on file) 30 days prior to an applicant's expiration, the applicant is fully responsible for maintaining the correct expiration date of any application.
9. Approval of this application does not constitute approval of any other entitlement or any other necessary permit, license or approval.
10. All conditions imposed on this map must be satisfied.
11. The following shall be noted on the submitted Tentative Subdivision Map:
 - A. All street cross-sections proposed by the map for Central Avenue shall include the construction of a half street plus a twelve foot travel lane constructed in accordance with City of Riverbank Standards and Specification. Central Ave is planned as a Minor Collector at 84' of total ROW per the adopted Riverbank Street Standards.
 - B. The Standard park land dedication and improvement obligation for single family developments is 5 acres of park for every 1,000 persons. The park ratio adopted by the City Council in RMC Section 152.037 (D) requires 1 acre of park per 58 dwelling units. Meaning that the proposed 45 residential units in this project has a Park requirement of 0.78 acres. Prior commitments by the City Council on this project have resulted in the granting of a 50% land dedication credit for the park/storm drainage system proposed. Based on preliminary designs it appears that the proposed park/storm drainage basin (Paseo) will be about 1.82 net acres (net of ROW) in size. The improvement and dedication of the paseo will result in an over-sizing of the projects park land dedication and improvement obligation of about 0.12 acres. In this case, it would be expected that the developer would be eligible for a reimbursement of over-sizing based on the procedures defined in the RMC Section 150.30. The actual size of the park/storm land dedication will be determined using the final calculations presented with the Final Map.
 - C. All streets shall be planned and constructed with a separated sidewalk with 2 street trees planted for each dwelling unit. The Street trees proposed shall be approved by the City before they are installed. The proposal is for a 28' wide one-way street around a central Paseo. The original TM approved by the CC suggested a 10' travel lane, 8' parking lane adjacent to the homes, 6' parkway strip and 4' sidewalk. The interior street design is acceptable because of previous commitments.
 - D. Note that where finished grades of adjacent lots differ more than two feet, a retaining wall shall be constructed.
 - E. Note the City's adopted policy that where there are differing grades, wall and fence height shall be taken from the higher grade.

- F. A centralized mail collection system, which includes a concrete foundation and supporting hardware, shall be installed to the satisfaction of the Riverbank Postmaster.
 - G. Note that the map and improvements will be subject to provisions of the Bruinville Master Plan and the 2007 Nolte Master Plans prepared for the area.
 - H. Submit elevations for review and approval by the Community Development Director that show the utilization of enhanced roofing material and wainscoting materials for each dwelling unit. Wainscoting shall extend alongside elevations for a minimum of five feet to the sideyard fence.
 - I. Each lot shall be provided with a drainage system that captures run-off from all impervious surfaces and directs the storm water into lateral leach lines on that property. The lateral leach lines shall be located such that excessive flows will be surfaced and flowed across natural turf located in the front yard prior to entering the commonly maintained drainage system.
 - J. The drainage system inlets shall provide for passive filtration of storm water.
 - K. All drainage facilities shall be offered for irrevocable dedication to the City on the map. The City Engineer is directed to refuse all said facilities until such time that the City, at its sole discretion, determines to accept said facilities.
 - L. To qualify for a fifty percent credit of open space, the developer shall be under obligation to prepare landscape and irrigation plans which comply with Riverbank's drought tolerant landscape standards and install the open space to the satisfaction of the Community Development Director and the Recreation Director. The Developer shall also establish a funding mechanism for long term maintenance of the area to the satisfaction of the City Engineer.
 - M. The applicant shall comply with the criteria stipulated in the executed reimbursement agreement between the City of Riverbank and the Bruinville Development Group as it relates only to the testing and acquisition of Well Site #11. The testing has been performed and the City has entered into an agreement with a subsequent developer to fund the purchase of the subject well site. This condition only applies if the subsequent developer fails to satisfy all obligations associated with the transfer of Title of Well Site #11 to the City of Riverbank.
12. Prior to recordation of a Final Subdivision Map, the applicant shall comply with the following conditions:
- A. Pursuant to Section 66473.1 of the State Subdivision Map Act, the Final Map shall show that all lots within the subdivision have a minimum of 100 square feet of solar access for each future building unit allowed by this subdivision.

- B. The Final Map shall show the dedication of all onsite drainage easements, including easements for access thereto, and show monumentation for such easements, as required by the Director of the Department of Public Works, or verify that no easements are required.
 - C. Pursuant to Section 66456.1(b) of the State Subdivision Map Act, the Final Map shall include the entire area shown on the Tentative Map and shall not be filed as units or groups of units, unless the City and Applicant concur on a phasing plan for all improvements shown on the tentative map.
 - D. Provide the City Department of Public Works with standard forms approved by the Director of the Community Development Department stating that the applicable agency or agencies have provided commitment to the site for such public facilities that are required for the subdivision.
 - E. Include on the Final Map an “Easement Holder’s Certificate” whereby all easement holders having record title interest within the confines of the Final Map consent to the filing of the Final Map. If required, pursuant to Section 66436(3) of the Subdivision Map Act include an “Easement Holder’s Statement” on the Final Map indicating those signatures omitted from the map since their interest cannot ripen into a fee. Prepare a “subordination certificate” whereby those easement holders having interest within any future public dedications will subordinate their interest to the public. Each “subordination certificate” to be recorded concurrently with the Final Map and referenced on the Final Map.
 - F. Agree to comply with the final adopted provisions of the Public Facilities Master Plan for financing, timing, and thresholds for improvements in the area.
 - G. Participate in the Formation and Annexation of the project to a Maintenance CFD for the purpose of providing long-term funding for the maintenance of public items including but not limited to: Lighting and Landscaping, Storm Water, Streets and Police Protection.
13. Prior to the issuance of a building permit, the applicant shall comply with the following conditions:
- A. Submit architectural elevations that show garage openings recessed from the front door elevation by a minimum of two feet.
 - B. Submit elevations that show the utilization of tile roofing material and wainscoting materials for each dwelling unit. Wainscoting shall extend alongside elevations for a minimum of five feet.
 - C. Submit construction plans that show the use of sunscreens and/or tinting on all southern and western exposed windows.

- D. Pay fire service impact fees to the Stanislaus Consolidate Fire District and bring receipt of said payment to the Community Development Department.
- E. Enter into a benefit assessment agreement or annex the properties into the Crossroads Community benefit assessment district with the Stanislaus Consolidated Fire District to the satisfaction of the Fire Marshall.
- F. Protect existing underground electrical facilities adjacent to the proposed development as required by the Pacific Gas and Electric Electrical Engineering Department. Appropriate easements for electric facilities shall be granted as required.
- G. Grant a 10' Public Utility Easement along all existing and proposed street frontages and any other necessary easements to either the Oakdale Irrigation District or other utilities as possible.
- H. Insure that electric service to the proposed project is available to the site. The applicant shall contact the appropriate electrical provider's Engineer Department to arrange for electrical service to the project.
- I. All new construction requires building permits in accordance with all applicable building and fire codes and submission of a plot and grading plan prepared by a registered professional civil engineer showing property lines, building locations, topography and such other data as required by the Public Works and Community Development Department.
- J. Drainage studies must be submitted and approved and all improvements must comply with the approved studies. Further, storm water management dedication and/or improvements may be required. Note that drainage shall not be allowed to cross sidewalk areas.
- K. Fire hydrants must be provided in compliance with Fire Department specifications, and a three foot fire hydrant easement is required behind all street frontage lot lines.
- L. All necessary utility easements shall be retained or reserved.
- M. All subsequent plans shall plot dedication and/or the relinquishment of all effected utility easements.
- N. Submit plans and specifications for improvements of all public and private street rights-of-way, water service utilities, wastewater collection, drainage easements, culverts, drainage structures and drainage channels, to the Department of Public Works for approval by the City Engineer.

- O. The exact depth of imported base material shall be based on soil tests which have been approved by the Director of the Department of Public Works.
- P. Sight distance requirements at all street intersections shall conform to the intersectional sight distance criteria of the Public Road Standards of the Department of Public Works and approved by the City Engineer.
- Q. If the improvement plans show a need to excavate in any public road right-of-way, the developer shall place a cash deposit or security bond with the City of Riverbank to ensure that any damage to the existing roadway is repaired in a timely manner.
- R. Construct, or agree to construct the public improvements and private improvements shown on both the improvement plans for the project and the Public Facilities Master Plan for the area as approved by the City.
- S. All new and existing utility distribution facilities, including cable television lines, within the project boundaries shall be placed underground. The developer is responsible for complying with the requirements of this condition, and shall make the necessary arrangements with each of the serving utilities, including licensed cable television operators, for the installment of such utilities.
- T. With respect to any claim, action of proceeding against the City, its officials, employees or agents relating to the action or inaction of the City in reviewing, approving or denying entitlements of any type, the Developer agrees to indemnify, hold harmless and defend the City and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs, and liability for claims of damage, for any property damage or personal injury, including death, which may arise as a result of any negligent acts or omissions by Developer or Developer's contractors, subcontractors, agents, or employees in connection with the construction, improvement, or operation, of the Project. Developer agrees to indemnify, hold harmless and defend the City and its officers, agents, employees, and representatives from any and all actions for damages caused or alleged to have been caused by Developer's activities in connection with the Project. This Agreement applies to all damages and claims for damages suffered or alleged to have been suffered arising out of or in connection to any and all Project operations, regardless of whether or not the City prepared, supplied or approved plans or specifications or both for the Project.
- U. In the event any legal action or special proceeding is commenced by any person or entity challenging any agreements between Developer and City, any entitlement or component of the Project such as the Project EIR, or any other City approval for the Project (collectively, "Project Litigation"), the Parties agree to cooperate with each other as set forth herein. City may elect to tender the defense of any lawsuit filed and related in whole or in part to Project Litigation. Upon the

commencement of Project Litigation, Developer will indemnify and hold harmless the City from all costs and expenses incurred related thereto, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. Developer shall pay all litigation fees to the City within thirty (30) days of receiving a written request and accounting of such fees and expenses from the City. Notwithstanding the aforementioned, City may request a deposit to cover City's reasonably anticipated Project Litigation fees and costs, and Developer will provide such deposit to City within seven (7) days of any such request.

- V. Deposit with the Department of Public Works sufficient funds to cover the cost of all plan check and inspection services associated with the improvements.
 - W. Hydrology and hydraulic calculations for determining the storm system design, with water surface profile and adequate field survey cross section data, shall be provided satisfactory to the Director of the Department of Public Works, or verification shall be provided that such calculations are not needed.
 - X. The applicant shall deposit \$500 construction landscape plan review and permit.
 - Y. Make payment or other arrangements to the satisfaction of the Riverbank Unified School District.
 - AA. Make payment or other arrangements for all City of Riverbank System Development Fees including regional storm drainage fees required by the Public Facilities Master Plan.
 - BB. The Public Facilities Master Plan for the area east of Claus Road has been completed to the satisfaction of the City Engineer and adopted by the City Council. The applicant shall implement all provisions of the plan on a fair share basis as determined by the City Engineer.
14. During construction of the project the applicant shall comply with the following conditions:
- A. The project complies with all applicable provisions of the San Joaquin Valley Air Pollution Control District Fugitive Dust rules.
 - B. Erosion control devices are installed and maintained to the satisfaction of the Community Development Director and Department of Public Works.
 - C. Neighboring streets directly adjacent to the site are kept clean of dust, litter and debris.
 - D. Construction traffic shall be limited to access to the site from Claus Road and a temporary driveway shall be constructed. Immediately after entering the site, ³/₄

inch rock shall be provided on the driveway surface twenty feet wide for a distance not less than thirty feet.

- E. The installation (if required) of all gas, electric, sewer and water lines and any other below surface utilities is to take place before the installation of any concrete curbs, gutter, sidewalks, and the surfacing of the streets.
 - F. The hours of construction, including equipment warm-up, shall be limited to 6:00 a.m. and 6:30 p.m. on weekdays and 8:00 a.m. and 5:00 p.m. on weekends and legal holidays.
 - G. Construction of improvements shall be concurrent with the construction of necessary public facilities identified within the Public Facilities Master Plan for the area.
15. Prior to the issuance of a Certificate of Occupancy for the project, the applicant shall comply with the following conditions:
- A. Submit a letter from the Stanislaus Consolidated Fire District stating its satisfaction with the type and location of fire protection improvements and the minimum required water flow in gallons per minute.
 - B. All conditions of approval, applicable state statutes, and local ordinances must be satisfied, including all applicable building and fire code requirements for hazardous materials.
 - C. Provide the City Department of Public Works with evidence that any offer of dedication or grant of right-of-way shall be free of all encumbrances or subordinated and free of hazardous and/or toxic materials.
 - D. All building and improvements shown on plans shall be constructed and installed in substantial compliance with the submitted plans as well as in compliance with all applicable City of Riverbank standards and specifications.
 - E. All improvements and the timing thereof specified by the adopted Public Facilities Master Plan shall be paid, financed or constructed to the satisfaction of the City Engineer.

EXHIBIT D

System Development Fee Reimbursement Agreement

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REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (the “Agreement”) is made this ____ day of _____ 2016 (the “Effective Date”), by and between the City of Riverbank, a municipal corporation (“City”), and _____ (“Developer”). City and Developer may each be referred to individually as a “Party” or collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

A. On April 25, 2005, the City Council adopted Resolution No. 2005-046, approving Tentative Map 07-2004 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 88 residential lots on 18.74 acres.

B. On August 28, 2006, the City Council adopted Resolution No. 2006-105, approving the Phase 1 Vesting Tentative Subdivision Map for Tentative Map 07-2004 (the “Tentative Map” and “Project Area”). The Tentative Map is attached hereto for reference, as **Exhibit A**.

C. On _____, 20__, City adopted Ordinance No ____-____, approving a development agreement between City and Developer (the “Development Agreement”), to extend the life of the Tentative Map, clarify the conditions of approval applicable to the Project Area, establish vested entitlements to construct 45 residential lots in the Project Area, and overall, to promote the logical and orderly development of the Project Area.

D. Developer is obligated to construct and install public improvements in the Project Area (the “Improvements”).

E. City proposes to provide Developer credits for the installation of the Improvements that the City has identified in its System Development Fee (“SDF”) program. The total reimbursement for each category of Improvements is provided in **Exhibit B** attached hereto (the “SDF Fee Reimbursements”).

F. The revised SDF fees for each unit in the Project Area, as revised in accordance with this Agreement, is provided in **Exhibit C** attached hereto.

NOW, THEREFORE, in consideration of the mutual promises contained herein, City and Developer hereby agree as follows:

AGREEMENT

Section 1. Project Scope. Developer shall be responsible for the design, construction, installation and bonding of the Improvements. City shall approve all plans and specifications for the construction, and City shall inspect and accept the Improvements in accordance with

Riverbank Municipal Code (“City Code”). The design and installation of the Improvements shall be to the satisfaction of City in its sole discretion, in accordance with City Code.

Section 2. Reimbursement. As provided below, City shall reimburse Developer for the completion and acceptance by City of the Improvements listed in Exhibit B.

2.1. *Amount of Reimbursement.* City shall reimburse Developer an amount up to the total reimbursement, for each SDF category shown in Exhibit B provided that the Improvements are accepted by City.

2.2. *Source of Reimbursement.* Reimbursements to Developer shall come from the following:

(a) SDF Fee Credit. Upon issuance of each of the 45th building permits in the Project Area, City shall reduce the SDF fees collected from Developer for each category of SDF fees related to the Improvement to be constructed (the “SDF Fee Credit”), in an amount up to the total SDF reimbursement shown on Exhibit B.

(b) SDF Fee Reimbursement. In some cases, such as the total SDF reimbursement exceeds the SDF Fee Credits available for the Project Area. In such case, after issuance of the 45th building permit in the Project Area, City shall pay the difference between the total SDF reimbursement and the SDF Fee Credits from the appropriate development impact fee fund, if funds are available, after the Improvements have been accepted by City as complete. City shall track and make payments to Developer based on the timing and priority of the request compared to other developers, using the date the City Council issues the 45th building permit as the priority date for reimbursement from City’s SDF.

2.3. *Limited Obligation.* City shall only be required to provide SDF Fee Credits to Developer for Improvements listed in Exhibit B. City makes no warranty, express or implied, that SDF Fee Credits will be available to fully compensate Developer for the cost of installing the Improvements. In no event shall City be required to reimburse Developer directly from City’s general fund. Developer further acknowledges that any deficiency in reimbursement for the cost of the Improvements shall in no way diminish Developer’s obligations with respect to any provision in the Tentative Map or Development Agreement.

2.4. *Conditions for Payment.* City shall provide SDF Fee Credits to Developer only after all of the following conditions have been met to City’s satisfaction:

(a) Developer has designed and constructed the Improvements in accordance with the City’s public improvement design standards;

(b) City has formally accepted the dedication of Improvements for which the SDF Fee Credit reimbursement is sought by Developer;

(c) Developer is not in default of any obligation under this Agreement, the Development Agreement or any other agreement related to the Project Area, such as a subdivision improvement agreement; and

(d) Developer is not in default of any monetary obligation to the City, including without limitation plan check and inspection fees, loan repayments due to the City, ad valorem property taxes, special assessments or special taxes.

Section 3. Compliance with Laws. Developer shall insure that all work performed on the Improvements is performed in a manner that complies with all applicable federal, state, county and local government laws, regulations and rules, including all rules and regulations of City, as these rules and regulations may be modified or changed from time to time.

Section 4. City Inspection of Improvements. Developer shall, at its sole cost, expense, and liability, and at all times during construction of the Improvements, maintain reasonable and safe facilities and provide safe access for inspection by City of the Improvements and areas where construction of the Improvements is occurring or will occur.

Section 5. Quality of Work; Compliance with Laws and Codes. The construction plans and specifications for the Improvements shall be prepared in accordance with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements. The Improvements shall be completed in accordance with all approved maps, plans, specifications, standard drawings, and amendments thereto on file with City, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is commenced.

Section 6. Standard of Performance. Developer and its contractors, if any, shall perform all work required, constructing the Improvements in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

Section 7. Limited City Obligation. The obligations arising from this Agreement are neither a debt of City nor a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except for the issuance of SDF Fee Credits, as provided herein. Neither the City's general fund nor any special fund of City, except for the applicable account associated with each SDF category, shall be liable for the payment of any obligations arising from this Agreement. The credit or taxing power of City is not pledged for the payment of any obligation arising from this Agreement. Developer shall not compel the forfeiture of any of City's property to satisfy any obligations arising from this Agreement.

Section 8. Liens, Claims, and Encumbrances. Upon request by City, Developer shall provide a written guarantee and assurance to City that there are no liens, claims, or monetary encumbrances on the Improvements, together with unconditional final releases from all contractors and material suppliers, and with copies of invoices and corresponding checks issued by the Developer for all items for which reimbursement is requested under this Agreement for the Improvements. Notwithstanding any other provision or term of this Agreement, City shall have no obligation to make any reimbursement payments until Developer has cleared any and all liens, claims and monetary encumbrances from the Improvements and provided the required documentation, guarantee and assurance in writing, to the satisfaction of the City.

Section 9. Acceptance. The City Engineer shall accept the Improvements in his or her sole discretion, pursuant to City Code, all applicable federal and state rules and regulations, and a subdivision improvement agreement between the Parties.

Section 10. Indemnity. [omitted – see subdivision improvement agreement].

Section 11. Assignment of Fee Credits. Fee Credits to be issued by City are personal to Developer and shall not automatically run with the land or the subsequent purchasers of Developer's property. Developer may transfer or assign any or all Fee Credits associated with this Agreement by providing notice to the City through a written statement in a form acceptable to the City Attorney. City may accept the assignment of Fee Credits for the same SDF categories to future developments on a dollar-for-dollar basis. The written statement shall notify the City of the credit amount that Developer intends to transfer or assign to specified properties or developments. After receipt of such written request from Developer and prior to issuance of building permits, City shall confirm in writing the amount of related SDF fees that City will collect from the assignee. In the absence of such written statement by City, no assignee may claim SDF Fee Credits attributable to this Agreement.

Section 12. Notice. Any notice, payment, or instrument required or permitted by this Agreement to either party shall be deemed to have been received when personally delivered to that party or seventy-two (72) hours following deposit of the same in any United States Post Office, first class, postage prepaid, addressed as follows:

City: City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: City Clerk

With a courtesy copy to: City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: City Manager

And to: Churchwell White LLP
1414 K Street, 3rd Floor

Sacramento, California 95814
Attention: Douglas L. White, Esq.

Developer:

With a copy to:

Either Party may give notice hereunder to designate a different address to which subsequent notices, payments or instruments shall be delivered.

Section 13. General Provisions.

13.1. *Term.* The term of this Agreement shall start as of the Effective Date written above and shall remain in effect until all Improvements have been accepted by City and City has awarded all SDF Fee Credits to Developer.

13.2. *Termination.* In the event Developer defaults in the performance of any of its obligations under this Agreement or materially breaches any of the provisions of this Agreement, and such default or breach is not cured by Developer within 10 business days (or such longer period as may be necessary) of written notice from City specifying such default, City shall have the option to terminate this Agreement upon written notice to Developer, or seek any available remedies at law.

13.3. *Captions.* Captions to each Section of this Agreement are for convenience purposes only, and are not part of this Agreement.

13.4. *Severability.* If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement and the remaining parts shall remain in full effect as though such invalid or unenforceable provision had not been a part of this Agreement.

13.5. *Governing Law; Venue.* This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by, the laws of the State of California. In the event of a dispute concerning the terms of this Agreement, the venue for any legal action shall be with the appropriate court in the County of Stanislaus, State of California.

13.6. *Assignment.* This Agreement shall not be assigned without the written consent of the Parties, which consent shall not be unreasonably withheld or delayed, and any assignment without such written consent shall be void and ineffective.

13.7. *Entire Agreement.* This Agreement contains the entire agreement between the parties with respect to the reimbursement of SDF Fee Credits. The Parties acknowledge that a subdivision improvement agreement will address improvement standards, bonding requirements and other provision related to the construction of the Improvements and their dedication to City.

13.8. *Modification.* This Agreement may be amended only by a written instrument signed by the Parties.

13.9. *Counterparts.* This Agreement may be executed in counterpart s, each of which shall be deemed an original, but both of which together shall constitute one instrument.

13.10. *Exhibits.* All exhibits attached hereto are incorporated as part of this Agreement.

13.11. *Interpretation.* Each Party acknowledges it has reviewed this Agreement with its own legal counsel and based upon the advice of that counsel, freely entered into this Agreement.

13.12. *Mandatory and Permissive.* “Shall” and “will” and “agrees” are mandatory. “May” or “can” are permissive.

13.13. *Waiver.* The waiver by either Party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this Agreement. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

13.14. *Other Documents.* The Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to fulfill the purposes and intentions of this Agreement.

13.15. *Attorneys’ Fees.* In the event any party to this Agreement commences litigation for specific performance or damages for the breach of this Agreement, the prevailing party shall be entitled to a judgment against the other for an amount equal to reasonable attorneys' fees and court costs incurred.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the above-referenced Effective Date.

CITY:

City of Riverbank, a California municipal corporation

By: _____
Jill Anderson, City Manager

DEVELOPER:

a [California limited liability company/corporation]

By: _____

Date Signed: _____

Name: _____

Title: _____

Date Signed: _____

APPROVED AS TO FORM:

By: _____
Tom Hallinan, City Attorney

DRAFT

EXHIBIT A

Tentative Map

DRAFT

EXHIBIT B

SDF Fee Reimbursements

The following improvements shall be eligible for reimbursement through the City's SDF Fee program:

Category	Fee Credit (per SFR Unit)	Total Reimbursement
PARKLAND* Dedication of a 1.8 acre linear neighborhood park as a secondary purpose to the abovementioned storm water retention improvements.	Dedication Credit: \$ _____	Maximum Dedication Credit: \$ _____
	Park Improvement Credit: \$ _____	Maximum Improvement Credit: \$ _____

*To receive a 50% parkland reimbursement, Developer must comply with provisions in the recorded development agreement for the Property; e.g., prepare landscape and irrigation plan in compliance with City Drought Tolerant Landscape Standards and install open space to the satisfaction of the Community Development Director and the Recreation Director. Potential 50% credit shall be subject to City approval of the Paseo Park plans.

EXHIBIT C

Adjusted SDF Fee Schedule

The following is the adjusted SDF Fee schedule applicable to the Project Area:

Facility Type	Single Family Residential (SFR) per unit
Streets	\$ _____
Streets – Signals & Bridges	\$ _____
Sewer Collection	\$ _____
Sewer Treatment	\$ _____
Water Distribution	\$ _____
Water Wells & Storage	\$ _____
Storm Drainage	\$ _____
Storm Drainage (Other)	\$ _____
Police	\$ _____
Fire	\$ _____
Parks & Recreation	\$ _____
General Government	\$ _____
Administration (2%)	\$ _____

EXHIBIT E

Subdivision Improvement Agreement

DRAFT

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attn: City Clerk

Exempt from recording fees
(Gov. Code §§ 6103 and 27383)

(Space above this line for Recorder's use)

APN: - -

SUBDIVISION IMPROVEMENT AGREEMENT FOR THE HAYES 4 PHASE 1 SUBDIVISION

This **SUBDIVISION IMPROVEMENT AGREEMENT** ("Agreement") is made and entered into this ____ day of _____, 2016, by and between the City of Riverbank, a California municipal corporation ("City") and _____, a California _____ ("Subdivider"). City and Subdivider may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement. This Agreement is made with reference to the following:

RECITALS

A. Subdivider is possessed of a tract of land consisting of approximately _____ acres, lying in the City of Riverbank, County of Stanislaus, California, known as "_____" (the "Subdivision").

B. On _____, 20____, the City Council approved Tentative Subdivision Map No. _____ for the Subdivision with conditions of approval (the "Tentative Map"), along with [Design Guidelines for the Subdivision, a General Plan Amendment and Zoning Ordinance Amendment]. Resolution No. _____ approving the Tentative Map is attached hereto as **Exhibit A** and incorporated herein by this reference (the "Resolution of Approval").

C. The Tentative Map is subject to the Subdivision Map Act (Gov. Code § 66410 *et seq.*) and the City's ordinances and regulations related to the filing, approval, and recordation of subdivision maps (together, the "Subdivision Laws") and the requirements and conditions contained in the Resolution of Approval.

D. Complete improvement plans for the construction, installation, and completion of the improvements ("Improvement Plans") have been prepared by Subdivider and approved by the City of Riverbank Planning and Building Manager or her designee, including but not limited to the City Engineer ("Manager").

E. Subdivider has presented to the City a proposed final map ("Final Map") for the Subdivision, pursuant to the provisions of the Subdivision Laws for approval and recordation.

F. In order for the City to approve and record a Final Map for the Subdivision, the Subdivider must either complete all of the improvements required by the Subdivision Laws, Resolution of Approval, Improvement Plans and Tentative Map ("Improvements"), or execute an agreement with the City to complete the Improvements within a specified period of time.

G. In order for the City to approve and record a Final Map for the Subdivision, Subdivider desires to enter into this Agreement, whereby Subdivider promises to install and complete, at Subdivider's sole cost, expense and risk, all of the Improvements required in connection with the Subdivision, including but not limited to grading work, constructing and installing the Improvements, and all labor that is required to complete these tasks to the satisfaction of the City ("Improvement Work").

H. Subdivider has secured this Agreement by depositing security with the City consisting of a cash deposit, bond, or letter of credit in form acceptable to the City to secure a one-year warranty of workmanship in accordance with the terms provided herein (the "Securities").

I. On _____, 2016, the City Council adopted Resolution _____, authorizing the City Manager to enter into this Agreement.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the Parties agree as follows:

AGREEMENT

1. Recitals. The recitals above ("Recitals") are true and correct and are hereby incorporated into and made part of this Agreement. In the event of any inconsistency between the Recitals and Sections 1 through 23 of this Agreement, Sections 1 through 23 shall prevail.

2. Effective Date and Term. This Agreement shall only become effective on the date that both Subdivider and the City have executed this Agreement (the "Effective Date"), and shall terminate only after the release of all Securities, unless this Agreement is terminated in writing signed by both Parties.

3. Dedication. Except as otherwise provided in this Agreement or in the action of the City Council approving the Final Map, the City hereby rejects all lands, rights-of-way and easements offered for dedication on the Subdivision Map or by separate instrument. Such offers, however, shall remain open and constitute irrevocable offers of dedication in accordance with Government Code section 66477.2. All such offers of dedication may be accepted by the City in its sole discretion at any later date without any further notice to the Subdivider.

4. Installation of Required Improvements. Subdivider agrees to furnish, construct and install at Subdivider's own expense the Improvements, as shown on the Improvement Plans, will be on file in the Development Services Department, and which are to be installed to the sole

satisfaction of the City Engineer. The Improvement Plans may only be modified by the Subdivider subject to prior written approval by the City Engineer.

5. Subdivider's Obligations. Subdivider shall perform each of the following, at all times, throughout the term of this Agreement:

A. Complete, at Subdivider's sole cost and expense in a good and workmanlike manner, all of the Improvements in conformance with the Resolution of Approval (and any amendments thereto), the Subdivision Laws, and all applicable standards under City codes and ordinances and the City's general plan related to the Improvements (collectively, the "Improvement Standards").

B. Commence construction of the Improvements within three (3) months from the Effective Date of this Agreement. Subdivider shall notify the City Engineer in writing three days before the commencement of construction of the Improvements.

C. Complete all Improvements within twelve (12) months from the Effective Date of this Agreement, unless otherwise approved or extended in writing by the City Manager for good cause, after written application by Subdivider. Such application shall state fully the grounds and facts showing good cause for such extension to be granted. In granting any extension of time, the City may require a new or amended subdivision improvement agreement to reflect increases in the costs of constructing the Improvements or other conditions related to the extension of time.

D. Furnish and pay for all necessary equipment, labor and materials to complete the Improvements in conformity with the Improvement Standards.

E. Replace or repair all public improvements, private property, public utility facilities, and surveying or subdivision monuments that are destroyed or damaged in the performance of any work related to this Agreement. Subdivider shall bear the entire cost of replacement or repairs of any and all public or private property damaged or destroyed in the performance of any work related to this Agreement. Any repair or replacement work shall be to the satisfaction, and subject to the approval, of the City Engineer.

F. Provide safe access for inspection by the City to the Improvements.

G. Give good and adequate warning to the public of each and every dangerous condition existing on or near the Improvements, and take reasonable action to protect the public from any such dangerous condition.

H. Perform all construction work related to installing the Improvements between 6:00 a.m. and 6:30 p.m. on weekdays and between 8:00 a.m. and 5:00 p.m. on weekends and legal holidays, unless otherwise approved in writing by the City Engineer.

I. Require each contractor and subcontractor to have a competent foreman on the job at all times when that contractor or subcontractor, or any employee or agent thereof, is performing any work related to the Improvements. Subdivider shall maintain an office with a

telephone and Subdivider or a person authorized to make decisions and act for Subdivider in Subdivider's absence shall be available at the site of any Improvements within three (3) hours of being called at such office by the City at any time when construction work is being performed on the Improvements.

J. Assume all costs for utility and cable television undergrounding or relocation which is not the responsibility of the cable television, gas, electric, telephone or other utility company under the terms of any franchises with the City or otherwise imposed upon the utility companies by law.

K. Obtain and comply with all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all fees and taxes required by law.

6. Estimated Cost of Improvements. The total estimated cost of the Improvements, as provided by Subdivider and reviewed and confirmed by the City Engineer, is [REDACTED] dollars (\$ [REDACTED]).

7. Title to Improvements. The City shall not accept any property to be dedicated or the Improvements unless they are constructed in conformity with the Improvement Plans and Improvement Standards, to the satisfaction of the City Engineer. Subdivider shall retain title to, shall be responsible for, and shall bear the risk of loss to, any of the Improvements constructed or installed, until such time as the Improvements are accepted by the City. Title to and ownership of the Improvements and any real property to be dedicated shall vest absolutely in the City upon completion and acceptance of such Improvements by the City Council. The City shall not accept the Improvements unless title to the Improvements is entirely free from all liens. Prior to acceptance, at City's request, Subdivider shall supply the City with appropriate lien releases, at no cost to and in a form acceptable to the City.

8. Acquisition and Dedication of Easements or Rights-of-Way. If any of the Improvements are to be constructed or installed on land not within the Subdivision or an already existing public right-of-way, no construction or installation shall commence before:

A. The irrevocable offer of dedication or conveyance to City of appropriate rights-of-way, easements or other interests in real property, and appropriate authorization from the property owner to allow construction or installation of the Improvements; or

B. The issuance of an order of possession by a court of competent jurisdiction pursuant to the State Eminent Domain Law (Cal. Code Civ. Proc. § 1230.010 *et seq.*). Subdivider shall comply in all respects with any such order of possession.

9. Final Acceptance of Work. Acceptance of the Improvement Work on behalf of the City shall be made by the City Council upon recommendation of the City Engineer, after satisfactory completion and inspection of all Improvements. Such acceptance shall not constitute a waiver by the City of any defects or deficiencies in the Improvements.

10. Repair of Defective Work. If, however, within a period of one (1) year after final acceptance by the City Council of the Improvements, any portion of the Improvements or any work done under this Agreement fails to fulfill any of the requirements of this Agreement, the Improvement Plans or the Improvement Standards, Subdivider shall without delay and without any cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements or work. If the Subdivider fails to act promptly in accordance with this requirement, or if the exigencies of the situation require repairs or replacements to be made before Subdivider can be notified or correct the situation, then the City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Subdivider shall pay to City the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by City.

11. Securities.

A. *Securities.* Concurrently with or before the Effective Date of this Agreement, Subdivider shall furnish to the City:

i. *Faithful Performance Security.* Securities to guarantee the faithful performance of this Agreement, in the amount of one hundred percent (100%) of the total estimated cost of the Improvements.

ii. *Payment Security.* Securities to secure the obligations set forth under California Civil Code section 3082, as amended, in the amount of one hundred percent (100%) of the total estimated cost of the Improvements, for payment to the contractor, subcontractor, and to persons renting equipment or furnishing labor or materials to them for the work.

iii. *Guarantee and Warranty Security.* Securities to guarantee workmanship shall be in the amount of ten percent (10%) of the estimated cost of the Improvements, as stated in section 6 above, to guarantee and warrant the Improvements for a period of one (1) year following their completion and acceptance against any defective work or labor done, or defective materials.

12. Bonds. Any bonds submitted as Securities shall be executed by a surety company authorized to conduct a surety business in California and shall be in a form as specified by the Subdivision Laws and approved by the City. All Securities deposited as bonds under this Agreement shall be irrevocable, shall not be limited as to time (except as to the guarantee and warranty period), and shall provide that they may be released, in whole or part, only upon the written approval of the Director, as provided under the Subdivision Laws and in Section 14 below. All Securities shall expressly obligate the surety for any extension of time authorized by the City for Subdivider's completion of the Improvements, whether or not the surety is given notice of such an extension by the City. No change, alteration or addition to the terms of this Agreement or the plans and specifications incorporated herein shall in any manner affect the obligation of the sureties, except as required by the Subdivision Laws.

13. Records. Evidence of the Securities required by this Agreement shall be kept on file with the City Clerk. If the City Council gives specific, written approval to replace the

Securities by another approved security, such replacement Securities shall be filed with the City Clerk and, upon filing, shall be deemed to be incorporated into this Agreement. Upon filing of replacement Securities with the City Clerk, the replaced Securities may be released.

14. Release of Securities. The Securities required by this Agreement shall be released in accordance with the Subdivision Laws and the following provisions:

A. *Faithful Performance Securities.* The faithful performance security will be released upon acceptance of the Improvements by the City Council.

B. *Payment Security.* The payment security will be released thirty-five (35) days after acceptance of the Improvements by the City Council and recordation of a notice of completion by the City. The amount to be released shall be reduced by the total of all claims on which an action has been filed by any related materialmen, and notice thereof given in writing to the City. The City expressly may require the surety not to release the amount of security deemed necessary by the City to assure payment of reasonable expenses and fees, including reasonable attorney's fees.

C. *Guarantee and Warranty Securities.* The Securities provided for guarantee and warranty of workmanship shall be released after one (1) year following the completion and acceptance of the Improvements, and inspection thereof by the City's Construction Inspector, and approved by the City Engineer. If, however, the City Engineer determines there are defects in the Improvements that require correction pursuant to section 10 above, the City Engineer shall utilize the Securities to make all necessary corrections, including payment of reasonable expenses and fees and attorney's fees.

15. Inspections.

A. The City reserves the right to inspect all Improvements at any time. Subdivider shall at all times maintain safe access for inspection of the Improvements.

B. Upon completion of the Improvements the Subdivider may request a final inspection by the City's Construction Inspector. If the Construction Inspector determines that the Improvements have been completed in accordance with all Improvement Standards and Subdivision Laws, then the City Engineer shall certify the completion of the Improvements to the City Council, to accept or reject in their sole discretion. The City bears no liability for any costs or expenses resulting from delays in inspections.

C. Concurrently with or before the Effective Date of this Agreement, Subdivider shall pay inspection fees to the City in the amount of 3% of the estimated cost of the Improvements, in this case the amount of [REDACTED] dollars \$[REDACTED], in accordance with Riverbank Municipal Code section 152.075.

16. Default of Subdivider.

A. *Default of Subdivider.* Events of default by ("Default") by Subdivider may include, but shall not be limited to, any of the following:

i. Subdivider's failure to timely complete construction of the Improvements;

ii. Subdivider's failure to timely cure any defect in the Improvements to the satisfaction of the City Engineer;

iii. Subdivider's failure to timely deposit additional Securities as may be required by this Agreement;

iv. Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which Subdivider fails to discharge within thirty (30) days;

v. the commencement of a foreclosure action against the Subdivision or a portion thereof, or any conveyance in-lieu or in avoidance of foreclosure; or

vi. Subdivider's failure to perform any material obligation under this Agreement.

B. *Notice of Default.* In the event of Subdivider's default, Subdivider shall be deemed to be in breach of this Agreement and the City may serve written notice upon Subdivider and Subdivider's surety, if any, of the breach of this Agreement. Subdivider shall have fifteen (15) days from receipt of written notice by City to cure any default.

C. *Remedies; Performance by City.*

i. In the event of Subdivider's default under this Agreement, and the applicable cure period set forth in this Paragraph has expired without such default having been cured, the City may thereafter deliver a notice of breach to Subdivider and Subdivider's surety, if any. If the default remains uncured within fifteen (15) days from receipt of the written notice of breach, Subdivider authorizes the City to complete all work on the Improvements at the sole expense of Subdivider, and Subdivider authorizes to utilize the Securities to complete all work on the Improvements and to pay all labor costs of contractors, subcontractors and workers related to the Improvements. The City may take over the Improvements and prosecute the same to completion, by contract or by any other method the City may deem advisable, for the account and at the expense of Subdivider, and Subdivider shall be liable to City for any excess cost or damages incurred by the City thereby. In the event the City takes over the Improvements or prosecutes the same to completion, the City, without liability for so doing, may take possession of, and utilize such materials, appliances, equipment, plant and other property belonging to Subdivider as may be necessary for completion of the Improvements.

ii. The City reserves to itself all remedies available to it at law or in equity for breach of Subdivider's obligations under this Agreement. The right of the City to draw upon or utilize the Securities is additional to and not in lieu of any other remedy available to the City.

iii. Failure of Subdivider to comply with the terms of this Agreement shall constitute consent to the filing by the City of a notice of violation against all the lots in the Subdivision, or to rescind the approval or otherwise revert the Subdivision to acreage. The remedy provided by this subsection is in addition to and not in lieu of other remedies available to the City, and is not required to implement other available remedies. Subdivider agrees that the choice of remedy or remedies for Subdivider's default shall be at the discretion of the City.

iv. In the event that Subdivider fails to perform any obligation hereunder, Subdivider agrees to pay all costs and expenses incurred by the City in securing performance of such obligations, including but not limited to costs of suit and attorney's fees, costs of Improvements in the event of failure of performance, and all administrative costs. Such costs and fees shall be a proper charge against the Securities of Subdivider.

v. The failure of the City to take an enforcement action with respect to a default or breach, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of Subdivider.

D. *Lien.* In accordance with the Subdivision Laws (Gov. Code § 66499), the recordation of this Agreement creates a lien attached to the property underlying the Subdivision and has the priority of a judgment lien in the amount necessary to complete the Improvements.

17. Environmental Warranty.

A. For purposes of this Agreement, the terms below have the following meanings:

i. "Environmental Laws" shall mean any federal, state, or local law, rule, regulation administrative or court order, ordinance, regulatory guidance document, standard, or requirements of any government authority regulating, relating to, or imposing liability standards of conduct concerning Hazardous Substances, or that pertains to the protection of human health or the environment, including, but not limited to, the Comprehensive Environmental Response, Conservation and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq.*); the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§6901 *et seq.*); the Clean Water Act (33 U.S.C. §§1251 *et seq.*); the Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.*); the Hazardous Materials Transportation Act (29049 U.S.C. §§ 1801 *et seq.*); the Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 *et seq.*); the Superfund Amendments and Reauthorization Act (42 U.S.C. §§ 6901 *et seq.*); the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*); the Safe Drinking Water Act (42 U.S.C. §§ 300f *et seq.*); the Solid Waste Disposal Act (42 U.S.C. §§ 6901 *et seq.*); the Surface Mining Control and Reclamation Act (30 U.S.C. §§ 1201 *et seq.*); the Occupational Safety and Health Act (29 U.S.C. §§ 655, 657); the California Underground Storage of Hazardous Substances Act (Health and Safety Code §§ 25280 *et seq.*); the California Hazardous Waste Control Act (Health and Safety Code §§ 25100 *et seq.*); the California Safe Drinking Water and Toxic Enforcement Act (Health and Safety Code §§ 24249.5 *et seq.*); and the Porter-Cologne Water Quality Control Act (Water Code §§ 13000 *et seq.*); together with any amendments of or regulations promulgated under the statutes cited above.

ii. “Hazardous Substances” or “Hazardous Substance” shall include any hazardous, toxic or dangerous waste, substance or material, pollutant or contaminant, as so defined under any Environmental Laws or any substance which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls (PCBs), radon gas, urea formaldehyde, asbestos, lead, or electromagnetic waves. Hazardous Substances include any hazardous or toxic substance, material or waste which is regulated by the State of California, the United States government, or any other governmental authority with jurisdiction over the Property. Hazardous Materials include asbestos and any other hazardous waste or substance which has, as of the date hereof, been determined to be hazardous or a pollutant by the U.S. Environmental Protection Agency, the U.S. Department of Transportation, or any instrumentality authorized to regulate substances in the environment which has jurisdiction over the Property which substance causes the Property (or any part thereof) to be in material violation of Environmental Laws.

B. Prior to acceptance of any Improvements by the City, Subdivider shall provide the City with a written warranty that:

i. Subdivider and the property being dedicated are in compliance with all Environmental Laws and are not subject to any existing, pending or threatened investigation by a federal, state, or local governmental authority regarding violations of Environmental Laws.

ii. Subdivider and its third party agents, contractors and subcontractors have not used, generated, manufactured, produced, discharged, or released on, under, or about the property to be dedicated, any Hazardous Substance except in accordance with all applicable Environmental Laws.

iii. Subdivider has not caused or permitted the release or discharge of, and has no knowledge of the release, discharge, or presence of Hazardous Substances on the property to be dedicated or the migration of any Hazardous Substances from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

C. Throughout the term of this Agreement, Subdivider shall give written notice within fifteen (15) days to the City of:

i. Any proceeding or investigation by any federal, California, or local governmental authority regarding the presence of Hazardous Substances on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated;

ii. Any claims made or threatened by any third party against the City or property to be dedicated regarding any loss or injury resulting from any Hazardous Substances; and

iii. Subdivider's discovery of any occurrence or condition on any property to be dedicated or any property adjacent to, or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability, or suit under any Environmental Law.

18. Design or Construction Defect.

A. After acceptance of the Improvements, the Subdivider shall remain obligated to eliminate any defect in design or dangerous condition caused by a latent design or construction defect.

B. Provisions of this section shall remain in full force and effect for ten (10) years following the acceptance of the Improvements by the City.

C. It is the intent of this section that Subdivider shall be responsible for all liability for design and construction of the Improvements and that the City shall not be liable for any negligence, nonfeasance, misfeasance, or malfeasance in approving, reviewing, checking, or correcting any plans or specifications or in approving, reviewing or inspecting any Improvement Work. The Securities shall not be required to cover the provisions of this paragraph.

19. No Agency Relationship. Neither Subdivider nor any of Subdivider's agents or contractors are or shall be considered to be agents of the City in connection with the performance of Subdivider's obligations under this Agreement. City elected and appointed councils, commissions, officers, agents, employees and representatives ("City Agents") shall not, be liable or responsible for any accident, loss or damage, regardless of the cause, happening or occurring to the Improvement Work or Improvements specified in this Agreement prior to the completion and acceptance of the Improvement Work or Improvements. All such risks shall be the responsibility of and are hereby expressly assumed by Subdivider.

20. Other Agreements. Nothing contained in this Agreement shall preclude the City from expending monies pursuant to agreements concurrently or previously executed between the Parties, or from entering into agreements with other subdividers for the apportionment of costs of water and sewer mains, or other improvements, pursuant to the provisions of the City ordinances providing therefore, nor shall anything in this Agreement commit the City to any such apportionment.

21. Indemnity/Hold Harmless.

A. The City and City Agents shall not be liable and Subdivider agrees to indemnify, hold harmless and defend the City and City Agents from any and all claims, costs, and liability for claims of damage, for any property damage or personal injury, including death, which may arise as a result of any negligent acts or omissions by Subdivider or Subdivider's contractors, subcontractors, agents, or employees in connection with the construction, improvement, or operation, of the Improvements, including all claims, demands, causes of action, liability, or loss because of, or arising out of, in whole or in part, the design or construction of the Improvements. This indemnification and agreement to hold harmless shall

extend to injuries to persons and damages or taking of property resulting from the design or construction of the Subdivision and the Improvements as provided herein, and in addition, to injuries to adjacent property owners as a consequence of the diversion of waters from the design or construction of public drainage systems, streets and other Improvements.

B. Acceptance by the City of the Improvements shall not constitute an assumption by the City of any responsibility for any damage or taking covered by this Section.

C. Provisions of this paragraph shall remain in full force and effect for ten (10) years following the acceptance by the City of the Improvements. It is the intent of this section that Subdivider shall be responsible for all liability for design and construction of the Improvements installed or Improvement Work done pursuant to this Agreement and that City shall not be liable for any negligence, nonfeasance, misfeasance, or malfeasance in approving, reviewing, checking, or correcting any plans or specifications or in approving, reviewing or inspecting any Improvement Work. The Security shall not be required to cover the provisions of this section.

D. City shall not be liable for approving, reviewing, checking, or correcting any plans or specifications or for approving, reviewing or inspecting any Improvement Work. Nothing contained in this section is intended to, or shall be deemed to, limit or waive any protections or immunities afforded by law to the City or City Agents for the approval of the plan or design of the Improvements, including but not limited to the protections and immunities afforded by Government Code section 830.6. Subdivider shall defend, indemnify, and hold harmless the City and City's Agents from any claim, action, or proceeding against City or City Agents to attack, set aside, void, or annul an approval of the City or City Agents concerning the Subdivision.

22. Insurance. Without limiting Subdivider's duty to indemnify the City, Subdivider shall maintain in effect throughout this Agreement a policy or policies of insurance with the specifications and limits of liability specified herein.

A. *Proof of Insurance.*

i. Subdivider shall provide to the City a properly executed certificate of insurance, in a form satisfactory to the City Attorney for commercial general liability coverage; automobile liability, worker's compensation insurance, professional liability insurance, and course of construction coverage from an insurance provider approved by the City and licensed by the California Department of Insurance ("Certificates").

ii. Each Certificate shall provide that such insurance will not be cancelled, reduced in coverage, or allowed to expire without thirty (30) days' prior written notice to the City.

B. *Minimum insurance limits.* Contractor shall maintain limits no less than:

i. General Liability. Subdivider shall maintain such commercial general liability insurance with an insurance company admitted in California with an AM Best

Rating of not less than A+, as shall protect the City, the City's Agents, Subdivider, contractors, and subcontractors from claims for damages for personal injury, including death, as well as from claims of property damage which may arise from acts or omissions from Subdivider, contractors, or subcontractors for in relation to this Agreement. The amount of such insurance shall not be less than two million dollars (\$2,000,000.00) per occurrence with umbrella liability coverage of not less than two million dollars (\$2,000,000.00). Such insurance shall also:

1. Name the City and the City Agents as insured by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitation on the scope of its protection afforded to the above-listed additional insured; and

2. Be primary with respect to any insurance or self-insurance programs covering the City and City Agents.

- ii. Automotive Liability Insurance. Subdivider shall maintain automotive liability insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services or performing work under this Agreement for bodily injury and property damage with a limit of not less than one million dollars (\$1,000,000.00) for each occurrence. Such insurance shall also:

1. Name City and City Agents as insured by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitation on the scope of its protection afforded to the above-listed additional insured; and

2. Be primary with respect to any insurance or self-insurance programs covering the City and City Agents.

- iii. Worker's Compensation Insurance.

1. Subdivider shall maintain worker's compensation insurance in accordance with California Labor Code section 3700, and with a limit of not less than one million dollars (\$1,000,000.00) per occurrence for employer's liability.

2. In the event any work is sublet, Subdivider shall require any contractor or subcontractor to provide worker's compensation insurance for all contractor's employees or subcontractor's employees, unless such employees are covered by the protection afforded by Subdivider.

23. No Vesting of Rights. Performance of this Agreement shall not be construed to vest Subdivider's rights with respect to any change in any zoning or building law or ordinance.

24. Notices. Any notice or communication required hereunder between City and Subdivider must be in writing, and may be given either personally, 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 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 may at any time, by giving ten (10) days written notice to the other Party, 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, CA 95367
Attn: Donna M. Kenney, Planning and Building Manager

With copies to: City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attn: Jill Anderson, City Manager

and Churchwell White, LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attn: Douglas L. White, Esq.

If to Subdivider: _____

and _____

25. General Provisions:

A. *Governing Law.* The validity, interpretation and performance of this Agreement shall be controlled by and construed pursuant to the laws of the State of California.

B. *Compliance with Laws.* Subdivider, its agents, employees, contractors, and subcontractors shall comply with all federal, state and local laws in the performance of the work required by this Agreement, including but not limited to all Improvement Standards or any other applicable land use approvals. Subdivider shall be responsible for obtaining all applicable licenses and permits.

C. *Venue.* Venue for any legal proceedings initiated in connection with this Agreement shall be in the Superior Court for the County of Stanislaus.

D. *Severability.* The provisions of this Agreement are severable. If any provision of this Agreement is held invalid by a court of competent jurisdiction, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

E. *Waiver.* The waiver by either Party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this Agreement. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

F. *Approvals by the City.* Any approval or consent that is to be given by the City under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on the City.

G. *Integration.* This Agreement, 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 with respect to the subject matter of this Agreement. Neither Party shall be liable for any representations made, express or implied, not specifically set forth herein. It is the intention of the Parties that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

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

I. *Mandatory and Permissive.* “Shall” and “will” and “agrees” are mandatory. “May” or “can” are permissive.

J. *Successors and Assigns – Covenant Running With the Land.* Subdivider shall not assign any of its obligations under this Agreement without the prior written consent of the City. Notwithstanding the above, all representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of or for the benefit of any or all of the Parties, shall be binding upon and inure to the benefit of such Party, its successors and assigns. This Agreement, however, shall not be binding on any lot that has been conveyed to an individual homebuyer and for which a Certificate of Occupancy has been issued by the City.

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

L. *Other Documents.* Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and to that end, agree to execute and deliver such

other instruments or documents as may be necessary and convenient to fulfill the purposes and intentions of this Agreement.

M. *Time is of the Essence.* Time is of the essence in this Agreement in each covenant and term and condition herein.

N. *Authority.* The Parties warrant and represent that they have the power and authority to enter into this Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement have been fully complied with.

O. *Construction and Interpretation.* It is agreed and acknowledged by Subdivider that the provisions of this Agreement have been arrived at through negotiation, and that Subdivider has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in construing or interpreting this Agreement.

P. *Advice of Legal Counsel.* Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement.

Q. *Attorney Fees and Costs.* If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret any provision of this Agreement, the prevailing Party shall be entitled to an award of reasonable attorney 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.

R. *No Monetary Damages Against the City.* In the event of the City's default under this Agreement, Subdivider agrees that Subdivider may not seek, and shall forever waive any right to, monetary damages against the City.

S. *Modification.* This Agreement may be amended only by a written instrument signed by the Parties. Subdivider shall bear all costs of amendments to this Agreement that are requested by Subdivider.

T. *Exhibits.* All exhibits attached hereto are incorporated into this Agreement:

[Signatures on following page]

IN WITNESS WHEREOF, this Agreement has been entered into by and between Subdivider and City as of the day and year first above written.

SUBDIVIDER:

_____, a California _____

By: _____

Name: _____

Title: _____

Date: _____

CITY:

CITY OF RIVERBANK, a California
municipal corporation:

By: _____

_____, City Manager

Date: _____

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM:

By: _____

Tom Hallinan, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

EXHIBIT A

Tentative Map Resolution of Approval

PROPOSED

California All-Purpose Acknowledgment

Pursuant to SB 1050 (Chapter 197, Statutes of 2014), Civil Code section 1189 has been amended to provide that any certificate of acknowledgment taken within the State of California shall be in the following form:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of _____)

On _____, before me _____, a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

(Signature)

(Seal)

Exhibit _____

Consolidated Conditions of approval for Hayes 4, Phase One, Tentative Map as approved by City Council Resolution No. 2005-046 August 28, 2006 and Modified by City Council Resolution No. 2006-105. The City Council did approve a design exception as it related to storm water design specifications. This action is reflected in minute action of the Council on September 24, 2007.

1. This approval is dependent upon and limited to the proposals and plans contained and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation. Attached as Exhibit A to these Consolidated Conditions.
2. The applicant shall secure and comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
3. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site, either wind, water or transport, during the construction and operation of the project covered by this approval.
4. Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to be violated.
5. If a final map reflecting these conditions of approval is not approved by the City Council within the time frame as stipulated in the Hayes 4, Phase I Development Agreement, this Tentative Map shall lapse and the city applicant shall reapply to the City of Riverbank for a new Map. Applicant may not rely on this approval to begin construction of structures on parcels illustrated on the submitted map until a final map is recorded. Notwithstanding, the Applicant may commence all on and off site work upon issuance of a grading and construction permit. Reapplications for a tentative map shall state the reasons why the applicant was unable to gain approval of a final map and why within two years from the approval of a new tentative ma the project is expected to be able to file a final map, if so granted. Reapplications for tentative maps may include information submitted in the initial application by reference. The zoning will not expire, nor will any associated applications (except tentative maps and vacation and abandonment applications), unless otherwise stated in the conditions of approval.
6. A copy of these consolidated conditions must be included in or attached to all contract bid specifications for the approved tentative map.
7. Development of the property must conform to the plans as approved by the Riverbank City Council and on file in the Development Services Department.

8. Although a courtesy reminder is typically mailed to the correspondent (on file) 30 days prior to an applicant's expiration, the applicant is fully responsible for maintaining the correct expiration date of any application.
9. Approval of this application does not constitute approval of any other entitlement or any other necessary permit, license or approval.
10. All conditions imposed on this map must be satisfied.
11. The following shall be noted on the submitted Tentative Subdivision Map:
 - A. All street cross-sections proposed by the map for Central Avenue shall include the construction of a half street plus a twelve foot travel lane constructed in accordance with City of Riverbank Standards and Specification. Central Ave is planned as a Minor Collector at 84' of total ROW per the adopted Riverbank Street Standards.
 - B. The Standard park land dedication and improvement obligation for single family developments is 5 acres of park for every 1,000 persons. The park ratio adopted by the City Council in RMC Section 152.037 (D) requires 1 acre of park per 58 dwelling units. Meaning that the proposed 45 residential units in this project has a Park requirement of 0.78 acres. Prior commitments by the City Council on this project have resulted in the granting of a 50% land dedication credit for the park/storm drainage system proposed. Based on preliminary designs it appears that the proposed park/storm drainage basin (Paseo) will be about 1.82 net acres (net of ROW) in size. The improvement and dedication of the paseo will result in an over-sizing of the projects park land dedication and improvement obligation of about 0.12 acres. In this case, it would be expected that the developer would be eligible for a reimbursement of over-sizing based on the procedures defined in the RMC Section 150.30. The actual size of the park/storm land dedication will be determined using the final calculations presented with the Final Map.
 - C. All streets shall be planned and constructed with a separated sidewalk with 2 street trees planted for each dwelling unit. The Street trees proposed shall be approved by the City before they are installed. The proposal is for a 28' wide one-way street around a central Paseo. The original TM approved by the CC suggested a 10' travel lane, 8' parking lane adjacent to the homes, 6' parkway strip and 4' sidewalk. The interior street design is acceptable because of previous commitments.
 - D. Note that where finished grades of adjacent lots differ more than two feet, a retaining wall shall be constructed.
 - E. Note the City's adopted policy that where there are differing grades, wall and fence height shall be taken from the higher grade.

- F. A centralized mail collection system, which includes a concrete foundation and supporting hardware, shall be installed to the satisfaction of the Riverbank Postmaster.
 - G. Note that the map and improvements will be subject to provisions of the Bruinville Master Plan and the 2007 Nolte Master Plans prepared for the area.
 - H. Submit elevations for review and approval by the Community Development Director that show the utilization of enhanced roofing material and wainscoting materials for each dwelling unit. Wainscoting shall extend alongside elevations for a minimum of five feet to the sideyard fence.
 - I. Each lot shall be provided with a drainage system that captures run-off from all impervious surfaces and directs the storm water into lateral leach lines on that property. The lateral leach lines shall be located such that excessive flows will be surfaced and flowed across natural turf located in the front yard prior to entering the commonly maintained drainage system.
 - J. The drainage system inlets shall provide for passive filtration of storm water.
 - K. All drainage facilities shall be offered for irrevocable dedication to the City on the map. The City Engineer is directed to refuse all said facilities until such time that the City, at its sole discretion, determines to accept said facilities.
 - L. To qualify for a fifty percent credit of open space, the developer shall be under obligation to prepare landscape and irrigation plans which comply with Riverbank's drought tolerant landscape standards and install the open space to the satisfaction of the Community Development Director and the Recreation Director. The Developer shall also establish a funding mechanism for long term maintenance of the area to the satisfaction of the City Engineer.
 - M. The applicant shall comply with all criteria stipulated in the executed reimbursement agreement between the City of Riverbank and the Bruinville Development Group for the construction of public potable water well to the satisfaction of the Community Development Director. This includes the obligation to fund the acquisition of the land associated with Well Site No. 11 located off of Sante Fe Avenue, easterly of Central.
12. Prior to recordation of a Final Subdivision Map, the applicant shall comply with the following conditions:
- A. Pursuant to Section 66473.1 of the State Subdivision Map Act, the Final Map shall show that all lots within the subdivision have a minimum of 100 square feet of solar access for each future building unit allowed by this subdivision.

- B. The Final Map shall show the dedication of all onsite drainage easements, including easements for access thereto, and show monumentation for such easements, as required by the Director of the Department of Public Works, or verify that no easements are required.
 - C. Pursuant to Section 66456.1(b) of the State Subdivision Map Act, the Final Map shall include the entire area shown on the Tentative Map and shall not be filed as units or groups of units, unless the City and Applicant concur on a phasing plan for all improvements shown on the tentative map.
 - D. Provide the City Department of Public Works with standard forms approved by the Director of the Community Development Department stating that the applicable agency or agencies have provided commitment to the site for such public facilities that are required for the subdivision.
 - E. Include on the Final Map an “Easement Holder’s Certificate” whereby all easement holders having record title interest within the confines of the Final Map consent to the filing of the Final Map. If required, pursuant to Section 66436(3) of the Subdivision Map Act include an “Easement Holder’s Statement” on the Final Map indicating those signatures omitted from the map since their interest cannot ripen into a fee. Prepare a “subordination certificate” whereby those easement holders having interest within any future public dedications will subordinate their interest to the public. Each “subordination certificate” to be recorded concurrently with the Final Map and referenced on the Final Map.
 - F. Agree to comply with the final adopted provisions of the Public Facilities Master Plan for financing, timing, and thresholds for improvements in the area.
 - G. Participate in the Formation and Annexation of the project to a Maintenance CFD for the purpose of providing long-term funding for the maintenance of public items including but not limited to: Lighting and Landscaping, Storm Water, Streets and Police Protection.
13. Prior to the issuance of a building permit, the applicant shall comply with the following conditions:
- A. Submit architectural elevations that show garage openings recessed from the front door elevation by a minimum of two feet.
 - B. Submit elevations that show the utilization of tile roofing material and wainscoting materials for each dwelling unit. Wainscoting shall extend alongside elevations for a minimum of five feet.
 - C. Submit construction plans that show the use of sunscreens and/or tinting on all southern and western exposed windows.

- D. Pay fire service impact fees to the Stanislaus Consolidate Fire District and bring receipt of said payment to the Community Development Department.
- E. Enter into a benefit assessment agreement or annex the properties into the Crossroads Community benefit assessment district with the Stanislaus Consolidated Fire District to the satisfaction of the Fire Marshall.
- F. Protect existing underground electrical facilities adjacent to the proposed development as required by the Pacific Gas and Electric Electrical Engineering Department. Appropriate easements for electric facilities shall be granted as required.
- G. Grant a 10' Public Utility Easement along all existing and proposed street frontages and any other necessary easements to either the Oakdale Irrigation District or other utilities as possible.
- H. Insure that electric service to the proposed project is available to the site. The applicant shall contact the appropriate electrical provider's Engineer Department to arrange for electrical service to the project.
- I. All new construction requires building permits in accordance with all applicable building and fire codes and submission of a plot and grading plan prepared by a registered professional civil engineer showing property lines, building locations, topography and such other data as required by the Public Works and Community Development Department.
- J. Drainage studies must be submitted and approved and all improvements must comply with the approved studies. Further, storm water management dedication and/or improvements may be required. Note that drainage shall not be allowed to cross sidewalk areas.
- K. Fire hydrants must be provided in compliance with Fire Department specifications, and a three foot fire hydrant easement is required behind all street frontage lot lines.
- L. All necessary utility easements shall be retained or reserved.
- M. All subsequent plans shall plot dedication and/or the relinquishment of all effected utility easements.
- N. Submit plans and specifications for improvements of all public and private street rights-of-way, water service utilities, wastewater collection, drainage easements, culverts, drainage structures and drainage channels, to the Department of Public Works for approval by the City Engineer.

- O. The exact depth of imported base material shall be based on soil tests which have been approved by the Director of the Department of Public Works.
- P. Sight distance requirements at all street intersections shall conform to the intersectional sight distance criteria of the Public Road Standards of the Department of Public Works and approved by the City Engineer.
- Q. If the improvement plans show a need to excavate in any public road right-of-way, the developer shall place a cash deposit or security bond with the City of Riverbank to ensure that any damage to the existing roadway is repaired in a timely manner.
- R. Construct, or agree to construct the public improvements and private improvements shown on both the improvement plans for the project and the Public Facilities Master Plan for the area as approved by the City.
- S. All new and existing utility distribution facilities, including cable television lines, within the project boundaries shall be placed underground. The developer is responsible for complying with the requirements of this condition, and shall make the necessary arrangements with each of the serving utilities, including licensed cable television operators, for the installment of such utilities.
- T. With respect to any claim, action or proceeding against the City, its officials, employees or agents relating to the action or inaction of the City in reviewing, approving or denying entitlements of any type, the Developer agrees to indemnify, hold harmless and defend the City and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs, and liability for claims of damage, for any property damage or personal injury, including death, which may arise as a result of any negligent acts or omissions by Developer or Developer's contractors, subcontractors, agents, or employees in connection with the construction, improvement, or operation, of the Project. Developer agrees to indemnify, hold harmless and defend the City and its officers, agents, employees, and representatives from any and all actions for damages caused or alleged to have been caused by Developer's activities in connection with the Project. This Agreement applies to all damages and claims for damages suffered or alleged to have been suffered arising out of or in connection to any and all Project operations, regardless of whether or not the City prepared, supplied or approved plans or specifications or both for the Project.
- U. In the event any legal action or special proceeding is commenced by any person or entity challenging any agreements between Developer and City, any entitlement or component of the Project such as the Project EIR, or any other City approval for the Project (collectively, "Project Litigation"), the Parties agree to cooperate with each other as set forth herein. City may elect to tender the defense of any lawsuit filed and related in whole or in part to Project Litigation. Upon the

commencement of Project Litigation, Developer will indemnify and hold harmless the City from all costs and expenses incurred related thereto, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. Developer shall pay all litigation fees to the City within thirty (30) days of receiving a written request and accounting of such fees and expenses from the City. Notwithstanding the aforementioned, City may request a deposit to cover City's reasonably anticipated Project Litigation fees and costs, and Developer will provide such deposit to City within seven (7) days of any such request.

- V. Deposit with the Department of Public Works sufficient funds to cover the cost of all plan check and inspection services associated with the improvements.
 - W. Hydrology and hydraulic calculations for determining the storm system design, with water surface profile and adequate field survey cross section data, shall be provided satisfactory to the Director of the Department of Public Works, or verification shall be provided that such calculations are not needed.
 - X. The applicant shall deposit \$500 construction landscape plan review and permit.
 - Y. Make payment or other arrangements to the satisfaction of the Riverbank Unified School District.
 - AA. Make payment or other arrangements for all City of Riverbank System Development Fees including regional storm drainage fees required by the Public Facilities Master Plan.
 - BB. The Public Facilities Master Plan for the area east of Claus Road has been completed to the satisfaction of the City Engineer and adopted by the City Council. The applicant shall implement all provisions of the plan on a fair share basis as determined by the City Engineer.
14. During construction of the project the applicant shall comply with the following conditions:
- A. The project complies with all applicable provisions of the San Joaquin Valley Air Pollution Control District Fugitive Dust rules.
 - B. Erosion control devices are installed and maintained to the satisfaction of the Community Development Director and Department of Public Works.
 - C. Neighboring streets directly adjacent to the site are kept clean of dust, litter and debris.
 - D. Construction traffic shall be limited to access to the site from Claus Road and a temporary driveway shall be constructed. Immediately after entering the site, $\frac{3}{4}$

inch rock shall be provided on the driveway surface twenty feet wide for a distance not less than thirty feet.

- E. The installation (if required) of all gas, electric, sewer and water lines and any other below surface utilities is to take place before the installation of any concrete curbs, gutter, sidewalks, and the surfacing of the streets.
 - F. The hours of construction, including equipment warm-up, shall be limited to 6:00 a.m. and 6:30 p.m. on weekdays and 8:00 a.m. and 5:00 p.m. on weekends and legal holidays.
 - G. Construction of improvements shall be concurrent with the construction of necessary public facilities identified within the Public Facilities Master Plan for the area.
15. Prior to the issuance of a Certificate of Occupancy for the project, the applicant shall comply with the following conditions:
- A. Submit a letter from the Stanislaus Consolidated Fire District stating its satisfaction with the type and location of fire protection improvements and the minimum required water flow in gallons per minute.
 - B. All conditions of approval, applicable state statutes, and local ordinances must be satisfied, including all applicable building and fire code requirements for hazardous materials.
 - C. Provide the City Department of Public Works with evidence that any offer of dedication or grant of right-of-way shall be free of all encumbrances or subordinated and free of hazardous and/or toxic materials.
 - D. All building and improvements shown on plans shall be constructed and installed in substantial compliance with the submitted plans as well as in compliance with all applicable City of Riverbank standards and specifications.
 - E. All improvements and the timing thereof specified by the adopted Public Facilities Master Plan shall be paid, financed or constructed to the satisfaction of the City Engineer.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date: April 11, 2017

Subject: Legal Review and Consideration of Implementation Options for Proposition 64 – Adult Use of Marijuana Regulation

From: Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council consider the full legal review that will be provided by the City's Law Firm Churchwell White, LLP, and provide direction on key regulation decisions that must be made to begin the implementation process of Proposition 64. (The presentation materials will be available on the evening of the meeting.)

SUMMARY

In November of 2016 California voters passed Proposition 64 the Adult Use of Marijuana Act (AUMA). AUMA legalized the consumption, sale, cultivation and possession of marijuana for adults over the age of 21. The proposition also included provisions that authorize state and local permitting for marijuana business. Since the passage of the AUMA jurisdictions across the state have begun the process analyzing the new law and the effects it may have on their communities and organizations. The considerations for municipalities that relate to the AUMA are wide ranging and far reaching. The intent of this workshop is so the City Attorney can present the findings of their legal analysis, and the Council can give staff direction on desired regulations and (if necessary) ordinance amendments to prepare for eventual implementation of this law. The presentation materials for this item were still being formulated at the time that this staff report was being compiled and will be made fully available the night of the Council meeting.

BACKGROUND

At the February 14th City Council meeting, staff presented a preliminary report for discussion of indoor cultivation, which is just one topic of the many topics for consideration related to this Act. At that time City Council requested a full legal review of the act and key regulation decisions points that must be made by the Council with the intention to have that information reported back at an April meeting for further discussion and direction.

The City Attorney's office has completed the review and has structured a workshop that will touch on the background of the law, legal authority, the key regulatory decisions that will require Council direction, associated analysis and future steps. Some of the key issues that will require some form of Council direction or review in the future will be:

- Indoor Personal Cultivation (Whether or not to have a permitting process)
- Retail Dispensaries (Land Use, Whether or not to permit, Taxation/Fees etc)
- Commercial Cultivation (Land Use, Whether or not to permit, Taxation/Fees)
- Associated Marijuana Related Businesses, i.e. manufacturing, lab testing, distribution, production, etc. (Land Use, Whether or not to permit, Taxation/Fees)

FINANCIAL IMPACT

The financial impact is completely variable based on City Council's direction and decisions. There is the potential for revenues depending on the decisions on permitting of these businesses, but also potential associated costs and impacts. A more detailed analysis of the financial impact can be provided when land use related direction is given by City Council.

ATTACHMENTS:

Presentation materials will be provided on the evening of the April 11th regular City Council meeting. Copies will be made available for the public upon distribution to a majority of the City Council.

**RIVERBANK LOCAL REDEVELOPMENT AUTHORITY
AGENDA ITEM NO. 6.2**

SECTION 6: NEW BUSINESS

Meeting Date:	April 11, 2017
Subject:	A Resolution Authorizing a Contract Modification to the Existing Weston Solution, Inc. Contract for Reroofing Services at the Former Army Ammunition Plant
From:	Sean Scully, City Manager
Submitted by:	Debbie Olson, Executive Director, Local Redevelopment Authority

RECOMMENDATION

It is recommended that the Local Redevelopment Authority (“LRA”) Board of Directors review and approve a modification to the existing contract with Weston Solution, Inc. (“Weston”) to include an amended scope of work (“SOW”) and budget adjustment to accommodate Weston assuming tasks associated with the replacement of roofing at the former Riverbank Army Ammunition Plant (“RAAP”), more commonly known as the Riverbank Industrial Complex (“RIC”).

SUMMARY

On April 21, 2016, the Army entered into an environmental services cooperative agreement (“ESCA”) with the City of Riverbank (“City”) whereby the LRA would oversee the cleaning, remediation and removal of specific contaminants left as a result of military activities at RIC. As part of the remediation contract, the roofs and/or siding from 28 buildings must be removed. The ESCA pays for the cost of removal but does not cover replacement costs of the roofs and siding; replacement costs fall to the LRA to complete with non-ESCA funding.

The LRA competitively selected Weston to perform a portion of the ESCA 2 work which includes removal of siding and roofing materials. After some consideration it was determined that in order to facilitate and coordinate the safe and timely installation of new roofing in the most cost effective manner, the Weston contract should be modified to include the services necessary to replace the roofing.

In consideration for providing the additional services, Weston will be reimbursed on not to exceed basis of \$ 3,000,000. The contract modification is approximately 9% of the total

Weston contract and is within the City's best practices for contract modification per the Director of Finance.

BACKGROUND

Weston, an experienced engineering and environmental consultant, was publicly procured and awarded a contract for anticipated ESCA work in 2011. Over the past six years, Weston has proved to be an excellent partner and provided outstanding service, completing all contracted work on time and under budget. Weston's current contract includes oversight of the roof and siding removal portion of the project.

The LRA asked Giuliani & Kull, the City's contract engineering firm, to prepare a workplan for the roofing and siding replacement and estimate the cost for budgeting purposes. Their study estimated the total cost of labor and materials for siding and roofing to be \$9,367,535. The siding and roofing labor alone was estimated at \$8,344,935. The siding replacement is being handled under the facility management maintenance contract for an estimated budget amount under \$1,500,000.

Weston performed an analysis of qualified roofing installation subcontractors followed by request for bids and subsequent evaluation of submitted bids. Weston received three qualified bids ranging from a high of \$5,420,843 to a low of \$2,461,996. Based on their analysis, the recommended roofing installation subcontractor is the sister company of a subcontractor who is currently working on the ESCA. Presumably their existing mobilization on the project provided economies of scale that allowed them a highly competitive bid on the reroofing replacement portion of the project. The company performing the roofing installation will be a subcontractor to Weston, not the LRA. Weston will add a contingency and a management fee to the contractor's estimate. The not-to-exceed amount of the reroofing portion of the contract is \$3,000,000.

Discussion

In an effort to minimize tenant interruption, the siding and roofing removal and replacement of each building will happen concurrently. Prompt sequential movement of crews is critical in order to maximize productivity and minimize the prolonged exposure of the interior of buildings to the elements as well as reduce business shutdowns. Additionally, efficiency in work sequencing will further ensure worker safety -- a paramount concern when as many as four crews and equipment are working in close proximity on the same building at the same time.

Contracting relationships between the removal crew and the replacement crews will provide better continuity -- a single mobilization and demobilization, resource-driven scheduling of repetitive activities and other practical factors including continuity of project management. All of this will result in a much reduced timeline and could speed up the completion of the replacement by as much as eight months (See Attachment 2 – Roofing Replacement Sequencing).

Payment for the siding/reroofing project was based on a three-year budget cycle. As an additional consideration, Weston is willing, if necessary on a limited basis, to carryback

financing on the reroofing portion of the project should the LRA's cash flow not support the proposed accelerated timeline.

The table below shows the LRA's initial estimated capital expenditures as a result of the ESCA by fiscal year.

TABLE 1 - CAPITAL IMPROVEMENT EXPENDITURES BY FISCAL YEAR

YEAR	FY 2016-17	FY 2017-18	FY 2018-19	TOTAL
EXPENDITURE	\$1,866,465	\$1,393,462	\$180,000	\$3,439,927

The table below shows budget projections in anticipation of significant capital expenditures are expected to be covered by anticipated revenue savings.

TABLE 2 - LRA CAPITAL IMPROVEMENT FUNDS

SOURCE OF FUNDS	
Cash on Hand (FY 2015-16)	\$1,339,000
Anticipated Revenue Savings (FY 2017-2018 & FY 2018-19)	\$3,399,828
TOTAL	\$4,738,828

Conclusion

Staff recommends modification of the Weston contract to include subcontracting for the reroofing reasoning that the modification allows for better outcomes for the LRA, tenants and contractors. Speeding up the completion date will allow increased revenue from the expansion of existing tenants and new leasing opportunities in spaces previously unleaseable. This new revenue would not be possible without the improvements necessary as a result of the ESCA, residing and reroofing projects.

A draft of the contract modification between the LRA and Weston is currently under legal review and was not available at the time of posting.

Contract modification costs are shown in the table below:

TABLE 3 – WESTON CONTRACT MODIFICATION COSTS

WESTON CONTRACT		Percent Change
Original Contract Amount	\$33,285,615	N/A
Contract Modification Amount (estimated)	\$ 3,000,000	9%
REVISED TOTAL	\$36,285,615	

FINANCIAL IMPACT

No general funds will be necessary for the performance or payment of this contract modification. The contract modification will require additional payments not to exceed \$3,000,000 to Weston for roofing replacement. The project is funded with the LRA's Capital Improvement Funds and does not exceed the preliminary planning estimates meaning that payments for the contract modification to replace the roofing are within what is budgeted for this project.

ALIGNMENT WITH STRATEGIC PLAN

The hiring of a qualified contractors in support of capital improvement projects will allow City/LRA staff to improve and maintain infrastructure and facilities, better utilize resources, expand economic development opportunities and ensure the safety and health of Riverbank citizens.

ATTACHMENTS

1. Roof Replacement Sequencing
2. Resolution to Approve the Weston Contract Modification

Attachment 1 – Roofing Replacement Sequencing

Building	LRA's Initial Roofing Replacement Schedule	Weston's Modified Roofing Replacement Schedule
Building 12	May 15, 2017	April 4, 2017
Building 6, 50	June 26, 2017	April 11, 2017
Building 5,49, 83	July 31, 2017	May 23, 2017
Building 4, 48, 80	August 25, 2017	June 14, 2017
Building 3,47,160	September 18, 2017	August 4, 2017
Building 2,46	April 2, 2018	August 25, 2017
Building 1,45,81,82	May 7, 2018	September 18, 2017
Building 15	June 4, 2018	October 2, 2017

RIVERBANK LOCAL REDEVELOPMENT AUTHORITY

RESOLUTION

A RESOLUTION OF THE LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF RIVERBANK, CALIFORNIA AUTHORIZING A CONTRACT MODIFICATION TO THE EXISTING WESTON SOLUTIONS, INC. FOR REROOFING SERVICES AT THE FORMER RIVERBANK ARMY AMMUNITION PLANT COMMONLY KNOWN AS THE RIVERBANK INDUSTRIAL COMPLEX

WHEREAS, pursuant to the Defense Environmental Restoration Act 10 U.S.C. §2701(d), the Secretary of the Army may enter into an agreement with a local government agency, such as the Riverbank Local Redevelopment Authority (“RLRA”) to obtain the services of the local government agency in carrying out the Secretary’s responsibilities to identify, investigate and cleanup contamination from hazardous substances or pollutants and contaminants; and

WHEREAS, to facilitate a more rapid transfer of the Base Closure and Realignment portions of the federally owned facility in Riverbank, the RLRA recommended entering into an environmental services cooperative agreement (“ESCA”) to allow increased control and responsibilities for completing remediation activities at the former Riverbank Army Ammunition Plant (“RAAP”); and

WHEREAS, the Riverbank City Council sitting as the RLRA Board of Directors approved execution of a Memorandum of Agreement on October 10, 2011 with Weston Solutions, Inc. (“Weston”) after competitively procuring the services of Weston to provide or perform specialized consulting, engineering and remediation services and other activities associated with the conveyance of real and personal property at the former RAAP; and

WHEREAS, on January 27, 2016, the Riverbank City Council sitting as the RLRA Board of Directors approved execution of an ESCA allowing the RLRA to assume responsibility for certain environmental response activities pertaining to personal property, real property and or adjacent soil and perform these services on behalf of the Army; and

WHEREAS, a portion of the work to be performed by Weston under the ESCA includes removal of siding and roofs from several buildings at RAAP; and

WHEREAS, to facilitate the replacement of new roofing in a safe, efficient and cost effective manner the RLRA recommends entering into a contract modification with Weston to install the new roofing material; and

WHEREAS, the contract modification is of mutual benefit to both parties and meets key City of Riverbank strategic objectives in that the hiring of a qualified contractors in

support of capital improvement projects will allow City/LRA staff to improve and maintain infrastructure and facilities, better utilize resources, expand economic development opportunities and ensure the safety and health of Riverbank citizens; and

WHEREAS, in consideration for providing the services required to replace roofing materials Weston will be reimbursed at a not-to-exceed cost of \$3,000,000.

NOW, THEREFORE, be it resolved that the Local Redevelopment Authority Board of the City of Riverbank hereby authorizes a contract modification to the existing Weston Solutions, Inc. contract to include an amended scope of work and budget adjustments for reroofing services at the former Riverbank Army Ammunition Plant, commonly known as the Riverbank Industrial Complex (RIC).

PASSED AND ADOPTED by the Local Redevelopment Authority Board of the City of Riverbank at a meeting held on the 11th day of April, 2017; motioned by Authority Member _____, seconded by Authority Member _____, and upon roll call was carried by the following LRA Board vote of _____ :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor