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

choose civility

*Teleconference Location Notice

(PURSUANT TO GC § 54953(b))
Location: (202) 393-1000 • Meeting Phone: (209) 719-9256
CAPITAL HILTON
Potomac Room (Lobby Level)
1001 16th Street NW • Washington • DC • 20036

AGENDA

TUESDAY, JANUARY 23, 2018– 6:00 P.M.

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

CALL TO ORDER: Mayor/Chair Richard D. O'Brien

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

INVOCATION: Riverbank Ministerial Association

ROLL CALL: Mayor/Chair Richard D. O'Brien
Vice Mayor/Chair Darlene Barber-Martinez (CM-District 4)
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member Cal Campbell
Council/Authority Member Leanne Jones Cruz

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.

1. PRESENTATIONS

There are no presentations.

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.

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. 2018-003 Approving Development Agreement 02-2017 By and Between the City of Riverbank and Family and Friends Association, Inc., Doing Business As Riverbank Cannabis Collective, a California Corporation, for a Commercial Cannabis Dispensary** – It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2018-003 and consider its adoption by roll call vote. At the Planning Commission Public Hearing held on December 19, 2017, the Commission voted 1-4 to not recommend adoption of the proposed ordinance.

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 1/10/2018.

Item 5.1: **A Resolution Accepting the Fiscal Year 2016-17 Annual AB 1600 Report of System Development Fee Activity** – It is recommended that the City Council adopt a Resolution accepting the Fiscal Year 2016-17 Annual AB 1600 Report of System Development Fee Activity.

6. NEW BUSINESS

Item 6.1: **A Resolution Imposing a Moratorium of Six (6) Months on the Processing and Issuance of additional Permits for a Cannabis Dispensary within the City of Riverbank** – It is recommended that the City Council approve the Resolution imposing a moratorium of six (6) months on the processing and issuance of additional permits for a cannabis dispensary within the City of Riverbank.

Item 6.2: **Facility Use Fee Review for Non-Profit Groups** – It is recommended that the City Council review the cost analysis information on facility rentals and, if necessary, give staff direction on future facility rental fees for non-profit groups.

Item 6.3: **A Resolution Approving the Application for the Land and Water Conservation Fund for the Jacob Myers Park Trail Improvement Project** – It is recommended that the City Council Approve the Application for the Land and Water Conservation Fund for the Jacob Myers Park Trail Improvement Project.

Item 6.4: **A Resolution Approving the Employment Agreement between the City of Riverbank and Sue Fitzpatrick as Parks and Recreation Director** – It is recommended that the Riverbank City Council ("City Council") approve the resolution approving and authorizing execution of an Employment Agreement ("Agreement") between the City of Riverbank ("City") and Sue Fitzpatrick, Director of Parks and Recreation.

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 adjourning to Closed Session.

Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (3) potential cases

Item 8.2: **PUBLIC EMPLOYMENT**
Pursuant to Government Code §54957(b)(1)
Title: Public Works Director

9. REPORT FROM CLOSED SESSION

Item 9.1: Report from Closed Session Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**: (3) potential cases

Item 9.2: Report from Closed Session Item 8.2: **PUBLIC EMPLOYMENT**
Title: Public Works Director

ADJOURNMENT (The next regular City Council meeting – Tuesday, Feb. 13 @ 6:pm)

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours prior to the meeting in accordance to the Brown Act. I further certify that an agenda copy and this Affidavit of Posting was provided to Rachel Butler, Director of Events, Capital Hilton, Washington, DC to post at the teleconference location 72 hours prior to the meeting date and time (no later than 9:00 p.m. (EST) on Saturday, January 20, 2018;) pursuant to the California Brown Act.

Posted this 19th day of January, 2018
/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 aaguilar@riverbank.org

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	January 23 , 2018
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. 4.1

SECTION 4: UNFINISHED BUSINESS

Meeting Date:	January 23, 2018
Subject:	Second Reading by Title Only and Adoption of Proposed **Ordinance No. 2018-003** Approving Development Agreement 02-2017 By and Between the City of Riverbank and Family and Friends Association, Inc., Doing Business As Riverbank Cannabis Collective, a California Corporation, for a Commercial Cannabis Dispensary
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2018-003 and consider its adoption by roll call vote. At the Planning Commission Public Hearing held on December 19, 2017, the Commission voted 1-4 to not recommend adoption of the proposed ordinance.

INTRODUCTION

A Public Hearing was conducted at the regular City Council meeting of January 9, 2018, and received public opinion 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. 2018-003) which moved said Ordinance to the January 23, 2018, regular City Council meeting for its second reading by title only and consideration for adoption. This staff report is nearly identical to the staff report of January 9, 2018. The one difference is that during the meeting of January 9, 2018, Council requested and the applicants agreed to the following:

"Special Event Closure. Development shall close the business during the Cheese and Wine Festival and Christmas Parade events. These closing shall occur two hours before the event through two hours after the end of the event." This language was added to the Development Agreement.

SUMMARY

Family and Friends (F.F.A.) doing business as Riverbank Cannabis Collective ("The Applicant") is requesting approval of Development Agreement (DA) 02-2017 and

Conditional Use Permit (CUP) 05-2017 to allow for a medicinal and adult use cannabis dispensary located at 6609 Third Street (formerly the Riverbank Hotel). The project area is located on Third Street between City Hall South and Cornerstone Bakery. The project site is 3,100 square feet, the entire first floor of the existing building. The project site has an existing general plan land use designation of Mixed Use (MU), and is zoned Downtown Core (DC) in the Downtown Specific Plan. The project site is surrounded by commercial and municipal uses. On December 19, 2017, the Planning Commission denied their requests for the approval of the CUP and related recommendation for approval of the ordinance for the DA. The Applicant immediately appealed the denial of the CUP and a public hearing to consider the appeal by the City Council was scheduled and noticed to be conducted at the regular meeting of January 9, 2018. The following background information, with the attachments listed in this report was presented as part of the appeal information.

BACKGROUND

Starting in 1996, citizens of the State of California approved Proposition 215, the Compassionate Use Act ("CUA"). The CUA was approved to allow Californians with a serious illness to legally possess, use, and cultivate cannabis for medical use under state law.

In addition, in 2003, the legislature of California adopted Senate Bill 420 which entitled the Medical Cannabis program. This program authorized qualified patients and their primary caregivers to cultivate and use cannabis for medical purposes without being subject to criminal prosecution under the state penal code.

On October 9, 2015 Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). This Act established a statewide regulatory and licensing structure for the cultivation, processing, transporting, testing, and distribution of medical cannabis to qualified patients and their primary caregivers.

On November 8, 2016, the citizens of California approved Proposition 64 (Adult Use of Cannabis). In accordance with Proposition 64 recreational use of cannabis is now legal throughout the state, but reserved the right to police commercial cannabis activity to each local jurisdiction.

Lastly, on August 8, 2017 and August 22, 2017, the Riverbank City Council adopted Ordinance No. 2017-007, which provides a regulatory structure for commercial cannabis activities in the City of Riverbank ONLY in the General Commercial (C-2), Commercial – Industrial (CM), Cannery District, Highway Boulevard (HB), Downtown General (DG), Downtown Core (DC), Light industrial (M-1), and Research and Development (R&D) zoning districts. In addition, this ordinance bans all commercial cannabis activities within 600 feet from a school, day care facility, or youth center.

As a part of the regulatory structure established by Ordinance No. 2017-007, an applicant seeking to establish a commercial cannabis business must apply for a Development Agreement and a Conditional Use Permit. These entitlements lock-in fees for the applicant, set performance standards with the city, and establish a timeline for business operations.

The project area is located in a commercial zoning district between the vacant Cornerstone Bakery and City Hall South. The project site is 3,100 square feet in size, the entire first floor of the currently vacant Riverbank Hotel (Attachments 6 and 7). The project site has an existing general plan land use designation of Mixed Use (MU), and is zoned Downtown Core (DC) in the Downtown Specific Plan. There is a public parking lot across Third Street from the site at the intersection of Third Street and Stanislaus Street. The project site is more than 600 feet from a school, day care facility, or youth center.

ANALYSIS

Development Agreement –

The Applicant seeks to enter a Development Agreement (Attachment 2) with the City for the purpose of operating a medicinal and adult use cannabis dispensary. The Applicant proposes to operate the cannabis dispensary at that certain real property located at 6609 Third Street in the City of Riverbank, Assessor's Parcel Number 132-011-019. The applicant has an agreement to lease the property and the property owner is aware of and agrees to the project operating on the site.

The major elements of the development agreement are summarized below:

- Term of the agreement is three (3) years.
- A Conditional Use Permit is required.
- The Applicant proposes to operate a medicinal and adult use cannabis dispensary business.
- The cannabis dispensary will operate on approximately three thousand one hundred (3,100) square feet of space.
- The cannabis dispensary will provide the Applicant with substantial private benefits that will place burdens upon City infrastructure, services, and neighborhoods. The Applicant seeks to offset these impacts through a monthly payment classified as a "Public Benefit" amount. The Public Benefit is designed and intended to offset or mitigate any potential impacts of the project on the community.
- The Applicant will pay to the City a Public Benefit of:
    - $5,000 or six percent (6%) of gross receipts from operations, whichever is greater, each month for the first six (6) months following the issuance of a Conditional Use Permit;
    - $7,500 or six percent (6%) of gross receipts from operations, whichever is higher, for months seven (7) through twelve (12) following the issuance of a Conditional Use Permit; and

- o $9,000 or six percent (6%) of gross receipts from operations, whichever is higher, for each month thereafter through the end of the term of the development agreement.

*Note – as part of the application process the public benefit amount has been subject to an ongoing negotiation by the City Attorney's office on behalf of the City and the applicant. The public benefit proposal listed above has been agreed to by the applicant.

In accordance with Government Code section 65864 *et seq*, the City Council must find that the Development Agreement:

- o Is consistent with the objectives, policies, general land uses, and programs specified in the Riverbank General Plan and any applicable specific plan. *The Project has been found to be consistent with the General Plan policies listed below:*

  - § *Policy LAND-4.2: The City will encourage the revitalization of existing commercial areas through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement processes, catalyst projects, public-private partnerships, and other means.*

  - § *Policy ED-7.3: The City will pursue locally-oriented commercial uses that are currently underserved in Riverbank, and expand upon the existing base of local-serving retail and service establishments as population increases create additional market demand.*

- o Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole. *A security plan has been submitted which will ensure that the Applicant's activities will not be detrimental to the health, safety, and general welfare of residents within the neighborhood and within the City.*

- o Will not adversely affect the orderly development of property or the preservation of property values. *Since the Applicant is redeveloping an existing vacant building in an existing neighborhood of commercial structures, it can be seen with certainty that the project will not adversely affect the orderly development of the property or the preservation of property values.*

- o Is consistent with the provisions of Government Code sections 65864 through 65869.5. *The project is consistent with the provisions of Government Code sections 65864 through 65869.5 in that a Development Agreement will provide assurance to the Applicant that upon approval of* *the project, Riverbank Cannabis Collective may proceed with the project under existing codes and policies and that the project is not located in an area with a local coastal program.*

- Contains a legal description of the property. *The Development Agreement contains Exhibit A, a legal description of the property.*

Conditional Use Permit -

A Conditional Use Permit must be processed for a cannabis business pursuant to the Development Agreement and the Riverbank Municipal Code. On December 19, 2017, the Planning Commission held a duly noticed public hearing to consider the proposed Project. All five (5) Planning Commissioners were present at this meeting: Chair McKinney, Vice Chair King, Commissioner McRitchie, Commissioner Stewart, and Commissioner Tabacco. Public comment was taken with the majority of the complainants concerned with parking and potential impacts to nearby families and those walking past it during city events. Pursuant to the Downtown Specific Plan, the use requires seven (7) parking spaces and there are thirty-eight (38) spaces plus four (4) handicap spaces within proximity to the site: the rear of the building, the street in front of the building, and the public parking lot across Third Street from the building.

Commissioner McRitchie motioned and Vice Chair King seconded, to approve PC Resolution 2017-027 (Attachment 3) recommending that the City Council approve the Development Agreement. A roll call vote was taken and the Resolution failed 1-4. Commissioner Tabacco then motioned to deny Planning Commission Resolution 2017-028 (Attachment 3) for the approval of the Conditional Use Permit. Commissioner Stewart seconded the motion, and the motion to deny the approval of the CUP passed by a roll call vote of 4-1. The Applicant appealed the CUP decision the following day, December 20, 2017.

ENVIRONMENTAL DETERMINATION

This Development Agreement and Conditional Use Permit were reviewed pursuant to the California Environmental Quality Act (CEQA). City staff has determined the project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility.

FISCAL IMPACT

The project would provide Riverbank Cannabis Collective with substantial private benefits that will place burdens upon City infrastructure, services, and neighborhoods. Riverbank Cannabis Collective seeks to offset these impacts through a monthly payment classified as a “Public Benefit” amount. The Public Benefit is designed and intended to offset or mitigate any potential impacts of the project on the community.

STRATEGIC GOALS

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three (3) years. The completion of development agreements for cannabis activities is a specific objective. It is consistent with the established General Plan goal to Achieve and Maintain Financial Stability and Sustainability as part of the City's Vision "To be recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment."

PUBLIC NOTICE

On December 22, 2017, pursuant to Government Code sections 65867, 65090, and 65091, the City mailed notice of the hearing to appeal the denial of the CUP and consideration of a DA to properties within 300 feet of the project location. On December 27, 2017, the City published notice of the hearing in the Riverbank News and posted notice at City Hall North and South and at the Riverbank Community Center.

ATTACHMENTS

1. Proposed Ordinance 2018-003 (DA)
2. Proposed Development Agreement (Exhibits A-G included)
3. Copy of Proposed CC Resolution 2018-001 (approving CUP on 01/09/2018)
   Exhibit A – Site Plan to Resolution 2018
   Exhibit B – Floor Plan to Resolution 2018
4. Planning Commission Resolutions 2017-027 and 2017-028

CITY OF RIVERBANK

ORDINANCE NO. 2018-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF RIVERBANK AND FAMILY AND FRIENDS ASSOCIATION, INC. (F.F.A.), DOING BUSINESS AS RIVERBANK CANNABIS COLLECTIVE, A CALIFORNIA COOPERATIVE CORPORATION, FOR A CANNABIS DISPENSARY

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, 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.*, which authorizes the City of Riverbank ("City") and an individual with an interest in real property to enter a development agreement that establishes certain development rights in real property that is subject to a development agreement application; and

WHEREAS, the City adopted Resolution No. 99-39 authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City; and

WHEREAS, Resolution No. 99-39 requires a written application with specified data to be submitted to the City for consideration of any development agreement; and

WHEREAS, F.F.A. DBA Riverbank Cannabis Collective, a California cooperative corporation submitted an application to the City for consideration of a development agreement to operate a cannabis dispensary business (the "Project"); and

WHEREAS, F.F.A. proposes to improve, develop, and use real property for the Project, in strict accordance with applicable state and local law, including, but not limited to, the Riverbank Municipal Code; and

WHEREAS, F.F.A. has a lease agreement to occupy that certain real property located at 6609 Third Street in the City of Riverbank, Assessor's Parcel Number 132-011-019 on which F.F.A. intends to develop the Project; and

WHEREAS, City and F.F.A. seek to enter a development agreement for the Project (the "Development Agreement") pursuant to Government Code section 65864 *et seq.* and all applicable local and state laws; and

WHEREAS, environmental impacts for the Project have been reviewed and assessed by the City pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 *et seq.*; California Code of Regulations Title 14, section 15000 *et seq.*), and the City determined the Project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 19, 2017, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, on January 9, 2018, and January 23, 2018, the City Council held duly noticed public hearings to consider the Development Agreement; and

WHEREAS, the City Council of the City, based on its independent review and analysis of staff's recommendations, 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.

2. In accordance with Government Code section 65864 *et seq*, the City Council finds that the Development Agreement:

    a. Is consistent with the objectives, policies, general land uses, and programs specified in the Riverbank General Plan and any applicable specific plan; and

    b. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole; and

c. Will not adversely affect the orderly development of property or the preservation of property values; and

d. Is consistent with the provisions of Government Code sections 65864 through 65869.5; and

e. Contains a legal description of the property.

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 F.F.A. DBA Riverbank Cannabis Collective a California cooperative corporation and the City of Riverbank for the development of the Project, and instructs the City Manager to execute the Development Agreement subject to final, technical revisions as required and approved by the City Attorney.

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; or as otherwise required pursuant to the terms of the Development Agreement.

SECTION 3. Notice of the public hearing on the proposed Development Agreement was published in the Riverbank News on December 27, 2017, a newspaper of general circulation; and notices of the public hearing on the proposed Development Agreement were mailed to all interested parties and property owners within 300 feet of the property on December 22, 2017, according to the most recent assessor's roll.

SECTION 4. Environmental impacts for the Project have been reviewed and assessed by the City pursuant to CEQA (Public Resources Code section 21000 *et seq.*; California Code of Regulations Title 14, section 15000 *et seq.*). The Project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility.

SECTION 5. If any section, subsection, sentence, clause, phrase, or word of this Ordinance 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 Ordinance. The City Council of the City of Riverbank hereby declares that it would have passed this Ordinance 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 pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a regular meeting of the City Council of the City of Riverbank on January 9, 2018. Said ordinance was given a second reading by title only and adopted.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on the 23rd day of January, 2018; motioned by Councilmember ____________, seconded by Councilmember _______________; moved said ordinance by a City Council roll call vote of ____:

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST: **APPROVED:**

_____________________________ _____________________________

Annabelle H. Aguilar, CMC **Richard D. O'Brien**
City Clerk **Mayor**

APPROVED AS TO FORM:

____

Tom P. Hallinan, City Attorney

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

City of Riverbank
6707 3rd Street
Riverbank, CA 95367
Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this 9th day of January 2018, by and between the **CITY OF RIVERBANK**, a California municipal corporation ("City"), and **F.F.A.,** a California corporation doing business as **Riverbank Cannabis Collective** ("Developer"). City and Developer may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

A. On October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers.

B. On November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act ("AUMA"), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use.

C. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which creates a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in Commercial Cannabis

Activity, as defined in Section 1.4 of this Agreement, may operate in a particular jurisdiction.

D. Developer proposes to improve, develop, and use real property to operate a Cannabis Dispensary, as defined in Section 1.4 of this Agreement, in strict accordance with California Cannabis Laws, as defined in Section 1.4 of this Agreement and the Municipal Code of the City of Riverbank, as each may be amended from time to time (the "Project").

E. 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.* (the "Development Agreement Statute"), which authorizes City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application.

F. Consistent with the requirements of the Development Agreement Statute, City has adopted Resolution No. 99-39 ("City Development Agreement Resolution") authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City.

G. The City Development Agreement Resolution requires a written application with specified data to be submitted to City for consideration of any development agreement.

H. Developer submitted an application to City for consideration of a development agreement for the Project.

I. Developer leases that certain real property located at 6609 Third Street in the City of Riverbank, County of Stanislaus, State of California, Assessor's Parcel Number 132-011-019, of which Developer intends to improve approximately three thousand one hundred (3,100) square feet of space (the "Site"), more particularly described in the legal description attached hereto as **Exhibit A** and the Site Map attached hereto as **Exhibit B**.

J. Government Code section 65865 requires that an applicant for a development agreement hold a legal or equitable interest in the real property that is the subject of the development agreement.

K. Developer has leased the Site for the purpose of operating the Project. A copy of the lease is attached hereto as **Exhibit C**, within satisfaction of the requirement of Riverbank Municipal Code Chapter 120. The legal owner of the Site is aware of, and agrees to, the operation of the Project upon the Site.

L. On August 22, 2017, the City Council adopted Ordinance No. 2017-007 to revise Riverbank Municipal Code 120 to establish a Cannabis Business Pilot Program to regulate all cannabis businesses within the City.

M. Government Code section 65867.5 and the City Development Agreement Resolution require the Planning Commission hold a public hearing to review an application for a development agreement.

N. On December 19, 2017, the Planning Commission, in a duly noticed and conducted public hearing, considered Developer's application for this Agreement.

O. On December 19, 2017, the Planning Commission recommended against the City Council adoption of Ordinance No. 2017-27, which would allow Developer to operate the Project at the Site.

P. On January 9, 2018, pursuant to Government Code section 65867.5 and the City Development Agreement Resolution, the City Council reviewed, considered, adopted, and entered into this Agreement pursuant to Ordinance No. 2018-_____.

Q. This Agreement is entered into pursuant to the Development Agreement Statute and the City Development Agreement Resolution.

R. City and Developer desire to enter into this Agreement to (i) facilitate the orderly development of the Site; (ii) create a physical environment that is consistent with and complements City's goals and visions; (iii) protect natural resources from adverse impacts; (iv) improve, upgrade, and create additional community facilities and infrastructure, enhance services, and assist in implementing the goals of the General Plan; and (vi) reduce the economic risk of development of the Site to both City and Developer.

S. The Parties intend, through this Agreement, to allow Developer to develop and operate the Project in accordance with the terms of this Agreement.

T. The City Council has determined that this Agreement is consistent with City's General Plan and has conducted all necessary proceedings in accordance with Riverbank Municipal Code for the approval of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

ARTICLE 1
GENERAL PROVISIONS

Section 1.1. Findings. City hereby finds and determines that entering into this Agreement furthers the public health, safety, and general welfare and is consistent with City's General Plan, including all text and maps in the General Plan.

Section 1.2. 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 between the Recitals and the provisions of Articles 1 through 10 of this Agreement, the provisions of Articles 1 through 10 shall prevail.

Section 1.3. Exhibits. The following "Exhibits" are attached to and incorporated into this Agreement:

Designation	**Description**
Exhibit A	Legal Description
Exhibit B	Site Map
Exhibit C	Site Lease
Exhibit D	Notice of Non-performance Penalty
Exhibit E	Indemnification Agreement
Exhibit F	Notice of Termination
Exhibit G	Assignment and Assumption Agreement

Section 1.4. Definitions. In this Agreement, unless the context otherwise requires, the terms below have the following meaning:

(a) "Additional Insureds" has the meaning set forth in Section 6.1.

(b) "Additional Licenses" has the meaning set forth in Section 2.4.

(c) "Adult-use cannabis" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by adults 21 years of age or over in California pursuant to the California Cannabis Laws.

(d) "Agreement" means this Development Agreement, inclusive of all Exhibits attached hereto.

(e) "Application" means the cannabis business application for a development agreement required by Riverbank Municipal Code Chapter 120 and Section 4 of the City Development Agreement Resolution.

(f) "Assignment and Assumption Agreement" has the meaning set forth in Section 10.1.

(g) "AUMA" means the Adult Use of Marijuana Act (Proposition 64) approved by California voters on November 8, 2016.

(h) "Authorized License" has the meaning set forth in Section 2.3.

(i) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(j) "California Building Standards Codes" means the California Building Code, as amended from time to time, in Part 2, Volumes 1 and 2, as part of Title 24 of the California Code of Regulations, as may be adopted by the Riverbank Municipal Code.

(k) "California Cannabis Laws" includes AUMA, MAUCRSA, CUA, the Medical Marijuana Program Act of 2004 codified as Health and Safety Code sections 11362.7 through 11.62.83, and any other applicable laws that may be enacted or approved.

(l) "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code. Cannabis and the term "marijuana" may be used interchangeably.

(m) "Cannabis Business Pilot Program" means the cannabis business program established and authorized by Riverbank Municipal Code chapter 120.

(n) "Cannabis Dispensary" means a business that engages in Commercial Cannabis Activity related to the retail sale of cannabis pursuant to a Type 10 license.

(o) “CEQA” means the California Environmental Quality Act, as set forth in Division 13 (Commencing with Section 21000) of the California Public Resources Code, and the CEQA Guidelines as set forth in Title 14 (Commencing with Section 15000) of the California Code of Regulations.

(p) “City” means the City of Riverbank, a municipal corporation having general police powers.

(q) “City Council” means the City of Riverbank City Council, as described in Riverbank Municipal Code Section 10.05.

(r) “City Development Agreement Resolution” has the meaning set forth in Recital F.

(s) “City Manager” means the City Manager of the City of Riverbank, or his or her designee, as described in Riverbank Municipal Code Section 31.03.

(t) “Charged Party” has the meaning set forth in Section 8.1.

(u) “Charging Party” has the meaning set forth in Section 8.1.

(v) “Commercial Cannabis Activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of cannabis or a cannabis product that requires a state license pursuant to MAUCRSA.

(w) “Conditional Use Permit” means a conditional use permit issued by City pursuant to the Riverbank Municipal Code.

(x) “CUA” means the Compassionate Use Act (Proposition 215) approved by California voters on November 5, 1996.

(y) “Developer” means F.A.A., a California corporation doing business as Riverbank Cannabis Collective. Developer also has the meaning set forth in Section 6.1.

(z) “Development Agreement Statute” has the meaning set forth in Recital C.

(aa) “Exhibits” has the meaning set forth in Section 1.3.

(bb) "Gross Receipts from Operations" means total revenue actually received or receivable from operation of the Project, including: all sales; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares, or merchandise; and gains realized from trading in stocks or bonds, interest discounts, rents, royalties, fees, commissions, dividends, or other remunerations, however designated. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as "gross receipts";
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit;
5. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded.

The intent of this definition is to ensure that in calculating the payment required under Section 4.2, all sales of cannabis products through the Project are captured. This definition shall therefore be given the broadest possible interpretation consistent with this intent.

(cc) "Indemnification Agreement" has the meaning set forth in Section 6.3.

(dd) "Major Amendment" means an amendment that shall have a material effect on the terms of the Agreement. Major Amendments shall require approval by the City Council.

(ee) "Marijuana" has the same meaning as cannabis and those terms may be used interchangeably.

(ff) "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified as Business and Professions Code section 26000 *et seq*., as may be amended from time to time.

(gg) "MCRSA" has the meaning set forth in Recital A.

(hh) "Ministerial Fee" or "Ministerial Fees" has the meanings set forth in Section 4.1.

(ii) "Minor Amendment" means a clerical amendment to the Agreement that shall not materially affect the terms of the Agreement and any amendment described as minor herein. A Minor Amendment also has the meaning set forth in Section 2.4.

(jj) "Mortgage" has the meaning set forth in Article 7.

(kk) "Non-Performance Penalty" has the meaning set forth in Section 4.3.

(ll) "Notice of Non-Performance Penalty" has meaning set forth in Section 4.3.

(mm) "Notice of Termination" has the meaning set forth in Section 9.1.

(nn) "Planning Commission" means the City of Riverbank Planning Commission as established by Riverbank Municipal Code section 32.35.

(oo) "Processing Costs" has the meaning set forth in Section 1.11.

(pp) "Project" has the meaning set forth in Recital D.

(qq) "Project Litigation" has the meaning set forth in Section 10.7.

(rr) "Public Benefit" has the meaning set forth in Section 4.2.

(ss) "Public Benefit Amount" has the meaning set forth in Section 4.2.

(tt) "Site" has the meaning set forth in Recital G.

(uu) "State Licensing Authority" means the state agency responsible for the issuance, renewal, or reinstatement of a state cannabis license, or the state agency authorized to take disciplinary action against a business licensed under the California Cannabis Laws.

(vv) "State Cannabis Regulations" means the regulations promulgated by the State Licensing Authorities pursuant to the California Cannabis Laws.

(ww) "State Taxing Authority" has the meaning set forth in Section 4.2.

(xx) "Subsequent City Approvals" has the meaning set forth in Section 3.1.

(yy) "Term" has the meaning set forth in Section 1.7.

(zz) "Type 10 license" or "Retail" means a state license issued by the Bureau pursuant to the California Cannabis Laws for the retail sale of cannabis and cannabis products.

Section 1.5. Project is a Private Undertaking. The Parties agree that the Project is a private development and that City has no interest therein, except as authorized in the exercise of its governmental functions. City shall not for any purpose be considered an agent of Developer or the Project.

Section 1.6. Effective Date of Agreement. This Agreement shall become effective upon the date that the ordinance approving this Agreement becomes effective (the "Effective Date").

Section 1.7. Term. The "Term" of this Agreement is three (3) years from the Effective Date, unless terminated or extended earlier, as set forth in this Agreement.

(a) Government Tolling or Termination. City may provide written notice to Developer to cease all Commercial Cannabis Activity, upon which Developer shall immediately comply, if City is required, directed, or believes, in its sole and absolute discretion, it must temporarily halt or terminate Commercial Cannabis Activity within the City to comply with federal or state law. If City temporarily halts this Agreement to comply with federal or state law, this Agreement shall be tolled for no longer than one (1) year (the "Tolling Period"). Developer shall not accrue or be liable to City for any Ministerial Fees or Public Benefit Amount during the Tolling Period. Developer shall resume paying any applicable fees after the Tolling Period ends. City and Developer shall discuss in good faith the termination of this Agreement if the Tolling period exceeds one (1) calendar year to comply with federal or state law.

(b) Developer's Tolling or Termination. Developer may not temporarily halt or terminate this Agreement for any purpose without causing a default of this Agreement, except as otherwise allowed by this Agreement.

(c) Special Event Closure. Development shall close the business during the Cheese and Wine Festival and Christmas Parade events. These closing shall occur two hours before the event through two hours after the end of the event.

Section 1.8. Priority of Enactment. In the event of a conflict between the various land use 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: (a) General Plan, (b) Agreement, (d) Conditional Use Permit, and (e) Subsequent City Approvals.

Section 1.9. Amendment of Agreement. This Agreement shall be amended only by mutual consent of the Parties. All amendments shall be in writing. The City Council hereby expressly authorizes the City Manager to approve a Minor Amendment to this Agreement, upon notification of the City Council. A Major Amendment to this Agreement shall be approved by the City Council. The City Manager shall, on behalf of City, have sole discretion for City to determine if an amendment is a Minor Amendment or a Major Amendment. Nothing in this Agreement shall be construed as requiring a noticed public hearing, unless required by law.

Section 1.10. Recordation of Development Agreement. The City Clerk shall cause a copy of this Agreement to be recorded against the title of the Site within ten (10) business days of the Effective Date.

Section 1.11. Funding Agreement for Processing Costs. Developer has deposited Twenty Thousand Dollars ($20,000) with City to pay for the Application, all actual fees and expenses incurred by City that are related to the preparation and processing of this Agreement, including recording fees, publishing fees, staff time, consultant and attorney fees and costs (collectively, "Processing Costs"), and the first installment of the Public Benefit. The Processing Costs are refundable solely to the extent of non-expended Processing Costs. Developer shall be entitled to a refund of available Processing Costs only after City determines all financial obligations associated with the Project have been received and paid by City.

(a) Apportionment of Processing Costs. If the amount deposited for purposes of Processing Costs is insufficient to cover all Processing Costs, Developer shall deposit with City such additional funds necessary to pay for all Processing Costs within thirty (30) calendar days. The failure to timely pay any such additional amounts requested by City shall be considered a material default of this Agreement and City may terminate this Agreement.

(b) Accounting. Developer may request, and City shall issue within a reasonable time, an accounting and written acknowledgement of Processing Costs paid to City.

ARTICLE 2
DEVELOPMENT OF PROPERTY

Section 2.1. Vested Right of Developer. During the Term, in developing the Site consistent with the Project described herein, Developer is assured that the development rights, obligation terms, and conditions specified in this Agreement, including, without limitation, the terms, conditions, and limitations set forth in the Exhibits, are fully vested in Developer and may not be modified or terminated by City except as set forth in this Agreement or with Developer's written consent.

Section 2.2. Vested Right to Develop. In accordance with Section 2.1, Developer shall have the vested right to develop and use the Project consistent with this Agreement, the Conditional Use Permit, and Subsequent City Approvals.

Section 2.3. Permitted Uses and Development Standards. Developer shall be authorized to develop, construct, and use the Site for Commercial Cannabis Activity consistent with the following license type (the "Authorized License"):

Type 10	Retailer

Developer shall be permitted to use the Site consistent with the Authorized License for the Term of this Agreement and during the time Developer is applying for the Authorized License with the applicable State Licensing Authority. Notwithstanding the foregoing, Developer is required to apply for and obtain the Authorized License from the State of

California. If the State Licensing Authority does not grant the Authorized License to Developer, Developer shall immediately cease Commercial Cannabis Activity on the Site. Developer shall also, within thirty (30) calendar days of receiving notice from the State Licensing Authority, notify City of the State Licensing Authority's denial or rejection of any license. If the Authorized License is not granted by the State of California, Developer shall immediately cease operations. In this situation, this Agreement shall terminate immediately. The Parties intend for this Agreement and the Conditional Use Permit to serve as the definitive and controlling documents for all subsequent actions, discretionary or ministerial, relating to development of the Site and Project.

Section 2.4. Major Amendment to Permitted Uses. Developer may request to add to the Authorized License additional license types once that license is applied for or obtained from the appropriate State Licensing Authority (the "Additional Licenses").

Section 2.5. Conditional Use Permit. Prior to commencing operation of any Commercial Cannabis Activity on the Site, Developer shall obtain a Conditional Use Permit and any applicable Subsequent City Approvals. Developer shall be required to comply with all provisions of the Riverbank Municipal Code and any City rules and administrative guidelines associated with implementation of the Cannabis Business Pilot Program. Nothing in this Agreement shall be construed as limiting the ability of City to amend the Riverbank Municipal Code or issue rules or administrative guidelines associated with implementation of the Cannabis Business Pilot Program or Developer's obligation to strictly comply with the same.

Section 2.6. Subsequent Entitlements, Approvals, and Permits. Successful implementation of the Project shall require Developer to obtain additional approvals and permits from City and other local and state agencies. City shall comply with CEQA in the administration of all Subsequent City Approvals. In acting upon any Subsequent City Approvals, City's exercise of discretion and permit authority shall conform to this Agreement. Notwithstanding the foregoing, in the course of taking action on the Subsequent City Approvals, City will exercise discretion in adopting mitigation measures as part of the Conditional Use Permit. The exercise of this discretion is not prohibited or limited in any way by this Agreement. Nothing in this Agreement shall preclude the evaluation of impacts or consideration of mitigation measures or alternatives, as required by CEQA.

(a) Contemplated City Rules and Guidelines. City anticipates issuing additional rules and administrative guidelines associated with implementation of the Cannabis Business Pilot Program. City may establish requirements that are identical to or place a higher standard of care as existing provisions of the California Cannabis Laws, State Cannabis Regulations, or any amendments thereto. City reserves the right to adopt additional categories of rules or guidelines that are not listed in this section as part of the Cannabis Business Pilot Program. Developer shall comply with any and all administrative guidelines adopted by City that govern or pertain to the Project.

Section 2.7. Initiatives and Referenda. If any City ordinance, rule or regulation, or addition to the Riverbank Municipal Code is enacted or imposed by a citizen-sponsored initiative or referendum after the Effective Date that would conflict with this Agreement, an associated Conditional Use Permit, Subsequent City Approvals, or reduce the development rights or assurances provided to Developer in this Agreement, such Riverbank Municipal Code changes shall not be applied to the Site or Project; provided, however, the Parties acknowledge that City's approval of this Agreement is a legislative action subject to referendum. City shall cooperate with Developer and shall undertake such reasonable actions as may be appropriate to ensure this Agreement remains in full force and effect and is implemented in accordance with its terms to the fullest extent permitted by state or federal law.

Section 2.8. Regulation by Other Government Entities. Developer acknowledges that City does not have authority or jurisdiction over any other government entities' ability to grant governmental approvals or permits or to impose a moratorium or other limitations that may negatively affect the Project or the ability of City to issue a permit to Developer or comply with the terms of this Agreement. Any moratorium imposed by another government entity, including the State Licensing Authority, on City shall not cause City to be in breach of this Agreement.

Section 2.9. Developer's Right to Rebuild. Developer may renovate portions of the Site any time within the Term of this Agreement consistent with the Riverbank Municipal Code. Any such renovation or rebuild shall be subject to all design, building code, and other requirements imposed on the Project by this Agreement.

Section 2.10. Changes in California Building Standards Codes. Notwithstanding any provision of this Agreement to the contrary, development of the Project shall be subject to changes occurring from time to time to the California Building Standards Codes.

Section 2.11. Changes Mandated by Federal or State Law. The Site and Project shall be subject to subsequently enacted state or federal laws or regulations that may preempt the Riverbank Municipal Code, or mandate the adoption or amendment of local regulations, or are in conflict with this Agreement or local rules or guidelines associated with the Cannabis Business Pilot Program. As provided in Section 65869.5 of the Development Agreement Statute, in the event state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Upon discovery of a subsequently enacted federal or state law meeting the requirements of this Section, 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 the Riverbank Municipal Code 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 or regulation provided City shall not be obligated to agree to any modification materially increasing its obligations or materially adversely affecting its rights and benefits hereunder. In such discussions, City and Developer will attempt to preserve the terms of this Agreement and the rights of Developer derived from this Agreement to the maximum feasible extent while resolving the conflict. If City, in its judgment, determines it necessary to modify this Agreement to address such conflict, City shall have the right and responsibility to do so, and shall not have any liability to Developer for doing so or be considered in breach or default of this Agreement. City also 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 federal or state law and that such proposed changes shall be conclusively deemed to be consistent with this Agreement without further need for any amendment to this Agreement.

Section 2.12. 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 as determined by City in its discretion, to address such emergency in a way that does not have a material adverse impact on the Project. If City determines, in its discretion, that it is not reasonably possible to so address such health and safety emergency, to select that option for addressing the situation which, in City's discretion, minimizes, so far as reasonably possible, the impact on development and use of the Project in accordance with this Agreement, while still addressing such health and safety emergency in a manner acceptable to City.

ARTICLE 3
ENTITLEMENT AND PERMIT PROCESSING, INSPECTIONS

Section 3.1. Subsequent City Approvals. City shall permit the development, construction, and conditionally permitted use contemplated in this Agreement. City agrees to timely grant, pursuant to the terms of this Agreement, the Riverbank Municipal Code, and any Subsequent City Approvals reasonably necessary to complete the goals, objectives, policies, standards, and plans described in this Agreement. The Subsequent City Approvals shall include any applications, permits, and approvals required to complete the improvements necessary to develop the Site, in general accordance with this Agreement ("Subsequent City Approvals"). Nothing herein shall require City to provide Developer with Subsequent City Approvals prior to, or without complying with, all of the requirements in this Agreement, the Riverbank Municipal Code, and any applicable state law.

Section 3.2. Timely Processing. City shall use its reasonable best efforts to process and approve, within a reasonable time, any Subsequent City Approvals or environmental review requested by Developer during the Term of this Agreement.

Section 3.3. Cooperation between City and Developer. Consistent with the terms set forth herein, City agrees to cooperate with Developer, on a timely basis, in securing all permits or licenses that may be required by City or any other government entity with permitting or licensing jurisdiction over the Project.

Section 3.4. Further Consistent Discretionary Actions. The exercise of City's authority and independent judgment is recognized under this Agreement, and nothing in this Agreement shall be interpreted as limiting City's discretion or obligation to hold legally required public hearings. Except as otherwise set forth herein, such discretion and action taken by City shall, however, be consistent with the terms of this Agreement and not prevent, hinder or compromise development or use of the Site as contemplated by the Parties in this Agreement.

ARTICLE 4
PUBLIC BENEFIT, PROCESSING, AND OVERSIGHT

Section 4.1. Processing Fees and Charges. Developer shall pay to City those processing, inspection, plan checking, and monitoring fees and charges required by City which are in force and effect at the time those fees and charges are incurred (including any post-Effective Date increases in such fees and charges) for processing applications and requests for building permits, inspections, other permits, approvals and actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions (each a "Ministerial Fee" and collectively, the "Ministerial Fees").

Section 4.2. Public Benefit.

(a) The Parties acknowledge and agree that this Agreement confers substantial private benefits upon Developer that will place burdens upon City infrastructure, services, and neighborhoods. Accordingly, the Parties intend to provide consideration to City to offset these impacts that commensurate with the private benefits conferred on Developer (the "Public Benefit"). In consideration of the foregoing, Developer shall remit to City as follows:

Effective Date	No Public Benefit Due.
First (1st) Business Day, of the 1st Month Following Issuance of the Conditional Use Permit.	$5,000 or 6% of Gross Receipts from Operations each month, whichever is greater ("Tier 1 Amount").
1st Business Day, of the Seventh (7th) Month Following Issuance of the Conditional Use Permit.	$7,500 or 6% of Gross Receipts from Operations each month, whichever is greater ("Tier 2 Amount").
1st Business Day, of the Thirteenth (13th) Month Following Issuance of the Conditional Use Permit Through the End of the Term.	$9,000 or 6% of Gross Receipts from Operations each month, whichever is greater ("Tier 3 Amount").

(b) Collectively, these amounts shall be known as the "Public Benefit Amount".

(c) Developer shall file an applicable statement that complies with the California State Board of Equalization, California Department of Tax and Fee Administration, or either's successor agency (the "State Taxing Authority") for sales tax purposes showing the true and correct amount of Gross Receipts from Operations of the Project during the applicable time period. Developer shall provide a copy of such statement to City upon request by City.

Section 4.3. Reporting. Developer shall provide City with copies of any reports provided to a state cannabis licensing agency within forty-five (45) calendar days of that submission.

Any failure or refusal of Developer to provide any statement or report to City, the State Taxing Authority, or any other State Licensing Authority as required within the time required, or to pay such sums due hereunder when the same are due and payable in accordance with the provisions of this Agreement, may constitute full and sufficient grounds for the revocation or suspension of the Conditional Use Permit.

Section 4.4. Records. Developer shall keep records of all Commercial Cannabis Activity in accordance with Chapter 16 (commencing with Section 26160) of Division

10 of the Business and Professions Code and the applicable State Cannabis Regulations. All records required by this Section shall be maintained and made available for City's examination and duplication (physical or electronic) at the Site or at an alternate facility as approved in writing by the City Manager or his or her designee.

Section 4.5. Penalty. Developer acknowledges that to ensure proper compliance with the terms of this Agreement and any applicable laws, City must engage in costly compliance review, inspections, and, if necessary, enforcement actions to protect the health, safety, and welfare of its residents. Penalty and interest provisions are necessary to assist City in compliance review and enforcement actions. If Developer fail to make any payment when due as required by this Agreement, including the Public Benefit Amount, City may impose a "Non-Performance Penalty." A Non-Performance Penalty of one percent (1%) shall be applied to all past due payments. City shall deliver to Developer a "Notice of Non-Performance Penalty," attached hereto as **Exhibit D**. Payment of the Non-Performance Penalty shall be in a single installment due on or before a date fifteen (15) calendar days following delivery of the Notice of Non-Performance Penalty.

Section 4.6. Interest on Unpaid Non-Performance Penalty. If Developer fails to pay the Non-Performance Penalty after City has delivered the Notice of Non-Performance Penalty, then, in addition to the principal amount of the Non-performance Penalty, Developer shall pay City interest at the rate of eighteen percent (18%) per annum, computed on the principal amount of the Non-Performance Penalty, from a date fifteen (15) calendar days following delivery of the Notice of Non-performance Penalty.

Section 4.7. Protections from City Tax. Notwithstanding Section 4.2, for the Term of this Agreement, Developer shall be exempt from any City tax, including a business license tax, on commercial cannabis businesses. Notwithstanding the foregoing, Developer and the Project shall be subject to any and all taxes, assessments, or similar charges or fees of general applicability enacted by the federal government, state government, or County of Stanislaus, including any tax applicable to an area greater than the City limits to which City may be a party (i.e., county tax sharing agreement). In the event the Public Benefit Amount is invalidated for any reason, Developer shall be subject to any applicable tax on commercial cannabis businesses from the start date of such invalidation through the remaining Term of this Agreement.

ARTICLE 5
PUBLIC FACILITIES, SERVICES, AND UTILITIES

City shall use the Public Benefit Amount to pay for the impact on and maintenance or improvement of City neighborhoods and the existing level of service of City infrastructure and services to accommodate for the Project.

ARTICLE 6

INSURANCE AND INDEMNITY

Section 6.1. Insurance. Developer shall require all persons doing work on the Project, including its contractors and subcontractors (collectively, "Developer" for purposes of this Article 6 only), to obtain and maintain insurance of the types and in the amounts described in this Article with carriers reasonably satisfactory to City.

(a) General Liability Insurance. Developer shall maintain commercial general liability insurance or equivalent form with a limit of not less than Two Million Dollars ($2,000,000) (or as otherwise approved, in writing, by City) per claim and Two Million Dollars ($2,000,000) each occurrence. Such insurance shall also:

(i) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as "Additional Insureds" by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed additional insured.

(ii) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives.

(iii) Contain standard separation of insured provisions.

(b) Automotive Liability Insurance. Developer shall maintain business automobile liability insurance or equivalent form with a limit of not less than One Million Dollars ($1,000,000) for each accident. Such insurance shall include coverage for owned, hired, and non-owned automobiles. Such insurance shall also:

(i) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as Additional Insureds by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed Additional Insureds.

(ii) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives.

(iii) Contain standard separation of insured provisions.

(c) Workers' Compensation Insurance. Developer shall take out and maintain during the Term of this Agreement, workers' compensation insurance for all of Developer's employees employed at or on the Project, and in the case any of the work is subcontracted, Developer shall require any general contractor or subcontractor similarly to provide workers' compensation insurance for such contractor's or subcontractor's employees, unless such employees are covered by the protection afforded by Developer. In case any class of employee engaged in work on the Project is not protected under any workers' compensation law, Developer shall provide and shall cause each contractor and subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Developer hereby indemnifies City for any damage resulting from failure of Developer, its agents, employees, contractors, or subcontractors to take out or maintain such insurance. Workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than One Million Dollars ($1,000,000) for each accident shall be maintained.

Section 6.2. Other Insurance Requirements. Developer shall do all of the following:

(a) Prior to taking any actions under this Agreement, furnish City with properly executed certificates of insurance that clearly evidence all insurance required in this Article, including evidence that such insurance will not be canceled, allowed to expire, or be materially reduced in coverage without thirty (30) days prior written notice to City.

(b) Provide to City, upon request, and within seven (7) calendar days of said request, certified copies of endorsements and policies, and properly executed certificates of insurance evidencing the insurance required herein.

(c) Replace or require the replacement of certificates, policies, and endorsements for any insurance required herein expiring prior the termination of this Agreement.

(d) Maintain all insurance required herein from the Effective Date of this Agreement to the earlier of the expiration of the Term or the mutual written termination of this Agreement.

(e) Place all insurance required herein with insurers licensed to do business in California with a current Best's Key Rating Guide reasonably acceptable to City.

Section 6.3. Indemnity. To the fullest extent permitted by law, Developer shall defend, indemnify, and hold harmless City and its agents, elected and appointed officials, officers, employees, consultants, and volunteers (collectively, "City's Agents") from any and all liability arising out of a claim, action, or proceeding against City, or City's Agents, to attack, set aside, void, or annul an approval concerning the Project, this Agreement, any applicable Conditional Use Permit, or Subsequent City Approvals. Developer shall execute the indemnification agreement ("Indemnification Agreement") attached hereto as **Exhibit E.**

Section 6.4. Failure to Indemnify; Waiver. Failure to indemnify City, when required by this Agreement, shall constitute a material breach of this Agreement and of any applicable Conditional Use Permit and Subsequent City Approvals, which shall entitle City to all remedies available under law, including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which

City may rescind its approval of any applicable Conditional Use Permit. Developer's failure to indemnify City shall be a waiver by Developer of any right to proceed with the Project, or any portion thereof, and a waiver of Developer's right to file a claim, action or proceeding against City or City's Agents based on City's rescission or revocation of any Conditional Use Permit, Subsequent City Approvals, or City's failure to defend any claim, action, or proceeding based on Developer's failure to indemnify City.

Section 6.5. Waiver of Damages. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge that City would not have entered into this Agreement had it been exposed to liability for damages from Developer and, therefore, Developer hereby waive all claims for damages against City for breach of this Agreement. Developer further acknowledge that under the Development Agreement Statute, land use approvals (including development agreements) must be approved by the City Council and that, under law, the City Council's discretion to vote in any particular way may not be constrained by contract. Developer therefore waive all claims for damages against City in the event that this Agreement or any Project approval is: (1) not approved by the City Council or (2) is approved by the City Council, but with new changes, amendments, conditions, or deletions to which Developer is opposed. Developer further acknowledge that, as an instrument which must be approved by ordinance, a development agreement is subject to referendum; and that, under law, the City Council's discretion to avoid a referendum by rescinding its approval of the underlying ordinance may not be constrained by contract, and Developer waive all claims for damages against City in this regard.

ARTICLE 7
MORTGAGEE PROTECTION

This Agreement, once executed and recorded, shall be superior and senior to any lien placed upon the Site or any portion thereof following recording of this Agreement, including the lien of any deed of trust or mortgage ("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. This Agreement shall immediately be deemed in default and immediately terminate upon the foreclosure or transfer of any interest in the Site or Project, whether by operation of law or any other method of interest change or transfer, unless the City Manager has authorized such change or transfer in advance, in writing.

ARTICLE 8
DEFAULT

Section 8.1. General Provisions.

(a) Subject only to any extensions of time by mutual consent in writing, or as otherwise provided herein, the failure or delay by any Party to perform in accordance with the terms and provisions of this Agreement shall constitute a default. Any Party alleging a default or breach of this Agreement ("Charging Party") shall give the other Party ("Charged Party") not less than ten (10) calendar days written notice, which shall specify the nature of the alleged default and the manner in which the default may be cured. During any such ten (10) calendar day period, the Charged Party shall not be considered in default for purposes of termination of this Agreement or institution of legal proceedings for the breach of this Agreement.

(b) After expiration of the ten (10) calendar day period, if such default has not been cured or is not in the process of being diligently cured in the manner set forth in the notice, or if the breach cannot reasonably be cured within ten (10) calendar days, the Charging Party may, at its option, institute legal proceedings pursuant to this Agreement, give notice of its intent to terminate this Agreement pursuant to Government Code section 65868. In the event City is the Charging Party, City may, in its sole discretion, give notice, as required by law, to the Charged Party of its intent to revoke or rescind any operable Conditional Use Permit related to or concerning the Project.

(c) Prior to the Charging Party giving notice to the Charged Party of its intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review by City in the manner set forth in Government Code sections 65865, 65867, and 65868 within thirty (30) calendar days from the expiration of the ten (10) day notice period.

(d) Following consideration of the evidence presented and said review before City, and after providing the Charged Party an additional five (5) calendar day period to cure, the Charging Party may institute legal proceedings against the Charged Party or may give written notice of termination of this Agreement to the Charged Party.

(e) Evidence of default may arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Government Code section 65865.1, as set forth in Section 8.2. If any Party determines that another Party is in default following the completion of the normally scheduled periodic review, without reference to the procedures specified in Section 8.1(c), said Party may give written notice of termination of this Agreement, specifying in the notice the alleged nature of the default and potential actions to cure said default where appropriate. If the alleged default is not cured in ten (10) calendar days or within such longer period specified in the notice or the defaulting Party is not diligently pursuing a cure or if the breach cannot reasonably be cured within the period or the defaulting party waives its right to cure such alleged default, this Agreement may be terminated by the non-defaulting Party by giving written notice.

(f) In the event Developer is in default under the terms and conditions of this Agreement, no permit application shall be accepted by City nor will any permit be issued to Developer until the default is cured, or the Agreement is terminated.

Section 8.2. Annual Review. City shall, at least every twelve (12) months during the Term of this Agreement, review the extent of good faith, substantial compliance of

Developer and City with the terms of this Agreement. Such periodic review by City shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. City shall deposit in the mail or fax to Developer a copy of all staff reports and, to the extent practical, related exhibits concerning this Agreement or the Project's performance, at least seven (7) calendar days prior to such periodic review. Developer shall be entitled to appeal a determination of City or City Manager to the City Council. Any appeal must be filed within ten (10) calendar days of the decision of City or the City Manager, respectively. Developer shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before City, the City Manager, or City Council, as applicable. The reasonable cost for City's annual review of this Agreement shall be paid by Developer, not to exceed the actual costs incurred by City in connection with the review.

Section 8.3. Estoppel Certificates.

(a) City shall, with at least twenty (20) calendar days prior written notice, execute, acknowledge, and deliver to Developer, Developer's lender, potential investors, or 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 modified or terminated and is enforceable in accordance with its terms and conditions.

(b) At Developer's option, City's failure to deliver such Estoppel Certificate within the stated time period shall be conclusive evidence that the Agreement is in full force and effect, that there are no uncured breaches or defaults in Developer's performance of the Agreement or violation of any City ordinances, regulations, and policies regulating the use and development of the Site or the Project subject to this Agreement.

Section 8.4. Default by City. In the event City does not accept, review, approve, or issue any permits or approvals in a timely fashion, as defined by this Agreement, or if City otherwise defaults under the terms of this Agreement, City agrees that Developer shall not be obligated to proceed with or complete the Project, and shall constitute grounds for termination or cancellation of this Agreement by Developer.

Section 8.5. Cumulative Remedies of Parties. In addition to any other rights or remedies, City or Developer may institute legal or equitable proceedings to cure, correct, or remedy any default, enforce any covenant, or enjoin any threatened or attempted violation of the provisions of this Agreement, so long as any such action conforms to section 9.1(c) of this Agreement.

Section 8.6. Enforced Delay, Extension of Times of Performance. Delays in performance, by either Party, shall not be deemed a default if such delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed where mandated by governmental entities other than City, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulations enacted by the state or federal government, litigation, or other force majeure events. An extension of time for such cause shall be in effect for the period of forced delay or longer, as may be mutually agreed upon.

Section 8.7. Appeals. Developer may appeal any adverse decision or action of City pursuant to Riverbank Municipal Chapter 99.

ARTICLE 9
TERMINATION

Section 9.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term, unless it is terminated earlier pursuant to the terms of this Agreement. Upon termination of this Agreement, City shall record a notice of such termination in substantial conformance with the "Notice of Termination" attached hereto as **Exhibit F**, and this Agreement shall be of no further force or effect except as otherwise set forth in this Agreement.

Section 9.2. Effect of Termination on Developer's Obligations. Termination of this Agreement shall eliminate any further obligation of Developer to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement, in whole or in part, shall not, however, eliminate the rights of Developer to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

Section 9.3. Effect of Termination on City's Obligations. Termination of this Agreement shall eliminate any further obligation of City to comply with this Agreement, or some portion thereof. Termination of this Agreement shall not, however, eliminate the rights of City to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

Section 9.4. Survival After Termination. The rights and obligations of the Parties set forth in this Section 9.4, Section 2.8, Section 6.3, Section 10.3, Section 10.4, Section 10.5, Section 10.7, and any right or obligation of the Parties in this Agreement which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

ARTICLE 10
OTHER GENERAL PROVISIONS

Section 10.1. Assignment and Assumption. Developer shall not have the right to sell, assign, or transfer all or any part of its rights, title, and interests in all or a portion of Site, or Project, subject to or a part of this Agreement, to any person, firm, corporation, or entity during the Term of this Agreement without the advance written consent of the

City Manager. This assignment prohibition applies to the corporate and business entities of Developer that are a Party to this Agreement. Any assignment or transfer prohibited by this Agreement will be considered an immediate breach of this Agreement and City may elect to immediately terminate this Agreement. If the City Manager approves an assignment or transfer of any interest detailed in this Section 10.1, City and Developer shall execute an "<u>Assignment and Assumption Agreement</u>" in the form attached hereto as **Exhibit G**.

Section 10.2. Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of interest in the Site or Project, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including California Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Site, and is binding upon Developer.

Section 10.3. Notices. Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) 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, California 95367

Attention: City Manager

and

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

If to Developer:

F.F.A.
725 30th Street #205
Sacramento, CA 95816
Attention: Deanna Garcia and/or
Kimberly Cargile

Section 10.4. Governing Law and Binding Arbitration. The validity, interpretation, and performance of this Agreement shall be controlled by and construed pursuant to the laws of the State of California. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by binding arbitration in Sacramento, California, before one arbitrator. The arbitration shall proceed pursuant to the Comprehensive Arbitration Rules and Proceedings of the Judicial Arbitration and Mediation Services. Judgment on the award may be entered in any court having jurisdiction thereof.

Section 10.5. Invalidity of Agreement / Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any term or provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any term or provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, any provisions that are not invalid or unenforceable shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement. The Parties expressly agree that each Party is strictly prohibited from failing to perform any and all obligations under this Agreement on the basis that this Agreement is invalid, unenforceable, or illegal. By entering into this Agreement, each Party disclaims any right to tender an affirmative defense in any arbitration or court of competent jurisdiction, that performance under this Agreement is not required because the Agreement is invalid, unenforceable, or illegal.

Section 10.6. Cumulative Remedies. In addition to any other rights or remedies, City and Developer may institute legal or equitable proceedings to cure, correct, or remedy any default, to specifically enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of the provisions of this Agreement. The prevailing party in any such action shall be entitled to reasonable attorneys' fees and costs. Notwithstanding the foregoing or any other provision of this Agreement, in the event of

City default under this Agreement, Developer agree that Developer may not seek, and shall forever waive any right to, monetary damages against City, but excluding therefrom the right to recover any fees or charges paid by Developer in excess of those permitted hereunder.

Section 10.7. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity challenging this Agreement or any associated entitlement, permit, or approval granted by City to Developer 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 with legal counsel selected by City. Developer will indemnify, hold City harmless from, and defend City from all costs and expenses incurred in the defense of such lawsuit, 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 City, within thirty (30) days of receiving a written request and accounting of such fees and expenses, from City. Notwithstanding the aforementioned, City may request, and Developer will provide to City within seven (7) days of any such request, a deposit to cover City's reasonably anticipated Project Litigation fees and costs.

Section 10.8. Constructive Notice and Acceptance. Every person who after the Effective Date and recording of this Agreement owns or acquires any right, title, or interest to any portion of the Site is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Site, and all rights and interests of such person in the Site shall be subject to the terms, requirements, and provisions of this Agreement.

Section 10.9. Statute of Limitations and Laches. City and Developer agree that each Party will undergo a change in position in detrimental reliance upon this Agreement from the time of its execution and subsequently. The Parties agree that section 65009(c)(1)(D) of the California Government Code, which provides for a ninety (90) day statute of limitations to challenge the adoption of this Agreement, is applicable to this Agreement. In addition, any person who may challenge the validity of this Agreement is hereby put on notice that, should the legality or validity of this Agreement be challenged by any third party in litigation, which is filed and served more than ninety (90) days after the execution of this Agreement, City and Developer shall each assert the affirmative defense of laches with respect to such challenge, in addition to all other available defenses. This Section in no way limits the right of a Party, claiming that the other Party breached the terms of this Agreement, to bring a claim against the other Party within the four (4) year statute of limitations set forth in Section 337 of the California Civil Code.

Section 10.10. Change in State Regulations. In no event shall Developer operate the Project in violation of the Agreement, or State Cannabis Regulations, as many be amended from time to time.

Section 10.11. Standard Terms and Conditions.

(a) Venue. Venue for all legal proceedings shall be in the Superior Court of California in and for the County of Stanislaus.

(b) Waiver. A waiver by any Party of any breach of any term, covenant, or condition herein contained or a waiver of any right or remedy of such Party available hereunder, at law or in equity, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition herein contained or of any continued or subsequent right to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

(c) Completeness of Instrument. This Agreement, together with its specific references, attachments, and Exhibits, constitutes all of the agreements, understandings, representations, conditions, warranties, and covenants made by and between the Parties hereto. Unless set forth herein, no Party to this Agreement shall be liable for any representations made, express or implied.

(d) Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, or representations, written, electronic, or oral, between the Parties hereto with respect to the Site and the Project.

(e) 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.

(f) Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, and the word “person” includes corporations, partnerships, firms, or associations, wherever the context requires.

(g) Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” or “can” are permissive.

(h) Term Includes Extensions. All references to the Term of this Agreement shall include any extensions of such Term.

(i) 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.

(j) 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.

(k) Time is of the Essence. Time is of the essence in this Agreement in each covenant, term, and condition herein.

(l) Authority. All Parties to this Agreement 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 state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, no Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

(m) Document Preparation. This Agreement will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

(n) 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.

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

(p) Calculation of Time Periods. All time referenced in this Agreement shall be calendar days, unless the last day falls on a legal holiday, Saturday, or Sunday, in which case the last day shall be the next business day.

[SIGNATURES ON FOLLOWING PAGE]

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

"CITY"

Date: _________________, 2018

CITY OF RIVERBANK, CA
a California Municipal Corporation

By: _________________________
Sean Scully
City Manager

Attest:

By: _________________________
Annabelle Aguilar, CMC
City Clerk

Approved to as Form

By:_________________________
Tom Hallinan
City Attorney

"DEVELOPER"

Date:___________________, 2018

F.F.A. DBA RIVERBANK CANNABIS COLLECTIVE, a California corporation

By: ______________________________

Its: ______________________________

California All-Purpose Acknowledgment

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)

California All-Purpose Acknowledgment

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.

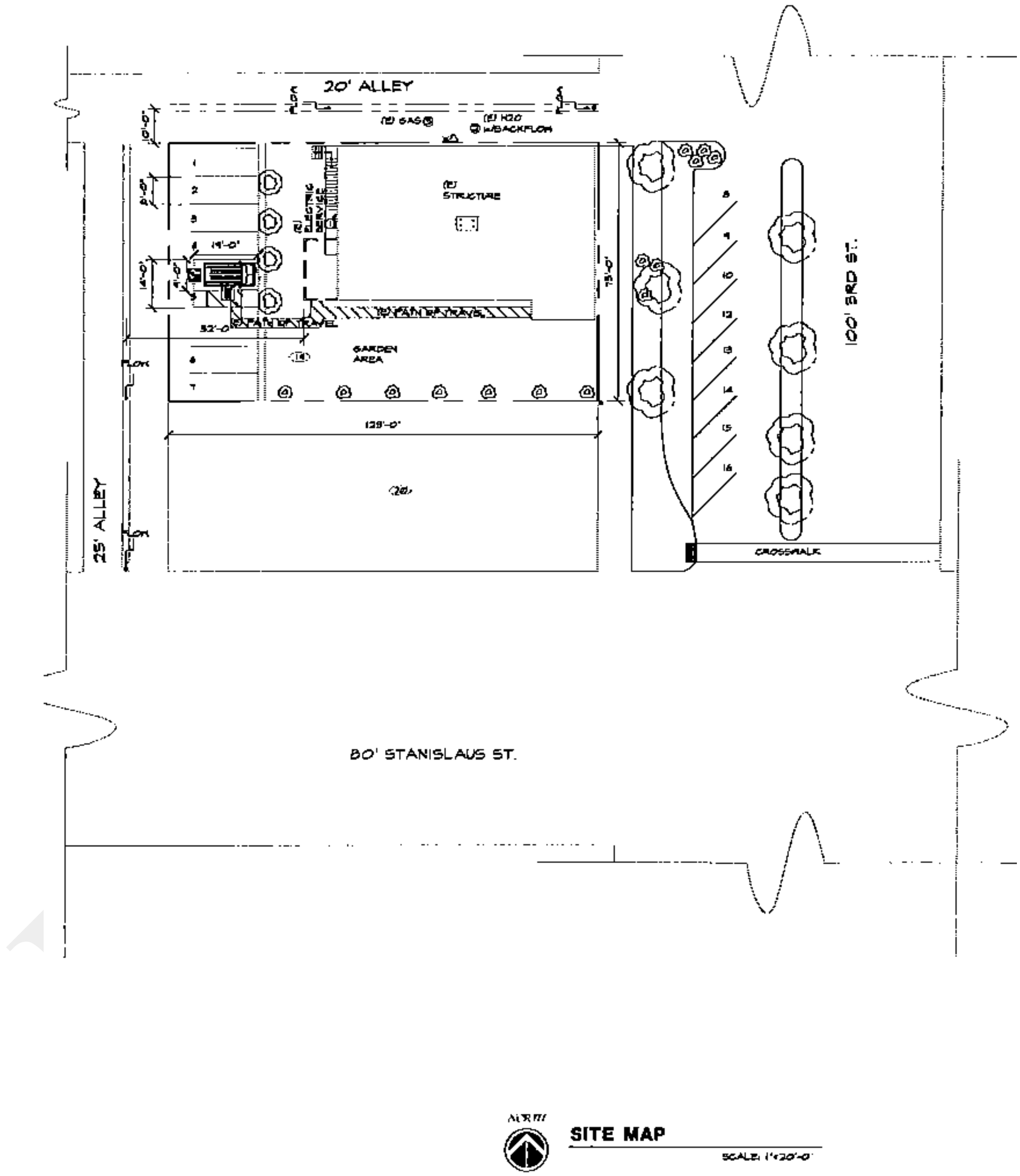
Witness my hand and official seal.

____
(Signature)

(Seal)

Exhibit A

Exhibit B



20' ALLEY
(E) GAS
(E) H2O W/BACKFLOW
(E) STRUCTURE
(E) ELECTRIC SERVICE
19'-0"
(E) PATH OF TRAVEL
52'-0"
GARDEN AREA
75'-0"
139'-0"
(2E)
CROSSWALK
100' 3RD ST.
25' ALLEY
80' STANISLAUS ST.
NORTH
SITE MAP

Exhibit C

LETTER OF INTENT
Property : 6609 3rd Street Riverbank Ca. 95367

Owner : GERMAN CHAVEZ ; MARIA ATRA

Tenant: F.F.A Doing Business As Riverbank Cannabis Collective whose headquarters is located at 725 30th Street #205 Sacramento Ca. 95816.

Building:

1. The tenant has decided to lease the lower level of the building. Which has a floor space of 3100 square feet.
2. Owner agrees to build out the building as the Architect David Vizcarra has designed. Building to have central heat and air conditioning.
3. All other work required for occupancy the tenant will be responsible for. All tenant improvements are at the tenants cost.

Schedule:

1. Application to the city of Riverbank allow time of 12 weeks for approval. (Jan 1. 2018)
2. Building drawings, building permits and city approval allow time of 8 weeks for approval (Dec1. 2017)
3. Build out of lower level allow time of 10 weeks for building of lower level and passing of city inspections. Building ready to occupy. (Feb 1. 2018) or as soon as possible or as needed to be extended

Revenue:

1. Monthly rent of 1.25 per square foot (3,875.00) for the 1st six months starting on February 1, 2018 ending on July 31, 2018 . Monthly rent of 1.50 per square foot (4,650.00) starting on August 1, 2018 ending on January 31, 2019 . Monthly rent of 1.75 per square foot (5,425.00) starting on February 1, 2019 . The rent will increase by 3% every year for 5 years. On February 1, 2020 rent will be (5587.75) , February 1, 2021 (5755.38) , February 1, 2022 (5928.04) this will be a 7 year lease, after the seven year the loan will be renegotiable.
2. Security Deposit of 5,000.00 which is refundable if the city of Riverbank denies the application to run a cannabis dispensary for the location. The deposit to be given to the property owner at time of signing of letter of intent or the property lease witch ever is sooner.
3. Property owner shall be responsible to pay half of the property taxes and half of the property fire insurance. Tenant is responsible for paying all the water, sewer, and garbage starting February 1, 2018. After the 2nd story is rented out tenant will be responsible to pay half of the water, sewer and garbage. Tenants will pay all utilities.

Federal Cause:

1. In the event the U.S Department of Justice declares the sale of cannabis can not go on at this location and gives notice to the tenants and or the property owners the tenant agrees to stop operating right away and the lease will terminate.

Deanna M. Garcia 10-6-17

Deanna M. Garcia for F.F.A Dated

Exhibit D

Notice of Non-Performance Penalty

DATE: _________________, 20___

PARTIES: CITY OF RIVERBANK, a California municipal corporation
6707 3rd Street
Riverbank, California 95367

F.F.A. dba Riverbank Cannabis Collective, a California corporation
725 30th Street #205
Sacramento, CA 95816

THIS NOTICE OF NON-PERFORMANCE PENALTY ("Penalty Notice") is being executed by the City of Riverbank, a California municipal corporation ("City"), with reference to the following.

A. By Instrument No. ______________, which was recorded in the Official Records of Stanislaus County, California on _________________, 2018, City recorded a development agreement between City and F.F.A. dba Riverbank Cannabis Collective ("Developer"), dated January 9, 2018 (the "Development Agreement"), relating to the development and operation of a cannabis dispensary.

B. Pursuant to Section 4.2 of the Development Agreement, Developer agrees to pay to City a Public Benefit on the first business day of each month during the term of the Development Agreement.

C. On ________, 20__, the Public Benefit was due to City by Developer. City did not receive payment.

D. Pursuant to Section 4.5 of the Development Agreement, if Developer fails to make payment when it is due, City may impose a penalty of one percent (1%) of the total of the past due amounts ("Penalty"). As of ____________, 20__, the past due amount equals $_________. The Penalty owed by Developer equals $____________ ("Penalty Amount").

E. Pursuant to Section 4.5 of the Development Agreement, Developer shall make payment of the Penalty Amount in a single installment due within fifteen (15) days of delivery of this Penalty Notice ("Penalty Due Date").

F. Pursuant to Section 4.6 of the Development Agreement, if Developer fails to pay the Penalty Amount before the Penalty Due Date, then, in addition to the Penalty Amount specified in subdivision (D), Developer shall pay City interest on the Penalty Amount, at the rate of eighteen percent (18%) per annum ("Penalty Interest Payment"), computed from the Penalty Due Date specified in subdivision (E). The Penalty Interest Payment is due fifteen (15) days following delivery of the Penalty Due Date. As of ____________, 20__, the Penalty Interest Payment amount equals $_________.

G. Nothing contained herein shall constitute a waiver of City's future claims for the Public Benefit, Penalty, or interest on the Penalty.

NOW, THEREFORE, City hereby provides Developer the Penalty Notice required by Section 4.5 of the Development Agreement. This Penalty Notice shall be effective upon notice pursuant to Section 10.3 of the Development Agreement.

CITY OF RIVERBANK,
a California municipal corporation

By:_________________________________
City Manager

Exhibit E

INDEMNITY AGREEMENT FOR LAND USE ENTITLEMENT PROCESSING

THIS INDEMNITY AGREEMENT FOR LAND USE ENTITLEMENT PROCESSING ("Agreement") is made and entered into on this ___ day of _______ 20__ ("Effective Date"), by and between the City of Riverbank, a California municipal corporation ("City"), and F.F.A. Inc., a California corporation dba Riverbank Cannabis Collective ("Applicant"). City and Applicant may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

A. In 1996, the people of the state of California approved Proposition 215, the Compassionate Use Act of 1996 ("CUA"). The CUA enables seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law. In 2003, the California Legislature adopted Senate Bill 420, entitled the Medical Marijuana Program ("MMP"), which authorizes qualified patients and their primary caregivers to cultivate marijuana for medical purposes without being subject to criminal prosecution under the California Penal Code.

B. On October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers.

C. On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act ("AUMA"). AUMA legalizes the cultivation, commercial sale, and possession of recreational cannabis for adults age 21 and older.

D. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction.

E. Riverbank Municipal Code ("R.M.C.") Chapter 120 authorizes cannabis businesses to operate within the City under specified restrictions pursuant to a Cannabis Pilot Program.

F. Applicant intends to improve, develop, and use real property to operate a cannabis dispensary business within the City (the "Project") in strict compliance with MAUCRSA and R.M.C. chapter 120. Applicant must obtain certain land use entitlements including a Development Agreement and a Conditional Use Permit ("Land Use Entitlements") prior to initiating the Project.

G. Applicant has an agreement to purchase that certain real property located in the City, identified as Stanislaus County Assessor's Parcel Number 132-011-019 (the "Property"), shown on **Exhibit A** attached hereto ("Property Description").

H. As a condition of approval of the Land Use Entitlements, City has required Applicant to enter into this Agreement.

I. It is in the public interest for City and Applicant to enter into this Agreement, as Applicant will benefit from City's processing of the Project.

J. Applicant desires to enter into this Agreement to fulfill a condition of approval of the Project, which is a prerequisite for construction of the Project.

AGREEMENT

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

Section 1. Recitals. The recitals set forth above ("Recitals") are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Sections 1 through 19 of this Agreement, Sections 1 through 19 shall prevail.

Section 2. Applicant's Indemnification Obligations.

2.1. Indemnification for Land Use Entitlements. To the fullest extent permitted by law, Applicant shall indemnify, and hold harmless City and its agents, elected and appointed officials, officers, employees, and volunteers (collectively, "City's Agents") from any and all liability arising out of a claim, action, or proceeding against City, or City's Agents, to attack, set aside, void, or annul an approval concerning the Land Use Entitlements by reason of the action or inaction of City, or City's Agents. Applicant's duty to indemnify and hold harmless shall not extend to any claim, action, or proceeding arising from the gross negligence or willful misconduct of City, or City’s Agents.

Applicant’s obligations under this Agreement to indemnify City shall apply to any claim, lawsuit, or challenge against City brought against the Project, specifically including, but not limited to, any legal challenge based on the California Environmental Quality Act, codified in California Public Resources Code section 21000 et seq.; actions or proceedings brought to challenge the validity of environmental documents prepared in conjunction with the approval of the Project or Land Use Entitlements, or the requirements of any other federal, state, or local laws, including, but not limited to, general plan, specific plan, and zoning requirements.

2.2. Tender of Defense. Upon receiving notice of a claim and pursuant to Article 6 of the Land Use Entitlements, Applicant shall assume the defense of the claim, action, or proceeding through the prompt payment of all attorneys’ fees and costs, incurred in good faith and in the exercise of reasonable discretion, of City’s counsel in defending such an action. Regardless of whether Applicant chooses to defend City pursuant to Section 6.4 of the Land Use Entitlements, City shall have the absolute and sole authority to control the litigation and make litigation decisions, including, but not limited to, selecting counsel to defend City and settlement or other disposition of the matter.

2.3. Deposit for Costs. Applicant shall make a refundable deposit to City within thirty (30) days of written notification from City (“Cost Deposit”), to cover the estimated fees and costs associated with City’s defense of any claim, action, or proceeding. Applicant shall make any and all additional payments to City to replenish the Cost Deposit within thirty (30) days of written notice from City.

2.4. Failure to Indemnify; Waiver. Failure to indemnify City, when required by this Agreement, shall constitute a material breach of this Agreement and of the Land Use Entitlements, which shall entitle City to all remedies available under law including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which City may rescind its approval of the Land Use Entitlements. Applicant’s failure to indemnify City shall be a waiver by Applicant of any right to proceed with the Project, or any portion thereof, and a waiver of Applicant’s right to file a claim, action, or proceeding against City or City’s Agents based on City’s rescission or revocation of the Land Use Entitlements, or City’s failure to defend any claim, action, or proceeding based on Applicant’s failure to indemnify City.

2.5. Satisfaction of Judgment. With respect to any claims, demands, acts, causes of action, damages, costs, expenses, settlements, losses, or liabilities which Applicant has indemnified City against, Applicant shall pay and satisfy any judgment, award, settlement, or decree that may be rendered or agreed against City and City’s Agents arising out of any final, non-appealable judicial or administrative action.

2.6. Payment of Costs and Fees. Applicant's obligations under this Agreement to defend and indemnify City shall include, but not be limited to, payment of all court costs and attorneys' fees, all litigation-related costs, all costs of any judgments or awards against City, or all settlement costs which arise out of City's processing or approval of the Project.

2.7. Continuing Obligation. Applicant shall be and remain personally obligated to all of the terms of this Agreement, notwithstanding any attempt to assign, delegate, or otherwise transfer all or any of the rights or obligations of this Agreement, and notwithstanding a change in or transfer of developership of the real property upon which the Project is located (or any interest therein). However, Applicant may be released from such obligations if Applicant obtains City's prior written consent to such transfer, which consent shall not be unreasonably withheld.

Section 3. <u>City's Obligations</u>. City shall notify Applicant of any claim, action, or proceeding within ten (10) business days of receiving service of any claim, action, or proceeding. If City fails to notify Applicant of any claim, action, or proceeding, Applicant shall not, thereafter, be responsible to defend, indemnify, or hold City harmless. City shall have and retain, in its sole discretion, the right to not participate in the defense of any claim, action, or proceeding. At its sole discretion, City may participate at its own expense in the defense, but such participation shall not relieve Applicant of any obligation imposed by this Agreement.

Section 4. <u>Notice</u>. Any notice or communication required hereunder between City and Applicant must be in writing and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday or holiday, shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days' written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City: City of Riverbank
6707 3rd Street

Riverbank, California 95367
Attention: City Clerk

With copy to City of Riverbank
6707 3rd Street
Riverbank, California 95367
Attn: City Manager
sscully@riverbank.org

and Churchwell White, LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Douglas L. White, Esq.
doug@churchwellwhite.com

If to Applicant: F.F.A. dba Riverbank Cannabis Collective
725 30th Street #205
Sacramento, CA 95816
Attn: ______________________

Section 5. **Modification of Agreement**. This Agreement may be supplemented, amended, or modified only by a writing signed by City and Applicant.

Section 6. **Entire Agreement**. This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties pertaining to the action and supersedes all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement.

Section 7. **Agreement is Voluntary**. The Parties acknowledge that they have entered into this Agreement voluntarily, on the basis of their own judgment and without coercion, and not in reliance on any promises, representations, or statements made by the other Party other than those contained in this Agreement. This Agreement incorporates the entire understanding of the Parties and recites the sole consideration of the promises and agreements contained within it. The Parties have read this Agreement and are fully aware of its contents and legal effect.

Section 8. **Time of Essence**. Time is of the essence for this Agreement, and each section contained within this Agreement is made and declared to be a material, necessary, and essential part of this Agreement.

Section 9. **Severability of Agreement**. If a court or an arbitrator of competent jurisdiction holds any section of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining sections of this Agreement shall not be affected.

Section 10. **Authority**. All Parties to this Agreement 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 state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

Section 11. **Noninterference**. No Party will do anything to interfere with or inhibit the ability of the other to comply with their respective obligations under the terms of this Agreement.

Section 12. **Ambiguities**. Each Party has participated fully in the review and revision of this Agreement. Any rule of construction that ambiguities are to be resolved against the drafting Party does not apply in interpreting this Agreement.

Section 13. **Headings**. The headings in this Agreement are included for convenience only, and neither affect the construction or interpretation of any section in this Agreement nor affect any of the rights or obligations of the Parties to this Agreement.

Section 14. **Necessary Acts and Further Assurances**. The Parties shall, at their own cost and expense, execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement. The Parties will act in good faith to carry out the intent of this Agreement.

Section 15. **Governing Law**. This Agreement shall be governed and construed in accordance with the laws of the State of California.

Section 16. **Venue**. Venue for all legal proceedings shall be in the Superior Court of California, in and for the County of Stanislaus.

Section 17. **Attorney's Fees and Costs**. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret sections of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

Section 18. **<u>Waiver</u>**. No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

Section 19. **<u>Counterparts</u>**. This Agreement may be executed in counterparts and all so executed shall constitute an agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, the Parties have executed this Agreement on the day, month and year first above written.

APPLICANT

F.F.A. dba Riverbank Cannabis Collective, a California corporation

By: ______________________________

Name: ______________________________

Its: ______________________________

Date: ______________________________

CITY

City of Riverbank, a California municipal corporation

By:______________________________
Sean Scully, City Manager

Date: ______________________________

APPROVED AS TO FORM:

By:______________________________
Douglas L. White, Deputy City Attorney

Exhibit F

Notice of Termination

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Riverbank
6707 3rd Street
Riverbank, CA 95367
Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code § 6103

NOTICE OF TERMINATION AND RELEASE OF DEVELOPMENT AGREEMENT

DATE: _________________, 20___

PARTIES: CITY OF RIVERBANK, a California municipal corporation
6707 3rd Street
Riverbank, California 95367

F.F.A. dba Riverbank Cannabis Collective
725 30th Street #205
Sacramento, CA 95816

THIS NOTICE OF TERMINATION AND RELEASE (the "Release") is being executed by the City of Riverbank, a California municipal corporation ("City"), with reference to the following.

A. By Instrument No. _____________, which was recorded in the Official Records of Stanislaus County, California on ________________, 20__, City recorded a development agreement between City and F.F.A. dba Riverbank Cannabis Collective ("Developer"), dated _______________, 20__ (the "Development Agreement"), relating to the development and operation of a cannabis dispensary.

B. Pursuant to Sections 1.7 and 9.1 of the Development Agreement, the term of the Development Agreement expires three (3) years from _______, 20__, on __________, 20__.

C. Pursuant to Section 9.1 of the Development Agreement, once terminated, the Development Agreement has no further force or effect, unless otherwise set forth in the Development Agreement.

NOW, THEREFORE, City hereby terminates, cancels, and otherwise releases Developer and Developer's heirs, executives, administrators, successors, and assigns from their obligations in the Development Agreement on this ____ day of __________, 20__, and relinquishes any right it may hereafter have to enforce any of the terms and provisions set forth in the Development Agreement, unless otherwise set forth in the Development Agreement. This termination, cancellation, and release shall be effective upon the recordation of this Release in the office of the County Recorder for the County of Stanislaus, State of California.

CITY OF RIVERBANK,
a California municipal corporation

By:_________________________________
City Manager

Exhibit G

Assignment and Assumption Agreement

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: City of Riverbank 6707 3rd Street Riverbank, CA 95367 Attention: City Clerk	

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code § 6103

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is entered into this _____ day of ______________________, 20___, by and between F.F.A., a California corporation doing business as Riverbank Cannabis Collective ("Developer"), and __________________________________ ("Assignee"). Developer may be referred to herein as ("Assignor").

RECITALS

A. On ___________, 20__, Assignor and the City of Riverbank ("City") entered into that certain agreement entitled "Development Agreement by and between the City of Riverbank, a California municipal corporation, and F.F.A., a California corporation doing business as Riverbank Cannabis Collective, relating to the improvement, development, and use of real property to operate a cannabis dispensary business (the "Development Agreement"), originally recorded upon Stanislaus County Assessor's Parcel Number 132-011-019 (the "Property").

B. Section 10.1 of the Development Agreement prohibits the sale, assignment, or transfer by Assignor of any portion of Assignor's interests, rights, or titles described in that section of the Development Agreement ("Assignable Rights") to a third party without prior written approval by the City Manager of the City of Riverbank (the City Manager").

C. Assignor intends to assign, and Assignee intends to assume, the Assignable Rights under the Development Agreement.

D. In accordance with the terms of the Development Agreement, Assignor has provided to the City Manager a written request for consent to assignment. The City Manager has received the information he or she deems appropriate and consulted with the City Attorney for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement. This Agreement is intended to meet the requirements

Section 10.1 of the Development Agreement for an Assignment and Assumption Agreement, and is executed with the consent of the City Manager, as contemplated in the Development Agreement.

NOW, THEREFORE, Assignor and Assignee hereby agree as follows:

1. The foregoing Recitals are true and incorporated herein by this reference as though set forth in full.

2. Assignor hereby assigns to Assignee all of the Assignable Rights of Assignor under the Development Agreement.

3. Assignee hereby assumes all of the burdens and obligations of Assignor under the Development Agreement, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this Agreement, Assignee shall become substituted for Assignor as the "Developer" under the Development Agreement.

4. This Agreement shall take effect and be binding only upon the City Manager's consent to and approval of the Agreement.

5. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement. Assignee acknowledges that the Assignable Rights are as set forth in Section 10.1 of the Development Agreement, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that City is not party to such other agreements.

6. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

[*Signatures on the following page*]

ASSIGNOR / DEVELOPER:

F.F.A., a California corporation dba
RIVERBANK CANNABIS COLLECTIVE

____

Its: _________________________

ASSIGNEE

_________________________, a
California __________

By: ______________________

AGREED TO AND ACCEPTED:

CITY OF RIVERBANK
a California municipal corporation

____
City Manager

CITY OF RIVERBANK

RESOLUTION NO. 2018-001

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK APPROVING AN APPEAL REQUEST AND CONDITIONAL USE PERMIT NO. 05-2017 FOR FRIENDS AND FAMILY ASSOCIATION INC., A CALIFORNIA CORPORATION DOING BUSINESS AS RIVERBANK CANNABIS COLLECTIVE, TO ALLOW FOR A COMMERCIAL CANNABIS DISPENSARY TO BE LOCATED AT 6609 THIRD STREET (APN: 132-011-019)

WHEREAS, Friends and Family Association, Inc., doing business as Riverbank Cannabis Collective (the "Applicant") has requested the approval of a Development Agreement and a Conditional Use Permit to allow for a commercial cannabis dispensary to be located at 6609 Third Street (APN: 132-011-019); and

WHEREAS, at their regular meeting of December 19, 2017, the Planning Commission of the City of Riverbank conducted a public hearing and after considering the evidence contained in the Staff Report and testimony presented during the public hearing, voted to deny Conditional Use Permit No. 05-2017 by a vote of 4-1; and

WHEREAS, on December 20, 2017, the Applicant filed an appeal of the Planning Commission's denial of Conditional Use Permit No. 05-2017; and

WHEREAS, the City Clerk of the City of Riverbank published the public notice for the appeal on December 27, 2017; and

WHEREAS, the Riverbank City Council ("City Council") held a public hearing to consider the Applicant's appeal on January 9, 2018; and

WHEREAS, the City Council considered the appeal in accordance with Riverbank Municipal Code §120.14 based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, pursuant to Section 15061 (b-3) of the California Environmental Quality Act ("CEQA") Guidelines, the proposed project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility; and

WHEREAS, the City Council of the City, based on its independent review and analysis of staff's recommendations, 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 circumstance exists:

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.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank makes the following findings with regard to Conditional Use Permit No. 05-2017:

1. That the proposed project is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed project is consistent with the policies and intent of the General Plan and Zoning Ordinance.

BE IT FURTHER RESOLVED that the City Council of the City of Riverbank overturns the Planning Commission's denial and grants the Applicant's appeal and hereby approves Conditional Use Permit No. 05-2017, subject to the following conditions:

1. This approval is dependent upon and limited to the proposals and plans contained, supporting documents submitted, presentations made to staff, Planning Commission and/or City Council as affirmed to by the applicant. Any variation from these plans, proposals, supporting documents or presentations is subject to review and approval by staff prior to implementation.

2. The applicant shall secure and comply with all applicable state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.

3. The applicant shall comply with all regulations and code requirements of the Community Development Director, City Engineer, Building Official, Stanislaus Consolidated Fire Protection District, the Police Chief, State of California, and any other agencies requiring review of the project. If required, these agencies shall be supplied copies of the final maps, site plans, public improvement plans, grading plans and building plans.

4. All conditions of approval for this project shall be written by the project developer on all building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all construction plans kept on the project site. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Community Development Director must be received before any changes are constituted in site design, building design, building colors or materials, etc.

5. Site plan shall be in substantial conformance to the existing site plan as submitted. Any proposed changes to the exterior of the building or site shall be reviewed by the Community Development Director, who will determine if Architecture and Site Plan Review is required. If required, plans shall be prepared, wet signed and sealed by a civil engineer, land surveyor, or architect registered in the State of California and licensed to prepare site and/or building plans.

6. Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, if the site receives numerous Health and/or Safety violations, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents or presentations to staff, Planning Commission or City Council, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to be violated.

7. All business partners and employees shall obtain background checks (Live Scans) before operations may commence.

8. Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the applicant a copy of this signed resolution and an approved building permit.

9. The hours of construction, including equipment warm-up, shall be limited to 7:00 a.m. to 6:30 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on weekends and legal holidays.

10. All new construction, including tenant improvements, requires building permits in accordance with all applicable building and fire codes.

11. The applicant shall defend, indemnify and hold harmless the City of Riverbank, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, or any aspect of the City's consideration of applicant's project. The applicant recognizes and agrees that applicant's voluntary commitment to meet the obligations described in this condition is an integral factor in the City's approval of this project. The intent of this condition is to require the applicant to bear the cost of any and all litigation instituted to overturn or in any way modify the City's approval of this project. Such costs

include without limitation, any award of attorney's fees and costs to a prevailing plaintiff or petitioner.

12. This approval may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the approval or add/modify conditions approval.

13. All new exterior light fixtures shall be shown on plans subject to staff review and approval. All lights attached to buildings shall provide a soft "wash" of light against the wall. All building and parking or yard lights shall conform to City Standards and shall compliment the site and building architecture.

14. The Project and Riverbank Cannabis Collective shall strictly comply with all administrative guidelines promulgated by the City for the operation of a cannabis dispensary, specifically including any administrative guidelines later adopted by the City, or as may be changed from time to time.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 9th day of January, 2018; motioned by Vice Mayor Leanne Jones Cruz, seconded by Councilmember District 4 Darlene Barber-Martinez; and upon roll call was carried by the following City Council vote of 4-1:

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

ATTEST:	**APPROVED:**
___________________________	___________________________
Annabelle H. Aguilar, CMC **City Clerk**	**Richard D. O'Brien** **Mayor**

Attachment: Staff Report (01/09/2018), Exhibit A – Site Map, and Exhibit B – Floor Plan

PROPOSED TENANT IMPROVEMENT 6609 THIRD STREET RIVERBANK, CA. 95367

SCOPE OF WORK

PROPOSED TENANT IMPROVEMENT OF AN EXISTING TWO STORY BUILDING, (3,300 x 2 SQ. FT.) TOTAL 6,600 SQ. FT.
UPPER FLOOR WILL REMAIN A SHELL, FIRST FLOOR WILL BE CONVERTED INTO COMMERCIAL RETAIL AND SHALL HAVE NO ACCESS TO THE UPPER FLOOR.

BUILDING CODES

ALL SITE BUILT PORTIONS OF THIS PROJECT SHALL CONFORM TO THE FOLLOWING CODES:
2016 CALIFORNIA BUILDING CODE
2016 CALIFORNIA MECHANICAL CODE
2016 CALIFORNIA PLUMBING CODE
2016 CALIFORNIA ELECTRICAL CODE
2016 CALIFORNIA FIRE CODE
2016 CALIFORNIA ENERGY CODE
2016 CALIFORNIA GREEN BUILDING CODE

BUILDING CODE ANALYSIS

DESCRIPTION OF USE:	GARAGE/STORAGE
OCCUPANCY TYPE:	B or R3
CONSTRUCTION TYPE:	V-B
BUILDING AREA:	6,540 ± SQ. FT.

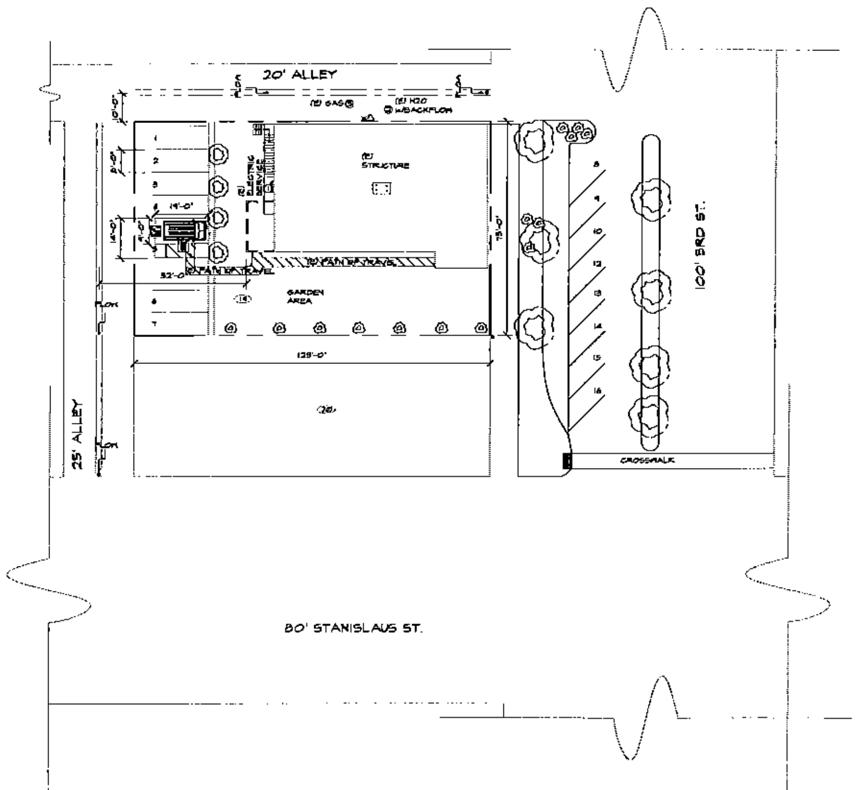
SITE STATISTICS

1. ASSESORS PARCEL NUMBER: 132-011-019
2. PRESENT ZONING: C-1
3. PARCEL SIZE: 9375 SQ. FT. / .21 AC.
4. SITE ADDRESS: 6609 3RD ST. RIVERBANK, CA. 95367

SHEET INDEX

SHEET NO.	DESCRIPTION
T1	TITLE SHEET/SITE PLAN
A1	ELEVATIONS
A2	CROSS SECTIONS
A3	UPPER FLOOR PLAN
A4	LOWER FLOOR PLAN
S1	STRUCTURAL NOTES
S2	ROOF FRAMING
S3	FLOOR / CEILING FRAMING
S4	FOUNDATION PLAN
S5	TYPICAL DETAIL SHEET
E1	ELECTRIC / PLUMBING

FOR REVIEW ONLY



NORTH
VICINITY MAP
SCALE: N.T.S.

NORTH
SITE MAP
SCALE: 1"=20'-0"

GENERAL NOTES

General

1. All work shall be performed in accordance with the applicable sections of the California Building Code (CBC) 2016 Edition as currently amended by the jurisdiction having authority and the additional publications listed herein.

2. Architectural control committee and/or homeowner's association rules, regulations and guidelines as well as well as any recorded covenants, codes and restrictions (CC&Rs) shall be strictly adhered to before, during and after the construction process. The general contractor shall be solely responsible for all such items stipulated in these documents including but not limited to hours of operation, material storage and trash removal.

3. Unless explicitly stated in these construction documents, by note or clarification letter, the entire scope of work represented by these documents shall be the sole responsibility of the general contractor.

4. These construction documents represent the design intent of the architect/engineer based on dimensions of existing site and/or field conditions. Actual conditions may require modifications of the construction details to achieve architect/engineer's design intent. The contractor shall notify architect/engineer in writing of any discrepancies related to existing site and/or field conditions prior to continuing any work.

5. It is the responsibility of the contractor to record all omissions or conflicts between the various elements of the construction documents and bring them to the attention of the architect/engineer prior to commencing any work. Any deviation from the from the condition shown in these construction documents shall require written approval from the architect/engineer.

6. Do not scale the drawings. Written dimensions shall take precedence over scale dimensions. Any discrepancies between the drawings and the actual conditions shall be brought to the attention of the architect/engineer prior to commencing any work.

7. These drawings shall be read and coordinated with all other contract drawings including vendor drawings and subcontractor shop drawings. Specific dimensions, details and notes shall take precedence over General Notes, typical details, contour scale values or scaled information on plans or sections. Items not specifically detailed shall generally follow other similar details. Discrepancies, conflicts and/or unclear conditions shall be brought to the attention of the Owner and/or architect/engineer immediately.

8. The contract documents are complimentary. Work required to be done by one document and not others shall be done as if required by all.

9. Contractors and sub-contractors shall ensure that all work is performed in a professional and workmanlike manner by skilled mechanics of the trade. Sub-contractors and suppliers are hereby notified that they are to confer and cooperate and cooperate fully with each other during the course of construction to determine the exact extent of the overlap of each other's work and to successfully complete the execution of the work in a timely manner.

10. The contractor and sub-contractors shall be solely responsible for construction means, techniques, sequences, and procedures, and for the safety precautions and programs in connection with this project. The architect/engineer shall not be responsible for jobsite conditions or compliance with safety regulations governing work performed on this project. All contractors and sub-contractors performing work on, or related to this project shall conduct their operations so that all employees are provided a safe working environment and the public is protected and shall comply with the "Occupational Safety and Health Regulations" of the U.S. Department of Labor, and with any State and local safety regulations. The contractor agrees to assume sole responsibility for jobsite safety conditions during the course of construction of this project and that this requirement shall defend, indemnify and hold harmless the owner or owner's agent and the architect/engineer from any and all liability real or alleged, in connection with the performance of work on this project.

11. The contractor and sub-contractors shall be solely responsible for the design, installation, adequacy and safety of erection bracing, shoring, temporary supports, formwork, and all other temporary construction structures and shall be responsible for any damages to the work prior to the application of all shear walls, roof and floor diaphragms, and finishes. The structure is not designed as a stable unit until after all components are in place, and therefore the contractor shall provide all shoring and bracing to insure the stability of any and all parts of the project during construction. Care must be taken during construction not to exceed the design live load capacity of the structure (see loading values on structural plans). Construction materials shall be spread out to avoid overloading individual members.

12. Periodic jobsite visits by the owner or owner's agent and/or architect/engineer do not constitute review or approval of construction techniques but are intended solely for the purpose of checking general compliance of the work with the project construction documents.

13. The contractor and sub-contractors shall at all times indemnify and hold harmless the owner or owner's agent and the architect/engineer against all liability for claims and liens for labor performed or materials used or furnished to be used on this project, including any costs or expenses for attorney fees and all incidental or consequential damages resulting to the owner or owner's agent and architect/engineer from such claims. Further, in case suit on such claim is brought, the contractor shall defend said suit at their own cost and expense, and will pay and satisfy any such lien or judgement as directed by the court (or American Arbitration Association).

14. Builder's Set. The set of drawings has been prepared sufficiently enough to obtain a building permit. All materials and methods of construction necessary to to complete the project are not necessarily described in this "Builder's Set". The implementation of these drawings requires the contractor to be thoroughly knowledgeable with the applicable codes, types of construction and methods of construction specific to this project.

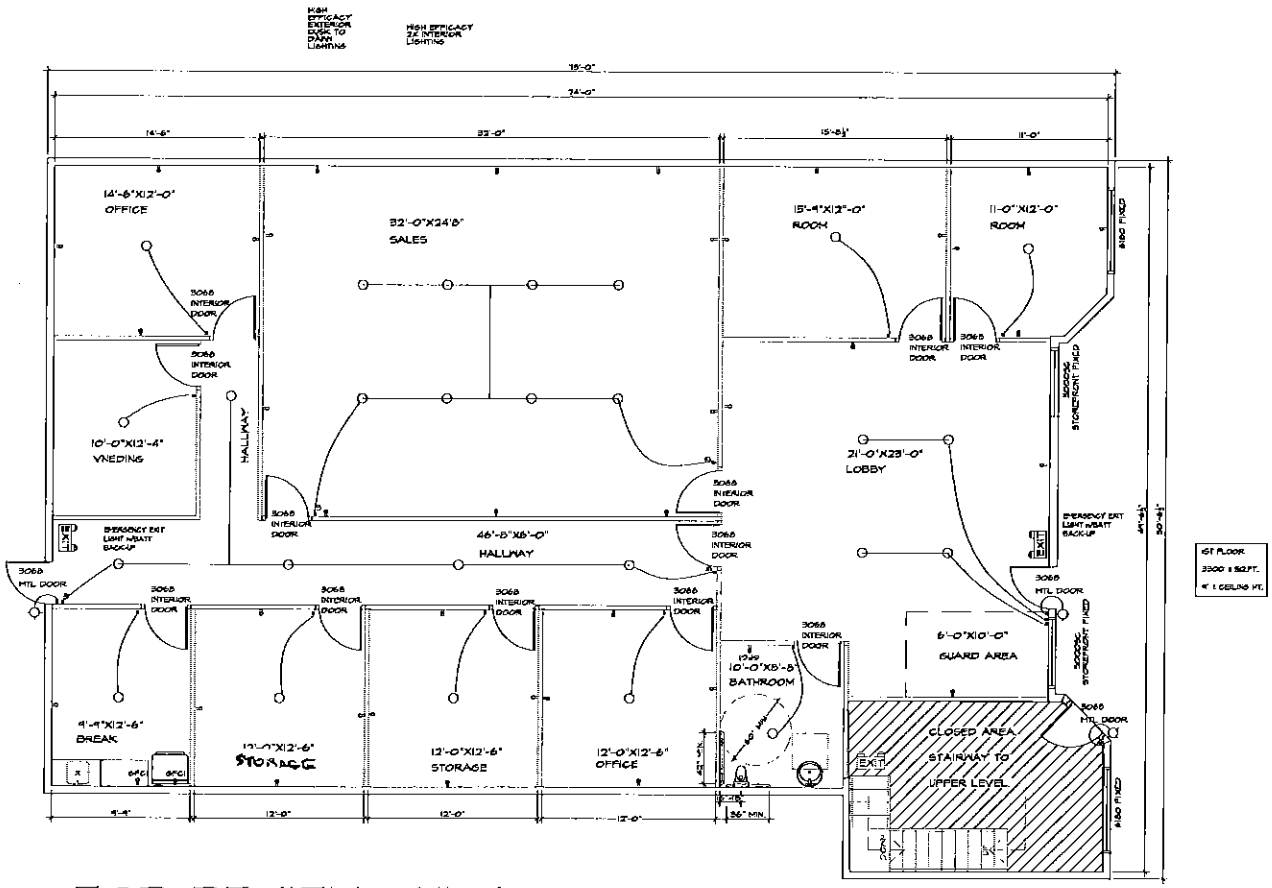
15. The contractor and sub-contractors shall make no substitutions, changes or modifications without written approval from the architect/engineer.

16. Unless specifically shown or noted on these drawings, no structural member shall be cut, notched, bored or otherwise weakened without the permission of the engineer.

17. Shop Drawing Review: Review of shop drawings by the architect/engineer is for general compliance with the information given in the contract documents. The contractor will remain responsible for errors of detailing, fabrication, and for the correct fitting of all structural members including coordination with other trades. Any proposed detail change shall be clearly identified on the shop drawings with appropriate supporting documentation included for proper evaluation of the change.

T1

Exhibit A to CC Resoluiton 2018-001



FOR REVIEW ONLY

FIRST FLOOR

Exhibit B to CC Resoluiton 2018-001

CITY OF RIVERBANK
RESOLUTION NO. 2017-027

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF RIVERBANK AND F.F.A. DBA RIVERBANK CANNABIS COLLECTIVE, A CALIFORNIA COOPERATIVE CORPORATION

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, 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.*, which authorizes the City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application; and

WHEREAS, the City adopted Resolution No. 99-39 authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City; and

WHEREAS, Resolution No. 99-39 requires a written application with specified data to be submitted to the City for consideration of any development agreement; and

WHEREAS, F.F.A. DBA Riverbank Cannabis Collective, a California cooperative corporation submitted an application to the City for consideration of a development agreement to operate a medicinal and adult use cannabis dispensary business (the "Project"); and

WHEREAS, F.F.A. DBA Riverbank Cannabis Collective proposes to improve, develop, and use real property for the Project, in strict accordance with applicable state and local law, including, but not limited to, the Riverbank Municipal Code; and

WHEREAS, F.F.A. DBA Riverbank Cannabis Collective has a lease agreement to occupy that certain real property located at 6609 Third Street in the City of Riverbank, Assessor's Parcel Number 132-011-019 on which F.F.A. DBA Riverbank Cannabis Collective intends to develop the Project; and

WHEREAS, City and F.F.A. DBA Riverbank Cannabis Collective seek to enter a development agreement for the Project (the "Development Agreement") pursuant to Government Code section 65864 *et seq.* and all applicable local and state laws; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 19, 2017, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, environmental impacts for the Project have been reviewed and assessed by the City pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 *et seq.*; California Code of Regulations Title 14, section 15000 *et seq.*), and the City determined the Project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility; and

WHEREAS, the Planning Commission finds that an ordinance approving the Development Agreement will allow the City to adequately regulate and address all impacts of the Project in the City in accordance with state law; and

WHEREAS, the Planning Commission finds that the ordinance is in the best interest of the health, welfare, and safety of the public.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE NO. 2017-XXX, APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF RIVERBANK AND F.F.A. DBA RIVERBANK CANNABIS COLLECTIVE, A CALIFORNIA COOPERATIVE CORPORATION, ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED HEREIN BY THIS REFERENCE.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 19th day of December, 2017; motioned by Commissioner McRitchie, seconded by Commissioner King, and upon roll call was denied by the following Planning Commission vote of 1-4:

AYES: Chair McKinney

NAYS: Commissioners King, Stewart, McRitchie, Tabacco

ABSENT:

ABSTAIN:

Attest:	Approved:
Donna M. Kenney Secretary to the Planning Commission	Anthony McKinney Chairperson

City of Riverbank
Planning Commission
Resolution No. 2017-028

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK APPROVING THE REQUEST OF F.F.A. DBA RIVERBANK CANNABIS COLLECTIVE FOR A CONDITIONAL USE PERMIT TO OPERATE A CANNABIS DISPENSARY WITHIN THE DOWNTOWN CORE (DC) ZONING DISTRICT LOCATED AT 6609 THIRD STREET, APN: 132-011-019

WHEREAS, the Community Development Department of the City of Riverbank has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Riverbank Municipal Code, Section 153.360-153.374; and

WHEREAS, the project proponent is F.F.A. DBA Riverbank Cannabis Collective; and

WHEREAS, the applicant is requesting to operate a cannabis dispensary within the Downtown Core (DC) zoning district; and

WHEREAS, the property has a general plan designation of Mixed Use (MU); and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the proposed Use Permit is consistent with all applicable general and specific plans; and

WHEREAS, the proposed Conditional Use Permit with the conditions of approval is in conformity with both the intent and provisions of the Zoning Ordinance, RMC 153.216 of the City of Riverbank Code of Ordinances; and

WHEREAS, the project was found to be categorically exempt according to the California Environmental Quality Act, Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility that will not have a significant effect on the environment; and

WHEREAS, the request of F.F.A. DBA Riverbank Cannabis Collective for the Conditional Use Permit is hereby granted and approved, subject to the following conditions:

1) This approval is dependent upon and limited to the proposals and plans contained, supporting documents submitted, presentations made to staff, Planning Commission and/or City Council as affirmed to by the applicant. Any variation from these plans, proposals, supporting documents or

presentations is subject to review and approval by staff prior to implementation.

2) The applicant shall secure and comply with all applicable state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.

3) The applicant shall comply with all regulations and code requirements of the Community Development Director, City Engineer, Building Official, Stanislaus Consolidated Fire Protection District, the Police Chief, State of California, and any other agencies requiring review of the project. If required, these agencies shall be supplied copies of the final maps, site plans, public improvement plans, grading plans and building plans.

4) All conditions of approval for this project shall be written by the project developer on all building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all construction plans kept on the project site. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Community Development Director must be received before any changes are constituted in site design, building design, building colors or materials, etc.

5) Site plan shall be in substantial conformance to the existing site plan as submitted. Any proposed changes to the exterior of the building or site shall be reviewed by the Community Development Director, who will determine if Architecture and Site Plan Review is required. If required, plans shall be prepared, wet signed and sealed by a civil engineer, land surveyor, or architect registered in the State of California and licensed to prepare site and/or building plans.

6) Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, if the site receives numerous Health and/or Safety violations, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents or presentations to staff, Planning Commission or City Council, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to be violated.

7) All business partners and employees shall obtain background checks (Live Scans) before operations may commence.

8) Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the applicant a copy of this signed resolution and an approved building permit.

9) The hours of construction, including equipment warm-up, shall be limited to 7:00 a.m. to 6:30 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on weekends and legal holidays.

10) All new construction, including tenant improvements, requires building permits in accordance with all applicable building and fire codes.

11) The applicant shall defend, indemnify and hold harmless the City of Riverbank, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, or any aspect of the City's consideration of applicant's project. The applicant recognizes and agrees that applicant's voluntary commitment to meet the obligations described in this condition is an integral factor in the City's approval of this project. The intent of this condition is to require the applicant to bear the cost of any and all litigation instituted to overturn or in any way modify the City's approval of this project. Such costs include without limitation, any award of attorney's fees and costs to a prevailing plaintiff or petitioner.

12) This approval may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the approval or add/modify conditions approval.

13) All new exterior light fixtures shall be shown on plans subject to staff review and approval. All lights attached to buildings shall provide a soft "wash" of light against the wall. All building and parking or yard lights shall conform to City Standards and shall compliment the site and building architecture.

14) The Project and F.F.A. shall strictly comply with all administrative guidelines promulgated by the City for the operation of a cannabis dispensary, specifically including any administrative guidelines later adopted by the City, or as may be changed from time to time.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission that the requested Conditional Use Permit is approved subject to those conditions established by Resolution No. 2017-028 and attached Exhibits A and B.

Passed and adopted by the Planning Commission of the City of Riverbank at a regular meeting held on the 19th of December, 2017, motioned by Commissioner Tabacco, seconded by Commissioner Stewart, and upon roll call was denied by the following vote 1-4:

AYES: Chair McKinney

NOES: Commissioners: King, McRitchie, Stewart, Tabacco

ABSENT:

ABSTAIN:

Attest:

____
Donna M. Kenney, Secretary
Planning and Building Manager

Approved:

____
Anthony McKinney, Chairperson
Planning Commission

Exhibits: **A – Site Plan**
B – Floor Plan

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	January 23, 2018
Subject:	A **Resolution** Accepting the Fiscal Year 2016-17 Annual AB 1600 Report of System Development Fee Activity
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager/Director of Finance

RECOMMENDATION

It is recommended that the City Council adopt a Resolution accepting the Fiscal Year 2016-17 Annual AB 1600 Report of System Development Fee Activity.

SUMMARY

In accordance with the provisions of the State of California Government Code Section 66001 and 66006, the City is required to publish an annual report to provide an accounting of System Development Fees (also known as public facilities fees or development impact fees).

BACKGROUND

The purpose of a System Development Fee is to provide a rational and equitable basis for the expansion of capital facilities to accommodate the impacts created by new development. For many years, traditional sources of infrastructure funding have been inadequate to maintain the existing systems and this has left no revenue available to expand the system to meet growing needs. Development fees provide a mechanism where new development cumulatively mitigates their total impact on the city's systems on a proportionate basis to their individual impact by paying fees to expand the systems based on the relative size of the development.

In 1987, the Governor signed AB 1600 thereby setting forth specific requirements as to how local government imposed, collected and reported various aspects of the System Development Fee program. These requirements went into effect on January 1, 1989. AB 1600 was subsequently codified as Section 66001 of the California Government Code.

The reporting requirements were subsequently developed and codified as Section 66006 of the Government Code. Pursuant to Subdivision (b) (1) of Section 66006, the following information must be made available to the public within 180 days after the last day of each fiscal year:

(A) A brief description of the type of fee in the account or fund.
(B) The amount of the fee.
(C) The beginning and ending balance of the account or fund.
(D) The amount of the fees collected and the interest earned.
(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.
(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.
(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an intrafund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
(H) The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

This information is formally documented and provided in the attached FY 2016-17 Annual AB 1600 Report of System Development Fee Activity.

The following funds are considered **inactive** accounts due to the fact that they are no longer receiving development fee revenue:

1. System Development Bridges/Roads Fund 140
2. System Development Traffic Lights Fund 141
3. System Development Overpasses Fund 145
4. System Development Railroad Crossing Fund 146
5. System Development Crossroads Streets/Public Works Fund 214
6. System Development Crossroads Storm Drainage Fund 217
7. System Development Crossroads Police & General Government Fund 219

The following **active** accounts are being presented:

1. System Development Streets/Public Works Fund 205
2. System Development Water Fund 206
3. System Development Waste Water Fund 207
4. System Development Storm Drainage Fund 208
5. System Development Parks & Recreation Fund 209
6. System Development Police & General Government Fund 210

STRATEGIC PLAN

This report has been prepared to accomplish the following Goal established at the October 30, 2017 Strategic Planning Session:

"Achieve and maintain financial stability and sustainability"

FINANCIAL IMPACT

There is no financial impact associated with the approval and acceptance of this report.

ATTACHMENT

1. Resolution
2. Exhibit A: FY 2016-17 Annual AB 1600 Report of System Development Fee Activity

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK ACCEPTING THE FISCAL YEAR 2016-17 ANNUAL AB 1600 REPORT OF SYSTEM DEVELOPMENT FEE ACTIVITY

WHEREAS, the City of Riverbank imposes fees to mitigate the impact of development pursuant to Government Code Section 66000 et seq.; and

WHEREAS, said fees collected are deposited into special and separate capital funds for each type of improvement funded by development fees; and

WHEREAS, the City maintains separate funds for Streets/Public Works development, Water, Waste Water, Storm Drainage, Recreation & Parks, and Police & General Government fees; and

WHEREAS, the City is required within 180 days after the last day of each fiscal year to make available to the public information for the fiscal year regarding these fees under Government Code Section 66006; and

WHEREAS, the Finance Department has prepared a report ("AB 1600 Report") that contains the information required by Government Code Section 66006, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, there were no refunds of development impact fees collected pursuant to Government Code Section 66001(e), nor were there any allocations of unexpended revenues collected pursuant to Government Code Section 66001(f); and

WHEREAS the AB 1600 Report was made available for review on January 11, 2018 twelve (12) days prior to the date that the Council considered the AB 1600 Report; and

WHEREAS, no interested persons have requested notice of the AB 1600 Report; consequently no notices of the availability of the AB 1600 Report were mailed.

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

<u>Section 1:</u>

A. In accordance with Government Code Section 66006, the City has conducted an annual review of its development impact fees and capital infrastructure programs and the City Council has reviewed the AB 1600 Report attached hereto as Exhibit "A" and incorporated herein by this reference.

B. The City Council hereby approves, accepts and adopts its AB 1600 Report.

C. The AB 1600 report is available for public review on the City's internet website, at the City Clerk's Office and upon request.

<u>Section 2:</u> Effective Date. The resolution shall take effect immediately upon adoption.

<u>Section 3:</u> Severability. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution.

<u>Section 4:</u> The City Council hereby authorizes the Finance Department to continue maintaining separate funds for Streets/Public Works, Water, Waste Water, Storm Drainage, Recreation & Parks, and Police & General Government System Development Fees.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of January, 2018; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:

____
Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

____
Richard D. O'Brien
Mayor

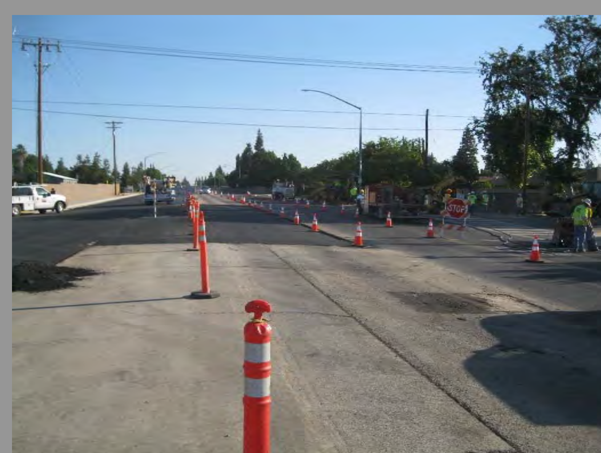
Attachment: Exhibit A: FY 2016-2017 Annual AB 1600 Report of System Development Fee Activity

EXHIBIT A

CITY OF RIVERBANK

FY 2016-2017

ANNUAL AB 1600 REPORT OF SYSTEM DEVELOPMENT FEE ACTIVITY



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LETTER OF TRANSMITTAL

December 2017

The Honorable Mayor, Members of the City Council and Citizens of the City Riverbank
City of Riverbank
Riverbank, CA 95367

Dear Mayor, Members of the City Council, and Citizens of the City of Riverbank:

California Government Code requires reporting of the usage of Development Fees (also known as System Development Fees). Therefore, in accordance with the provisions of the State of California and Government Code Section 66006(b) and 66001(d), as amended by AB 518 and SB 1693, I hereby submit the Annual AB 1600 System Development Fee Report for the City of Riverbank, CA for the fiscal year ended June 30, 2017.

Development Fees, otherwise known as System Development Fees (SDF), are a monetary exaction, other than a tax or special assessment, which is charged by a local governmental agency to an applicant in connection with approval of a development project. The purpose of these fees is to defray all or a portion of the cost of public facilities related to the development project. The legal requirements for enactment of a system development fee program are set forth in Government Code section's 66000-66025 (the "Mitigation Fee Act"), the bulk of which was adopted as 1987's Assembly Bill (AB) 1600 and those are commonly referred to as "AB 1600" requirements.

The System Development Fee program has been in effect in Riverbank since 1967. Riverbank Municipal Code §150.30, titled "System Development Fees", establishes the authority for imposing and charging system development fees. §150.31 (b) of the Municipal Code states the following as reasons for adopting said fee:

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

Fees are collected at the time a building permit is issued; unless a developer, through a development agreement, is allowed to defer payment until a certificate of occupancy is granted, for the purpose of mitigating the impacts caused by new development on certain public facilities. They are used to finance the acquisition, construction and improvement of public facilities needed as a result of this new development. A separate fund has been established to account for the impact of new development on each of the following types of public facilities: Streets/Public Works, Water, Waste Water, Storm Drainage, Parks/Recreation, and Police/General Government.

State law requires the City prepare and make available to the public an annual report for each fund established to account for System Development fees. The report must include the beginning and ending balances by system development type for the fiscal year as well as any changes. The report must also present the amount of fees, interest, and other income, expenditures and the amount of any required refunds made during the fiscal year.

The City Council must review the annual report at a regularly scheduled public meeting not less than fifteen days after the information is made available to the public. This report was filed with the City Clerk's office and available for public review on December 22, 2017.

Respectfully submitted,

Marisela H. Garcia

Marisela H. Garcia
Assistant City Manager/Director of Finance

LEGAL REQUIREMENTS

A. REQUIREMENTS FOR SYSTEM DEVELOPMENT FEES

State law (California Government Code Section 66006) requires each local agency that imposes AB 1600 system development fees to prepare an annual report providing specific information about those fees. Within the AB 1600 legal requirements, it stipulates that fees imposed on new development have the proper nexus to any project on which they are imposed. In addition, AB 1600 imposes certain accounting and reporting requirements with respect to the fees collected. The fees, for accounting purposes, must be segregated from the general funds of the city and from other funds or accounts containing fees collected for other improvements. Interest on each development fee fund or account must be credited to that fund or account and used only for the purposes for which the fees were collected.

Current California Government Code Section 66006(b) requires that for each separate fund the local agency shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year:

- A brief description of the type of fee in the account or fund.
- The amount of the fee.
- The beginning and ending balance of the account or fund.
- The amount of the fees collected and interest earned.
- An identification of each public improvement on which fees were expended and the amount of expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.
- An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement.
- A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.
- The amount of refunds made due to sufficient funds being collected to complete financing on incomplete public improvements, and the amount of reallocation of funds made due to administrative costs of refunding unexpended revenues exceeded the amount to be refunded.

LEGAL REQUIREMENTS

California Government Code Section 66001(d) requires the local agency make all of the following findings every fifth year with respect to that portion of the account remaining unexpended, whether committed or uncommitted:

- Identify the purpose to which the fee is to be put.
- Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.
- Identify all sources and amounts of funding anticipated to complete financing on incomplete improvements.
- Designate the approximate dates on which the funding is expected to be deposited into the appropriate account or fund.
- In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

B. Additional Notes

The State of California Government Code Section 66002 requires local agencies that have developed a fee program to adopt a Capital Improvement Plan (CIP) indicating the approximate location, size and timing of projects, plus an estimate for the cost of all facilities or improvements to be financed by fees. A formal CIP is recommended, at a minimum, as a five-year plan. The City annually produces a five-year CIP which helps to maintain and update the City's General Plan. The CIP serves to identify situations where infrastructure is needed to accommodate the planned development.

The CIP relates the City's annual capital expenditures to a long-range plan for public improvements. By relating the plan for public improvements to the City's capacity for funding, and scheduling expenditures over a period of years, the CIP helps to maximize the funds available. This type of fiscal management is important during periods, such as the current one, that are typified by budgetary demands exceeding financial resources.

C. Establishing a Reasonable Relationship Between the Fee and the Purpose for Which it is Charged

The City of Riverbank's current program, the City of Riverbank Nexus Fee Study, was adopted March 24, 2015. The program sets forth the relationship between contemplated future development, facilities needed to serve future development and the estimated costs of those improvements based on the current General Plan for build-out.

LEGAL REQUIREMENTS

The City's CIP projects are financed in part by the capital improvement fees outlined in the System Development fee program. The City's capital improvements provide infrastructure to the residents and businesses in Riverbank in order to keep pace with ongoing development in, and adjacent to, the community. Estimated project costs and, the summary of fee apportionment to each development fee type, are detailed within Section 4 of the Nexus Fee Study.

D. FUNDING OF INFRASTRUCTURE

The 2017-2022 CIP identifies all funding sources and amounts for individual projects through 2022. The CIP is updated annually to reflect the current infrastructure & equipment needs of the City. As a CIP project is identified, the project is evaluated to determine the portion of the project that will service existing residents and businesses versus new development. Once the determination of use is made, the percentage of use attributable to new development is then funded by the appropriate development fee, based on the type of project. The percentage of use associated with existing residents or business are funded from other appropriate sources as identified on the CIP. All future planned infrastructure needs are outlined in the System Development Fee program. The funding and commencement dates for projects are adjusted, as needed, to reflect the needs of the community.

DESCRIPTION OF ACTIVE SYSTEM DEVELOPMENT FEES

Transportation Improvement Fee – Formerly known as Streets/Public Works. The purpose of this fee is to finance the improvements needed for the street and traffic safety needs of the citizens.

Water Fee - The purpose of this fee is to finance the water improvements needed for the citizens.

Waste Water Fee - The purpose of this fee is to finance the waste water improvements needed for the citizens.

Storm Drainage Fee - The purpose of this fee is to finance the storm drain improvements needed for the citizens.

Parks & Recreation Fee - The purpose of this fee is to finance the park improvements needed for the citizens.

Police & General Government - The purpose of this fee is to finance the public safety and general government improvements needed for the citizens.

SYSTEM DEVELOPMENT FEE REPORTS

Fund 140
System Development Bridges/Roads Fund

For Purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Bridges/Roads Fund - The purpose of this fee was to finance the construction of bridges and roads and improvements needed to maintain traffic movement and safety on City streets. These fees provide the above described project funding to accommodate traffic generated by future development within the City.

(B) The Amount of the current System Development Fee:

This System Development Fee is no longer actively collecting revenue.

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

This Fund is now inactive and no new revenues are anticipated. Existing funds will be properly used on necessary Bridges/Roads related projects.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 140
System Development Bridges/Roads Fund

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	183,027.72	87,903.77	23,276.98	33,722.40	33,836.06
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	0.00	0.00	0.00	0.00	0.00
Interest	326.05	161.21	58.00	113.66	200.25
Total Revenues	326.05	161.21	58.00	113.66	200.25
Expenditures					
Projects	95,450.00	64,788.00	-10,387.42	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Administration	0.00	0.00	0.00	0.00	0.00
Total Expenditures	95,450.00	64,788.00	-10,387.42	0.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	87,903.77	23,276.98	33,722.40	33,836.06	34,036.31

	Total Activity Cost	% Funded with Fee	Fund 140 Total
FY 2012-13 Activity			
Oakdale & Morrill Signal	95,450.00	12.0%	95,450.00
FY 2013-14 Activity			
Jackson Avenue Sidewalk	130,038.00	48.0%	64,788.00
FY 2014-15 Activity			
MID Reimbursement of Fees	-15,503.60	67.0%	-10,387.42

Fund 141
System Development Traffic Lights Fund

For Purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Traffic Lights Fund - The purpose of this fee was to finance the installation of traffic signals and improvements needed to maintain traffic movement and safety on City streets. These fees provide the above described project funding to accommodate traffic generated by future development within the City.

(B) The Amount of the current System Development Fee:

This System Development Fee is no longer actively collecting revenue.

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

This Fund is now inactive and no revenues or expenditures are anticipated.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 141
System Development Traffic Lights Fund

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	0.00	0.00	0.00	0.00	0.00
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	0.00	0.00	0.00	0.00	0.00
Interest	0.00	0.00	0.00	0.00	0.00
Total Revenues	0.00	0.00	0.00	0.00	0.00
Expenditures					
Projects	0.00	0.00	0.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Administration	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.00	0.00	0.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	0.00	0.00	0.00	0.00	0.00

***Final AB 1600 Report for Fund 141. Fund is now closed.**

Fund 145
System Development Overpasses Fund

For Purposes of compliance with Government Code Section 66006 (b) (1), the following informatior regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Overpasses Fund - The purpose of this fee was to finance the construction and improvements needed to provide a second crossing over the railroad tracks at Kentucky Ave. These fees provide the above described project funding to accommodate the needs generated by future development within the City. Council has determined that a second crossing at Kentucky is no longer feasible, therefore the funds have been re-allocated to a second crossing at Santa Fe Street.

(B) The Amount of the current System Development Fee:

This System Development Fee is no longer actively collecting revenue

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

No Projects are anticipated at this time. Downtown Specific Plan which identifies the second railroad crossing at Santa Fe, has not yet been adopted.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 145
System Development Overpasses Fund

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	198,839.15	192,163.49	181,496.01	175,780.92	176,527.70
Adjust Beg. Balance Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	0.00	0.00	0.00	0.00	0.00
Interest	601.66	454.70	466.91	746.78	1,315.60
Total Revenues	601.66	454.70	466.91	746.78	1,315.60
Expenditures					
Projects	7,277.32	11,122.18	6,182.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Administration	0.00	0.00	0.00	0.00	0.00
Total Expenditures	7,277.32	11,122.18	6,182.00	0.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	192,163.49	181,496.01	175,780.92	176,527.70	177,843.30

	Activity Cost	% Funded with Fee	Fund 145 Total
FY 2012-13 Activity			
Downtown Specific Plan EIR	7,277.32	100.0%	7,277.32
FY 2013-14 Activity			
Downtown Specific Plan EIR	11,122.18	100.0%	11,122.18
FY 2014-15 Activity			
Downtown Specific Plan EIR	6,182.00	100.0%	6,182.00

Fund 146
System Development Railroad Crossing Fund

For Purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Railroad Crossing Fund - The purpose of this fee was to finance the improvements needed for the railroad crossing safety needs of the citizens. These fees provide the above described project funding to accommodate needs generated by future development within the City.

(B) The Amount of the current System Development Fee:

This System Development Fee is no longer actively collecting revenue.

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

Balances in the account are not sufficient to commence any projects.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 146
System Development Railroad Crossing Fund

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	398.89	398.89	398.89	398.89	398.89
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	0.00	0.00	0.00	0.00	0.00
Interest	0.00	0.00	0.00	0.00	0.00
Total Revenues	0.00	0.00	0.00	0.00	0.00
Expenditures					
Projects	0.00	0.00	0.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Administration	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.00	0.00	0.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	398.89	398.89	398.89	398.89	398.89

Total Activity Cost	% Funded with Fee	Fund 146 Total

Fund 205
System Development Streets/Public Works Transportation Improvements

For Purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Streets/Public Works Fund - The purpose of this fee is to finance the improvements needed for the traffic safety needs of the citizens. These fees provide the above described project funding to accommodate needs generated by future development within the City.

(B) The Amount of the current System Development Fee:

Land Use	Dev. Unit*	Fee Per Unit
Clustered Rural (RR)	DW	$3,551
Lower Density (LDR)	DW	$2,983
Medium Density (MDR)	DW	$2,628
Highter Density (HDR)	DW	$2,237
Mixed Use (MU)	DW	$3,551
Community Commercial (CC)	Sq. Ft	$5.57
Mixed Use Commercial (MU)	Sq. Ft	$5.79
Industrial/Business Park	Sq. Ft	$5.76
Office	Sq. Ft	$3.51

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

Project	Est. Date
Signal Light Roselle and Claribel	1/1/2018
RR Xing - 1st & Patterson Rd Traffic Signal	1/1/2018
Roselle & Morrill Intersection Improvements	1/1/2018

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

The Sewer Fund borrowed $608,542.57 from the Streets/PW System Development Fee Fund in accordance with Resolution 2011-021. The Sewer Fund will begin repayment in FY 2017-18 and will accrue interest at a rate of 2%.

An interfund transfer of $15,258.91 was made to the General Fund for Management Fee expenses.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 205
System Development Streets/Public Works

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	3,096,743.75	2,900,887.54	2,993,275.12	3,161,125.95	3,187,007.97
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	18,317.13	68,641.85	146,644.91	332,155.31	14,901.72
Interest	27,197.40	35,993.45	41,461.75	38,641.69	43,048.01
Miscellaneous	0.00	9,121.80	2,470.00	3,546.09	0.00
Total Revenues	45,514.53	113,757.10	190,576.66	374,343.09	57,949.73
Expenditures					
Projects	0.00	0.00	0.00	323,607.23	5,449.57
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Administration	39.47	33.90	0.00	22.60	0.00
Total Expenditures	39.47	33.90	0.00	323,629.83	5,449.57
Transfers In/(Out)	-241,331.27	-21,335.62	-22,725.83	-24,831.24	-15,258.91
Ending Fund Balance	2,900,887.54	2,993,275.12	3,161,125.95	3,187,007.97	3,224,249.22

FY 2010-11 Activity	**Total Activity Cost**	**% Funded with Fee**	**Fund 205 Total**
Oakdale Road Landscape Project	378,927.73	10.2%	38,529.73
FY 2011-12 Activity			
Jackson Ave. Intersection Improvement	4,298.40	100.0%	4,298.40
Claribel/Roselle Intersection (In Progress)			1,890.00
			6,188.40
FY 2015-16 Activity			
Oakdale & Morrill Traffic Signal	1,110,714.27	29.1%	323,607.23

Fund 206
System Development Water

For Purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Water Fund - The purpose of this fee is to finance the water improvements needed for the citizens. These fees provide the above described project funding to accommodate needs generated by future development within the City.

(B) The Amount of the current System Development Fee:

Land Use	Dev. Unit*	Fee Per Unit
Clustered Rural (RR)	DW	$13,486
Lower Density (LDR)	DW	$7,024
Medium Density (MDR)	DW	$6,743
Highter Density (HDR)	DW	$4,889
Mixed Use (MU)	DW	$4,889
Community Commercial (CC)	Sq. Ft	$2.07
Mixed Use Commercial (MU)	Sq. Ft	$2.08
Industrial/Business Park	Sq. Ft	$2.06
Office	Sq. Ft	$2.03

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

Project	Est. Date

No Projects currently projected

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 206
System Development Water

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	533,906.42	541,064.42	561,541.15	592,834.78	532,711.80
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	1,644.57	17,962.75	28,741.05	47,425.59	15,549.60
Interest	5,513.43	2,513.98	2,552.58	903.22	1,198.86
Total Revenues	7,158.00	20,476.73	31,293.63	48,328.81	16,748.46
Expenditures					
Projects	0.00	0.00	0.00	108,451.79	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Administration	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.00	0.00	108,451.79	0.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	541,064.42	561,541.15	592,834.78	532,711.80	549,460.26

FY 2010-11 Activity	Total Activity Cost	% Funded with Fee	Fund 206 Total
Fire Hydrant Installation	1,221.00	100.0%	1,221.00
FY 2011-12 Activity			
Central Ave. Water Line (Patterson to California Street)	244,912.40	100.0%	244,912.40
FY 2015-16 Activity			
Central Ave. Rehab Project (California to Kentucky)	409,227.86	26.5%	108,451.79

Fund 207
System Development Waste Water

For purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Waste Water Fund - The purpose of this fee is to finance the waste water improvements needed for the citizens. These fees provide the above described project funding to accommodate needs generated by future development within the City.

(B) The amount of the current System Development Fee:

Land Use	Dev. Unit*	Fee Per Unit
Clustered Rural (RR)	DW	$5,023
Lower Density (LDR)	DW	$3,063
Medium Density (MDR)	DW	$2,558
Highter Density (HDR)	DW	$3,141
Mixed Use (MU)	DW	$951
Community Commercial (CC)	Sq. Ft	$1.65
Mixed Use Commercial (MU)	Sq. Ft	$1.66
Industrial/Business Park	Sq. Ft	$1.40
Office	Sq. Ft	$1.29

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

There are currently no projects anticipated.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 207
System Development Waste Water

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	72,838.74	83,978.56	140,316.34	312,345.27	783,815.23
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	10,918.43	56,163.24	171,840.37	493,547.85	11,183.54
Interest	221.39	174.54	188.56	653.51	1,293.03
Total Revenues	11,139.82	56,337.78	172,028.93	494,201.36	12,476.57
Expenditures					
Projects	0.00	0.00	0.00	22,731.40	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Loan Payment	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.00	0.00	22,731.40	0.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	83,978.56	140,316.34	312,345.27	783,815.23	796,291.80

FY 2015-16 Activity	Total Activity Cost	% Funded with Fee	Fund 207 Total
California Sewer Line Extension	22,731.40	100.0%	22,731.40

Fund 208
System Development Storm Drainage

For purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Storm Drainage Fund - The purpose of this fee is to finance the storm drain improvements needed for the citizens. These fees provide the above described project funding to accommodate needs generated by future development within the City.

(B) The amount of the current System Development Fee:

Land Use	Dev. Unit*	Fee Per Unit
Clustered Rural (RR)	DW	$7,632
Lower Density (LDR)	DW	$6,922
Medium Density (MDR)	DW	$2,794
Highter Density (HDR)	DW	$3,154
Mixed Use (MU)	DW	$2,041
Community Commercial (CC)	Sq. Ft	$4.25
Mixed Use Commercial (MU)	Sq. Ft	$4.22
Industrial/Business Park	Sq. Ft	$4.16
Office	Sq. Ft	$4.08

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

Project	**Est. Date**
1st Street Basin Reconstruction	7/1/2017

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 208
System Development Storm Drainage

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	252,691.20	259,137.87	287,598.90	289,408.65	499,669.49
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	5,681.19	27,859.02	1,722.83	288,636.01	6,891.32
Interest	765.48	602.01	649.92	1,061.83	1,866.78
Total Revenues	6,446.67	28,461.03	2,372.75	289,697.84	8,758.10
Expenditures					
Projects	0.00	0.00	0.00	79,437.00	0.00
Miscellaneous	0.00	0.00	563.00	0.00	0.00
Total Expenditures	0.00	0.00	563.00	79,437.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	259,137.87	287,598.90	289,408.65	499,669.49	508,427.59

	Total Activity Cost	% Funded with Fee	Fund 208 Total
FY 2014-15 Activity			
Central Ave. Rehab Permit Fees	409,227.86	0.1%	563.00
FY 2015-16 Activity			
Central Ave. Rehab Project (California to Kentucky)	409,227.86	19.4%	79,437.00

Fund 209
System Development Parks & Recreation

For purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Parks & Recreation Fund - The purpose of this fee is to finance the park improvements needed for the citizens. These fees provide the above described project funding to accommodate needs generated by future development within the City.

(B) The amount of the current System Development Fee:

Land Use	Dev. Unit*	Fee Per Unit
Clustered Rural (RR)	DW	$3,442
Lower Density (LDR)	DW	$3,912
Medium Density (MDR)	DW	$3,353
Highter Density (HDR)	DW	$2,794
Mixed Use (MU)	DW	$2,439

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

The City paid $150,000 in reserves that were earmarked for the construction of the Riverbank Skate Park as part of the settlement agreement. This amount represents the final billing received. This matter is now closed.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 209
System Development Parks & Recreation

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	355,093.87	357,562.87	317,168.58	363,422.50	761,262.13
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	1,951.52	32,484.96	135,375.78	397,482.94	8,246.00
Interest	517.48	330.00	332.11	356.69	415.21
Grant	0.00	0.00	0.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Total Revenues	2,469.00	32,814.96	135,707.89	397,839.63	8,661.21
Expenditures					
Projects	0.00	73,209.25	89,453.97	0.00	150,000.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	73,209.25	89,453.97	0.00	150,000.00
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	357,562.87	317,168.58	363,422.50	761,262.13	619,923.34

	Total Activity Cost	% Funded with Fee	Fund 209 Total
FY 2013-14 Activity			
Silva Park Phase II	274,000.00	0.3%	764.60
Silva Park Phase II * Paid in FY 14-15	274,000.00	26.4%	72,444.65

* This amount reflects Silva Park Phase II expenses incurred in FY 13-14 but not paid until FY 14-15.

FY 2014-15 Activity			
Silva Park Phase II	274,000.00	0.3%	764.60
Silva Park Phase II * Paid in FY 14-15	274,000.00	26.4%	72,444.65
FY 2016-17 Activity			
Skate Park Project Legal Settlement	150,000.00	100.0%	150,000.00

Fund 210
System Development Police & General Government

For purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Police & General Government Fund - The purpose of this fee is to finance the public safety and general government improvements needed for the citizens. These fees provide the above described project funding to accommodate needs generated by future development within the City.

(B) The amount of the current System Development Fee:

Land Use	Dev. Unit*	Fee Per Unit
Clustered Rural (RR)	DW	$1,246
Lower Density (LDR)	DW	$1,416
Medium Density (MDR)	DW	$1,213
Highter Density (HDR)	DW	$1,011
Mixed Use (MU)	DW	$883
Community Commercial (CC)	Sq. Ft	$0.37
Mixed Use Commercial (MU)	Sq. Ft	$0.37
Industrial/Business Park	Sq. Ft	$0.27
Office	Sq. Ft	$0.51

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

Project	**Est. Date**
Parks Department Vehicle	1/1/2018

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 210
System Development Police & General Government

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	198,051.00	143,892.40	156,790.96	261,331.53	494,601.64
Adjust Beg. Balance Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	4,598.62	41,972.90	129,670.06	233,881.06	5,183.20
Interest	717.05	98.70	88.09	65.22	24.98
Miscellaneous	0.00	0.00	0.00	102.43	0.00
Total Revenues	5,315.67	42,071.60	129,758.15	234,048.71	5,208.18
Expenditures					
Projects	0.00	0.00	0.00	778.60	28,889.78
Miscellaneous	59,474.27	29,173.04	25,217.58	0.00	0.00
Total Expenditures	59,474.27	29,173.04	25,217.58	778.60	28,889.78
Transfers In/(Out)	0.00	0.00	0.00	0.00	0.00
Ending Fund Balance	143,892.40	156,790.96	261,331.53	494,601.64	470,920.04

	Total Activity Cost	% Funded with Fee	Fund 209 Total
FY 2012-13 Activity			
General Plan Update	55,679.75	100.0%	55,679.75
General Plan Update - Paid in FY 13-14*	3,794.52	100.0%	3,794.52

* This amount reflects General Plan Update expenses incurred in FY 12-13 but not paid until FY 13-14.

FY 2013-14 Activity			
3231 Santa Fe Demolition - Riverbank Museum Annex	8,775.00	100.0%	8,775.00
General Plan Update	18,641.30	100.0%	18,641.30
General Plan Update - Paid in FY 14-15*	1,756.74	100.0%	1,756.74

* This amount reflects General Plan Update expenses incurred in FY 13-14 but not paid until FY 14-15.

FY 2014-15 Activity			
3231 Santa Fe Demolition - Riverbank Museum Annex	17,330.10	100.0%	17,330.10
General Plan Update	1,887.48	100.0%	1,887.48
Riverbank Museum Annex Conceptual Design	6,000.00	100.0%	6,000.00
FY 2015-16 Activity			
Riverbank Museum Annex Land Improvements	534.60	100.0%	534.60
Riverbank Museum Annex Conceptual Design	244.00	100.0%	244.00
FY 2016-17 Activity			
City Hall Vehicle	28,889.78	100.0%	28,889.78

Fund 214
System Development Crossroads Streets/Public Works

For purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Crossroads Streets/Public Works Fund - The purpose of this fee was to finance the Streets and Public Works improvements needed for the Crossroads Subdivision. These fees provide the above described project funding to accommodate needs generated by the future development within this area.

(B) The amount of the current System Development Fee:

	Dev. Unit*	Fee Per Unit
Residential - Single Family	DW	$1,899
Residential - Multi Family	DW	$1,899

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

There are currently no projects anticipated.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 214
System Development Crossroads Streets/Public Works

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	102.43	3,546.09	3,546.09	3,546.09	0.00
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	3,443.66	0.00	0.00	0.00	0.00
Interest	0.00	0.00	0.00	0.00	0.00
Total Revenues	3,443.66	0.00	0.00	0.00	0.00
Expenditures					
Projects	0.00	0.00	0.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.00	0.00	0.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	-3,546.09	0.00
Ending Fund Balance	3,546.09	3,546.09	3,546.09	0.00	0.00

FY 2010-11 Activity

Transfer out to System Dev. Fund 92,378.90

FY 2015-16 Activity

Transfer out to System Dev. Fund 3,546.09

Fund 217
System Development Crossroads Storm Drain

For purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Crossroads Storm Drainage Fund - The purpose of this fee was to finance the Storm Drain infrastructure improvements needed for the Crossroads Subdivision. These fees provide the above described project funding to accommodate needs generated by the future development within this area.

(B) The amount of the current System Development Fee:

	Dev. Unit*	Fee Per Unit
Residential - Single Family	DW	$2,970
Residential - Multi Family	DW	$2,121

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

There are currently no projects anticipated.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 217
System Development Crossroads Storm Drainage

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	102.43	102.43	102.43	102.43	0.00
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	0.00	0.00	0.00	0.00	0.00
Interest	0.00	0.00	0.00	0.00	0.00
Total Revenues	0.00	0.00	0.00	0.00	0.00
Expenditures					
Projects	0.00	0.00	0.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.00	0.00	0.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	-102.43	0.00
Ending Fund Balance	102.43	102.43	102.43	0.00	0.00

FY 2015-16 Activity

Transfer out to System Dev. Fund	102.43

Fund 219
System Development Crossroads Police & General Government

For purposes of compliance with Government Code Section 66006 (b) (1), the following information regarding AB 1600 fees is presented:

(A) A brief description of the type of fee in the account or fund:

System Development Crossroads Police & General Government Fund - The purpose of this fee was to finance the public safety & general government improvements needed for the Crossroads Subdivision. These fees provide the above described project funding to accommodate needs generated by the future development within this area.

(B) The amount of the current System Development Fee:

	Dev. Unit*	Fee Per Unit
Residential - Single Family	DW	$2,232
Residential - Multi Family	DW	$2,297

* DW = Dwelling Unit; Sq. Ft. = Square Foot

(C) The Beginning & Ending Balance of the account or Fund.

See Attached Financial Report

(D) The amount of the fees collected and interest earned.

See Attached Financial Report

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

See Attached Financial Report

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete the financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

There are currently no projects anticipated.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on whch the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No interfund transfers or loans were made during the 2016-17 fiscal year.

(H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fund 219
System Development Crossroads Police & General Government

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Beginning Fund Balance	102.43	102.43	102.43	102.43	0.00
Adjust Beg. Balance					
Per Auditors	0.00	0.00	0.00	0.00	0.00
Revenues					
Developer Fees	0.00	0.00	0.00	0.00	0.00
Interest	0.00	0.00	0.00	0.00	0.00
Total Revenues	0.00	0.00	0.00	0.00	0.00
Expenditures					
Projects	0.00	0.00	0.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.00	0.00	0.00	0.00
Transfers In/(Out)	0.00	0.00	0.00	-102.43	0.00
Ending Fund Balance	102.43	102.43	102.43	0.00	0.00

FY 2015-16 Activity

Transfer out to System Dev. Fund	102.43

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	January 23, 2018
Subject:	A **Resolution** Imposing a Moratorium of Six (6) Months on the Processing and Issuance of additional Permits for a Cannabis Dispensary within the City of Riverbank
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council approve the Resolution imposing a moratorium of six (6) months on the processing and issuance of additional permits for a cannabis dispensary within the City of Riverbank.

SUMMARY

The City of Riverbank has had two (2) cannabis dispensary applications considered through the public hearing process in the last two (2) months. One application (Flavors) has had its development agreement adopted by the City Council (first and second readings). The second application (Riverbank Cannabis Collective) has received approval for the first reading of its development agreement with the second reading scheduled for consideration at the January 23rd City Council meeting. Planning has two (2) more formal applications in process and has reviewed several business plans for additional dispensaries. At the last regularly scheduled Council meeting, Council briefly brought up the idea of considering a temporary moratorium on consideration of dispensary applications in order to evaluate the actual experience, when open, of the first two dispensaries. Based on this feedback staff has developed a Resolution to consider placing a six (6) month moratorium on new dispensaries. This will provide time for the first and (potentially) second dispensary to open and establish their daily routines and for staff to assess their impacts on the surrounding communities. Council may consider extending or lifting the moratorium after the 6 month period.

BACKGROUND

Starting in 1996, citizens of the State of California approved Proposition 215, the Compassionate Use Act ("CUA"). The CUA was approved to allow Californians with a serious illness to legally possess, use, and cultivate cannabis for medical use under state law.

In addition, in 2003, the legislature of California adopted Senate Bill 420 which entitled the Medical Cannabis program. This program authorized qualified patients and their primary caregivers to cultivate and use cannabis for medical purposes without being subject to criminal prosecution under the state penal code.

On October 9, 2015 Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). This Act established a statewide regulatory and licensing structure for the cultivation, processing, transporting, testing, and distribution of medical cannabis to qualified patients and their primary caregivers.

On November 8, 2016, the citizens of California approved Proposition 64 (Adult Use of Cannabis). In accordance with Proposition 64 recreational use of cannabis is now legal throughout the state, but reserved the right to police commercial cannabis activity to each local jurisdiction.

Lastly, on August 8, 2017 and August 22, 2017, the Riverbank City Council adopted Ordinance No. 2017-007, which provides a regulatory structure for commercial cannabis activities in the City of Riverbank. Staff drafted applications and began meeting with dispensary applicants. One application (Flavors) has now had its development agreement adopted by the City Council (first and second readings). The second application (Riverbank Cannabis Collective) has received approval for the first reading of its development agreement with the second reading scheduled for consideration at the January 23rd City Council meeting.

In addition to those applications which have completed or are currently in the public hearing phase, two additional applications have been received as well as a variety of other general dispensary inquiries and interest. There have been no applications submitted for commercial cultivation, testing labs, or distribution activities at this time. Staff has communicated the possibility of a dispensary moratorium to those applicants who have not yet made it to the public hearing phase.

STRATEGIC PLAN

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three (3) years. The completion of development agreements for cannabis activities such as dispensaries is a specific objective. It is consistent with the established General Plan goal to Achieve and Maintain Financial Stability and Sustainability as part of the City's Vision "To be recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment." A six (6) month moratorium on new dispensaries gives the City Council the opportunity to review and assess the two (2) approved cannabis dispensaries to ensure the public peace, health, safety, and welfare of its citizens.

FINANCIAL IMPACT

With a moratorium in place, the City will not be accepting new or processing those applications who are currently waiting to be heard by the Planning Commission. Therefore, the City will not be receiving any new deposits or fees during the six (6) month moratorium time period. Staff will be processing a deposit refund for one (1) dispensary applicant who is withdrawing his application, but the other applicant wishes to be placed on hold, hoping the moratorium will be lifted in six (6) months' time. Additional parties who express interest in applying will be advised of the moratorium.

ATTACHMENT

1. City Council Resolution No. 2018-XXX

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, IMPOSING A MORATORIUM OF SIX (6) MONTHS ON THE PROCESSING AND ISSUANCE OF ADDITIONAL PERMITS FOR A CANNABIS DISPENSARY WITHIN THE CITY OF RIVERBANK

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, the Council has adopted a Development Agreement for "Flavors" dispensary and has had a first reading for the Development Agreement of the "Riverbank Cannabis Collective" and are desirous to evaluate the operation of these dispensaries once open and active before making a decision to process additional applications; and

WHEREAS, the City Council of the Riverbank, based on its independent review and analysis of staff's recommendations, 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 additional time is needed to study whether to limit the number of, or entirely prohibit additional medicinal and/or adult use cannabis dispensaries within the City of Riverbank; and

WHEREAS, a moratorium of six (6) months on the granting of permits for cannabis dispensaries will allow Council time to accomplish the City's goals and help ensure the public peace, health, safety, and welfare of its citizens.

WHEREAS, "permits" shall be clearly defined as the conditional use permits and development agreements required in order to obtain approval for a dispensary use in Riverbank.

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

<u>SECTION I.</u> Council imposes a moratorium of six (6) months on the issuance and processing of permits for medicinal and/or adult use cannabis dispensaries. The moratorium shall apply to those applications or future applications who have not yet been considered at Planning Commission and City Council. The purpose of this moratorium is so that City staff and Council may analyze the operation of the approved dispensaries, study any potential issues and then determine whether to limit or entirely prohibit additional cannabis dispensaries.

<u>SECTION II.</u> Council seeks to limit the duration of the moratorium and to instruct the City Manager and City staff to undertake a review of the issues; City staff will then recommend the removal or the extension of the moratorium.

<u>SECTION III.</u> Council hereby directs and orders that no permits for cannabis dispensaries shall be issued or processed by the City of Riverbank during the six (6) month moratorium.

<u>SECTION IV.</u> This Resolution shall take effect and be in full force from and after the date of its passage.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of January, 2018; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:	**APPROVED:**
____________________________	____________________________
Annabelle H. Aguilar, CMC **City Clerk**	**Richard D. O'Brien** **Mayor**

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	January 23, 2018
Subject:	Facility Use Fee Review for Non-Profit Groups
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council review the cost analysis information on facility rentals and, if necessary, give staff direction on future facility rental fees for non-profit groups.

SUMMARY

At the November 28th, 2017 City Council meeting, a facility rental waiver request was considered for the Riverbank Kiwanis Super Bowl Sunday Pancake Breakfast. Since that date the Kiwanis Club have decided not to hold the fundraiser.

Due to the non-profit groups that were "Grandfathered in" paying the custodial fee only and others being asked to pay the established fees for non-profit groups, it was decided by the City council to have all non-profit fees be reviewed at this City Council meeting so the fees set are fair to all.

The City Council directed staff to present a cost analysis for the rental of the Community Center and Scout Hall buildings.

BACKGROUND

In May 2014 it was brought to the City Council's attention that it was necessary to increase the fees for facility rentals as there was a deficit in the enterprise fund which was caused by increasing operational costs. Facility rental fees are placed into a special fund which is designed to be self-sustainable by the rental fees with an approved subsidy from the General Fund.

At that time, the fees proposed for non-profit organizations were reviewed by the City Council. A list of non-profit groups, for whom fee waivers were previously approved, were determined to be "Grandfathered in" as it was determined that the service or event they provides a great public benefit to the Riverbank community. These groups were approved to pay only the custodial cost for events held at the Community Center Building and Scout hall as well as continuing with no fee for their monthly meetings. These groups are shown is Exhibit C and D. All other service groups from that point on were to pay the $500 non-profit fee for the use of the Community center, and $25- $50 meeting fee. Many non-profit groups are paying this fee as shown in Exhibit E.

Due to the deficit in the enterprise fund, it was recommended that $5,000 be transferred from the General Fund to subsidize the fees waived. It was suggested that future fee waivers be brought to the City Council for review and if approved additional funds be transferred from the General Fund to cover the costs of City services and building maintenance. This subsidy has increased to $15,000 over the years to compensate for rental fees not covering the operation and maintenance.

Over the past few years fees have been raised for the resident, non-resident and service groups that do pay the full fees that were established. This was to keep up with the raising costs and to establish the set aside fund for renovation/replacement as part of our strategic plan. The groups that pay only custodial have remained at that level since the 2014 meeting.

COST ANALYSIS

The Parks and Recreation Director performed a basic cost analysis for the community center building and the scout hall building taking into consideration direct and indirect costs. The results were as follows:

Community Center:

Direct Costs= $550
These are costs such as the site monitor, custodial supplies per event and part time custodian per event.

Indirect Costs= $1,105
These are costs such as the time spent by the administrative clerk, Recreation Supervisor or Director, Finance Clerk, a portion of HVAC, utilities, set aside for building repairs and depreciation.

Total rental fee: $1,655

Scout Hall:

Direct Costs= $310
Indirect Costs= $445

Total rental fee: $755.00

Current Fees for the Community Center rentals are as follows:

Cost to commercial or non-residents:	$1,600
Riverbank Residents:	$1,300 (20% discount)
Cost to Non-Profit (Grandfathered):	$ 100 (95% discount)
Cost to Non-Profit Groups:	$ 500 (70% discount)

Current Fees for the Scout Hall rentals are as follows:

Cost to commercial or non-resident:	$ 400.00
Riverbank Resident:	$ 350.00
Cost to Non-Profit (Grandfathered):	$ 50.00
Cost to Non-Profit:	$100.00

For informational purposes, a comparison of how other Cities are handling the non-profit fees for use of City facilities was complete. This comparison is attached as Exhibit F. As shown it the exhibit, our fees are lower and where they should be overall. Most Cities require the full fee for non-profit groups using facilities on Fridays, Saturdays and Sundays as this gives the opportunity to acquire the funds (full fees) needed for operation and maintenance of the buildings.

A suggestion may be for the City of Riverbank to establish a limit or cap on the subsidy level provided by the General Fund. Once the cap is reached no further waivers will be considered.

FINANCIAL IMPACT:

The financial impact depends on the City Council decision on fee waivers.

At this time with the senior food program being held in the community center 20 hours per week and a variety of other social services and club activities held in our facilities, it is important to decide on a subsidy limit that the General Fund can afford. Full rentals of the building are compensating and supporting the community service programs but too many fee waivers will result in a larger impact to the General Fund.

The current subsidy to the enterprise fund is $15,000 from the General Fund. This is estimated to be too low and should be closer to $25,000.

ATTACHMENTS:

Exhibit C: Non-Profit Groups “Grandfathered In”- Community Center
Exhibit D: Non-Profit Groups “Grandfathered In”- Scout Hall
Exhibit E: Non-Profit Groups paying the established rate
Exhibit F: 2017 Fee Comparison for Non-Profit Facility Use Fees

Exhibit C

Non - Profit Groups - List of "Grandfathered" non - profit events

Community Center			Fee
Moy Coy		Custodial	$100
Dinner	Set-Up	Optional	$100
Historical Society			$100
Pancake Breakfast Fundraiser		Custodial	
Riverbank Federated Women's Club			FREE
Meeting		1per yr	
Riverbank Federated Women's Club			$100
Christmas Lunchen Fundraiser		Custodial	
Veterans			
Lunchen - Fundraiser		Custodial	$100
Veterans			
Tea Party - Fundraiser		Custodial	$100
Golden Agers Dance Group			
Senior Club	Every Wed		$50
Riverbank Christian Food Share			
Spaghetti - Fundraiser		Custodial	$100
River Valley Stichers			
Meeting	First Thursday of the month		FREE

Community Services (Fees Waived)		Fee	
Community Center			
Howard Training Food Program	M,T,TH	FREE	20 hrs wk.
Central Valley Community Resources	Friday	FREE	4 hrs wk.
USDA - Salvation Army - 1st Friday of the Month		FREE	4 hrs wk.
Sheriff Dep- Shop w/cop		FREE	6 hrs yr.
Riverbank Cares & Local Food Pantries		FREE	6 hrs yr.

Exhibit D

SCOUT HALL

Non - Profit groups (grandfather in)		
		Fee
Wood Workers Association	1 x month	Free
	meeting	
Valley Arts Association	1 x month	Free
	meeting	
YAHI	1 x month	Free
	meeting	
RFWC	1 x month	Free
	meeting	

Non - Profit Service Group (grandfathered in)				
Riverbank Christian Food Share	1 x year	Custodial	Fee	
Tamale Fundraiser				$50
Riverbank Federated Women's Club	1 x year	Custodial		
Enchilada Fundraiser				$50

Non - Profit group paying current fee		
Riverbank Cub Scouts pack 10	4 x month	Meeting $25 per day

Community services (fee waived)			
Riverbank Christian Food Share	2 x week	Food pantry	Free

Exhibit E - non profit groups paying current service group fee (70% Discount)

Community Center		
	Fee paid	**Hours Hall Used**
RHS Athletic Boosters	Rental - $500	15 hours
Crab feed Fundraiser	Site Monitor - $128	
	Security - $184	Total: $812
RHS Athletic Boosters	Rental - $500	4 hours
Paint Day Fundraiser	Site Monitor - $128	Total: $628
Central Valley Community Resources	Rental - $500	8 hours
Dinner Dance Fundraiser	Site Monitor - $288	Total: $788
Stanislaus Senior Softball Association	Rental - $500	8 hours
Dinner	Site Monitor - $128	Total: $628
Jehovah's Witness Kingdom Hall	Rental - $500	4.5 hours
Church Meeting	Site Monitor -$72	Total: $572
P.R.O.U.D.	Rental - $500	14 hours
Scholarship Fundraiser	site monitor- $208	Total: $708
Riverbank A.A.	Rental - $500	12 hours
Dinner	Site monitor - $112	Total: $612
Rams youth football	Rental - $500	9 hours
Dinner Fundraiser	Site monitor- $192	Total: $692
Rotary	Rental: $400	5.5 hours
Training		Total:$400
AYSO - Riverbank soccer league	Rental - $500	12 hours
Awards night	Site monitor - $64	Total: $564
Golden Agers	Rental - $400	10 hours
Dinner Dance Fundraiser	Site monitor - $52	Total: $452

EXHIBIT F

2017 FEE COMPARISON FOR NON-PROFIT FACILITY USE

CITY	DAYS OF THE WEEK	RENTAL FEE (Time)	JANITORIAL
ESCALON (Community Center)	Monday - Thursday	$125.00 (7 am to 12.00 am)	$500.00
	Friday – Sunday	$250.00 (same)	$500.00
CERES	Monday – Thursday	150+ $57.00 per hour	Included
		300+ $94.00 per hour	Included
		48 people $25.00 per hour	Included
		Under 20 $16.00 per hour	Included
	**Friday-Sunday	Non-profit pay full cost price	Ceres will charge $100.00 per hour if they go past their time
OAKDALE (Community Center)	Monday – Thursday (1000 people)	Main Hall/Kitchen 2 hrs. $25.00 per 4 hrs. $75.00	$400.00
	(500 people)	½ hall/kitchen 2 hrs. $20.00 per hour 4 hours $60.00 per hour	$400.00
	(500 people)	½ main hall 2 hrs. $15.00 per hour 4 hrs. $45.00 per hour	$400.00
	(250 people)	¼ main hall 2 hrs. $10.00 per hour 4 hrs. $30.00 per hour	$400.00
	Small conference – 10	$10.00 per hour	N/A
	Large conference – 20	$20.00 per hour	N/A
	Plaza	$25.00 $100.00 all day	
	Friday –Sunday	8:00 am to 1:00 am	
	(1000 people)	Main hall/kitchen Fri. $600.00 Sat. $800.00 Sun. $600.00 Friday hourly $75.00 per	$400.00
	Small Conference (10)	$10.00 per hour Friday (4 hrs. min.) $10.00 per hour Sunday (4 hrs.)	
	Large Conference (20)	$10.00 per hour Friday (4 hrs. min)	
	Plaza	Full Day 8:00 am to 1:00 am Fri./Sat./Sun. $100.00	
	3 day package Friday/Saturday/Sunday	$1,500.00	
	Security	$30.00 per hour	
MODESTO	DOES NOT ALLOW FRIDAY,SATURDAY,SUNDAY RENTALS	Full price only!	
	Legion Hall	No Rentals available	
	Boy Scout Clubhouse Monday – Thursday	$89.00 – 4 hours $143.00 – 9 hours $197.00 All day (8 am to 10 pm)	
	Senior Center Monday – Thursday	$242.50 4 hrs./$16.00 each additional hour	

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.3

SECTION 6: NEW BUSINESS

Meeting Date:	January 23, 2018
Subject:	A **Resolution** Approving the Application for the Land and Water Conservation Fund for the Jacob Myers Park Trail Improvement Project
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council Approve the Application for the Land and Water Conservation Fund for the Jacob Myers Park Trail Improvement Project.

SUMMARY

The Parks and Recreation Department is seeking approval for the submission of a grant application for the Land and Water Conservation Fund (LWCF). This grant would be for funding trail and access road improvements at Jacob Myers Park. The grant request is for $65,000 with a total project cost of $130,000. The matching funds would be covered through Measure L funds.

BACKGROUND

The National Park Service administers the LWCF program at the federal level. Funds allocated to California are administered through the State Department of Parks and Recreation under the provisions of the California Outdoor Resources Plan Act of 1967. The funding sources for the LWCF are from Outer continental Shelf Mineral receipts, sales of federal surplus real property, federal recreation fees, and federal motorboat fuel taxes.

LWCF funds are intended to increase outdoor recreational opportunities for the health and wellness of Californians.

The City has received three grants from the LWCF in the past with the latest being in 2003 and 2004 for the picnic areas at Jacob Myers Park and the camping and trail development.

The trail at Jacob Myers Park is very popular with walkers, joggers and bicycles. Since the front 8 acres of the park usually fills to capacity, we need to provide safe access to the back parking area for increased parking and future park amenities. There is a need to separate the vehicle access to the existing trail from the pedestrian access. This project would accomplish this by redesigning the trail entrance and the access road. Trail extension and parking improvements would be included in this project.

STRATEGIC PLAN

This project is relevant to the Strategic Plan by the Enhancement of Public Safety and by Achieving and Maintaining Financial Sustainability through grants.

FINANCIAL IMPACT

There would be no financial impact to the City other than staff time working on the project. If the grant application is successful the 50% matching funds would be covered through the Measure L Funds.

ATTACHMENT

1. Resolution

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING THE APPLICATION FOR LAND AND WATER CONSERVATION FUND JACOB MYERS PARK TRAIL PROJECT

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a federal Land and Water Conservation Fund Grant-In-Aid program, providing Matching funds to the State of California and its political subdivisions for acquiring lands and developing Facilities for public outdoor recreation purposes; and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing Applications by local agencies under the program; and

WHEREAS, the Applicant certifies by resolution the approval of the Application and the availability of eligible Matching funds prior to submission of the Application to the State; and

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

1. Approves the filing of an application for Land and Water Conservation Fund assistance for the proposed Jacob Myers Park Trail Project;
2. Agrees to abide by Section 6(f)(3) of Public Law 88-578 which states “No property acquired or developed with assistance under this section shall, without the approval of the National Secretary of the Interior, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.”;
3. Certifies that the City of Riverbank has Matching funds from eligible source(s) and can finance 100 percent of the Project, which up to half may be reimbursed; and

4. Appoints the City Manager as agent of the Applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, Applications, Contracts, amendments, payment requests, and compliance with all applicable current state and federal laws which may be necessary for the completion of the aforementioned Project.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of January, 2017; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:

____

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

____

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.4

SECTION 6: NEW BUSINESS

Meeting Date:	January 23, 2018
Subject:	A **Resolution** Approving the Employment Agreement between the City of Riverbank and Sue Fitzpatrick as Parks and Recreation Director
From:	Sean Scully, City Manager
Submitted by:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that the Riverbank City Council ("City Council") approve the resolution approving and authorizing execution of an Employment Agreement ("Agreement") between the City of Riverbank ("City") and Sue Fitzpatrick, Director of Parks and Recreation.

SUMMARY

In June of 2015 the City Council approved an adjustment of salary range for the position of Parks and Recreation Director. The change was related to the pay for Parks and Recreation Director (at that time) being significantly lower than the other similar Executive Management positions at the City. The approval also updated provisions of severance and executive leave to be consistent with other Executive positions at the City. The approval also directed the revision/update of an Employment Agreement with Sue Fitzpatrick to be consistent with these updated terms. For a variety of reasons the employment agreement was not updated in a timely manner. More recently administration has attempted to make a priority of updating this agreement so that the terms which have been are reflected in an updated agreement.

City Council has given direction to the City Attorney, who has drafted the updated employment agreement, which includes the previously approved changes in addition to two other components, which were not discussed back in 2015, but have historically been the practice at the City, and are common terms in many employment agreements.

The first is a provision that provides Ms. Fitzpatrick the same healthcare benefits as are provided to LiUNA (Laborers International Union of North America). This provision essentially mirrors the health care arrangement between the City and members of LiUNA clearly moving forward. So any changes to health care that is negotiated with LiUNA would also apply to the Parks and Recreation Director (Section 5.4).

Similarly, the second updated provision would allow for any cost of living increases ("COLA") provided to the City's LiUNA group to also be applied to the Parks and Recreation Director (Section 5.1).

The approval of this agreement will complete the process that was initiated in 2015 providing clarity for both the employee and the City. The term is proposed for three (3) years from the effective date of the agreement.

STRATEGIC PLAN

This item is directly related to the strategic goals of attract, develop and retain quality staff.

FINANCIAL IMPACT

As was previously mentioned in this report, the core financial provisions that were adjusted in 2015 by Council approval are already in place. This agreement does not conceive additional base pay considerations (COLA's) beyond those that have been approved at this time. However, there is a potential for increased fiscal impact depending on the future negotiations with the City's labor group.

ATTACHMENT

1. Resolution and Draft Employment Agreement
2. Staff Report of salary adjustment from 2015

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK APPROVING AN EMPLOYMENT AGREEMENT BETWEEN THE CITY AND SUE FITZPATRICK AS PARKS AND RECREATION DIRECTOR

WHEREAS, in June of 2015 City of Riverbank City Council approved various adjustments to pay and benefits for the Parks and Recreation Director position; and

WHEREAS, in order to ensure that terms and conditions of employment are clear an update of an existing employment agreement is necessary; and

WHEREAS, the City Council has directed the City Attorney to negotiate and complete an updated employment agreement with Sue Fitzpatrick for her ongoing service as the Parks and Recreation Director; and

WHEREAS, the City and Sue Fitzpatrick now wish to enter into an Employment Agreement (the "Agreement"), which is attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Riverbank hereby approves the Agreement between Sue Fitzpatrick and the City for employment of Parks and Recreation Director, and authorizes the City Manager to execute the Agreement on behalf of the City.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of January, 2018; motioned by Councilmember ______, seconded by Councilmember ______, and upon roll call was carried by the following City Council vote of ___:

AYES:
NAYS:
ABSENT:
ABSTAIN:

ATTEST:

____
Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

____
Richard D. O'Brien
Mayor

Attachment: Exhibit A – Parks and Recreation Director Employment Agreement

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into this _____ day of January 2018, by and between the City of Riverbank, a municipal corporation ("City"), and Sue Fitzpatrick, an individual ("Employee"). The City and Employee may individually be referred to herein as "Party" or collectively as "Parties". There are no other parties to this Agreement.

RECITALS

A. Employee began employment with the City on October 18, 1999 ("Anniversary Date").

B. Employee is presently employed with the City and serves as the Director of Parks and Recreation. The Director of Parks and Recreation is the head of the Parks and Recreation Department and provides departmental and complex administrative support to the Riverbank City Manager ("City Manager").

C. The City Manager is authorized to appoint City staff pursuant to the City Code of Riverbank ("City Code") section 31.03(H)(12).

D. The Parties wish to enter into a new employment agreement as Employee wishes to continue her employment with the City, and the City wishes to continue Employee's employment with the City as Director of Parks and Recreation.

E. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as Director of Parks and Recreation and replace any previous employment relationships and benefits previously conferred on the Director of Parks and Recreation.

F. The Parties desire to execute this Agreement pursuant to the authority of and subject to the provisions of California Government Code ("Government Code") section 53260 *et seq*.

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

AGREEMENT

Section 1. Recitals. The recitals set forth above ("Recitals") are incorporated herein by this reference and made a part of this Agreement. In the event of any inconsistencies between the Recitals and Sections 1 through 10 of this Agreement, Sections 1 through 10 will prevail.

Section 2. Effective Date. This Agreement shall become effective once executed by both the City and Employee ("Effective Date").

Section 3. Appointment of Director of Parks and Recreation, Duties, and Term.

Section 3.1. Appointment of Director of Parks and Recreation and Duties. Employee shall serve as the Director of Parks and Recreation of the City, and shall be vested with the powers, duties, and responsibilities set forth in City Code, California law, ordinances, and resolutions, and such other duties and functions as the City Manager may from time-to-time assign.

Section 3.2. No Secondary Employment. Employee agrees to devote all of her productive time, ability, and attention to the City's business. During the Term, as defined in Section 3.5 of this Agreement, Employee shall not hold secondary employment and shall be employed exclusively by the City, subject to any exceptions approved in writing by the City Manager or the City Council; provided, however, Employee has the right to volunteer for such nonprofit organizations as she may see fit and further provided that such volunteer services shall not interfere with her duties as Director of Parks and Recreation.

Section 3.3. Exempt Employee. The general business hours for City employees are Monday through Friday, 7:30 a.m. to 5:30 p.m. However, it is recognized by the Parties that Employee is an exempt employee for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 *et seq*.). Employee shall not receive overtime or extra compensation for hours worked outside of the City's general business hours, which are necessary to fulfill the duties of the Director of Parks and Recreation position, unless otherwise provided in this Agreement.

Section 3.4. Schedule. The Director of Parks and Recreation's daily and weekly work schedule shall vary in accordance with the work required to be performed. The Director of Parks and Recreation position may include frequent attendance at evening meetings and frequent irregular hours as necessary to meet deadlines and achieve objectives. The City Council and the City Manager recognize that the Director of Parks and Recreation must devote a great deal of her time outside normal office hours to business of the City and, to that end, will be allowed to take Executive Leave, as defined in Section 5.11 of this Agreement, as she shall deem appropriate during said normal office hours.

Section 3.5. Term. The term of this Agreement shall be for three (3) years from the Effective Date ("Term"). No later than three (3) months prior to the expiration of the Term, the City Manager shall provide written notice to Employee as to whether the City Manager intends to extend the Term. Termination of this Agreement shall be in accordance with Section 6 below.

Section 4. At-Will Employment. Employee is an at-will employee serving at the pleasure of the City Council and City Manager, as provided in Government Code section 36506 and City Code section 31.01. Accordingly, the City Manager may terminate Employee's employment at any time, with or without cause. Only if Employee is terminated by the City without Good Cause, as defined in Section 6.3 of this Agreement, shall Employee be entitled to a Severance, as defined in Section 6.3 of this Agreement.

Section 5. Compensation and Evaluations.

Section 5.1. Base Salary. City agrees to pay Employee an annual salary of One Hundred Eighteen Thousand Eight Hundred Fifty Three Dollars and Sixty Four Cents (118,853.64) ("Base Salary"), payable in installments at the same time the other City employees are paid. Employee shall get any cost of living increases provided to the City's Laborers' International Union of North American ("LiUNA"), as described in section 5.01 of LiUNA's Memorandum of Understanding, during the Term of this Agreement.

Section 5.2. Pro-rata Decrease. Employee acknowledges that the Base Salary may be subject to a pro-rata decrease based on the City Council's adoption of an unpaid Mandatory Furlough Program adopted as a budgetary measure.

Section 5.3. Review and Evaluation. The City Manager agrees to review and evaluate Employee's performance of her duties as Director of Parks and Recreation, pursuant to the terms of this Agreement ("Review and Evaluation"), on not less than an annual basis and to provide Employee with a written performance review. The annual Review and Evaluation shall be conducted in November of each year, or at the City Manager's discretion. If Employee does not receive a performance evaluation of at least "Satisfactory", Employee may appeal to the City Council for a new performance evaluation.

Section 5.4. Healthcare Benefits. Employee shall receive the same healthcare benefits as provided to LiUNA, in section ___ of their Memorandum of Understanding, during the Term of this Agreement.

Section 5.5. Life Insurance. City will provide Employee with life insurance in the amount of Fifty Thousand Dollars ($50,000).

Section 5.6. Deferred Compensation. City shall establish and maintain a deferred compensation plan and pay the sum of Twenty-Five Dollars ($25.00) each pay period on behalf of Employee into said deferred compensation plan. City will also match Employee's contribution to the deferred compensation plan in an amount not to exceed Twenty-Five Dollars ($25.00) each pay period. City will also contribute One Hundred Ten Dollars and Sixteen Cents ($110.16) each month to the Union Pension Retirement Fund. Employee shall receive any adjustment to this program granted to all other City Department Heads.

Section 5.7. Retirement. City shall pay the employer cost of participation in the California Public Employees Retirement System ("CalPERS"). Employee will be enrolled in the CalPERS 2% @ 55 Classic plan. Employee shall pay the seven percent (7%) employee contribution.

Section 5.8. Vacation. Employee shall be entitled to five (5) weeks of vacation annually. Employee may not accumulate more than four hundred hours (400) of vacation leave.

Section 5.9. Sick Leave. Employee shall earn sick leave at the rate of one (1) working day for each month of service.

Section 5.10. Holidays. Employee shall be entitled to observe, with pay, the twelve (12) observed holidays as outlined in the City's Personnel Rules.

Section 5.11. Executive Leave. It is recognized that Employee must devote a great deal of time outside the normal office hours to City business. To that end, Employee shall receive ninety-six (96) hours of executive leave ("Executive Leave") at the beginning of each fiscal year, sixteen (16) of which may be cashed out if not used. Any unused Executive Leave expires on the June 30 of each fiscal year.

Section 5.12. City Vehicle. Employee may have the use of a City vehicle for travel on all City-related business.

Section 5.13. Professional and Educational Development. City agrees to budget for reasonable costs of travel and business expenses for Employee to attend professional and official travel, meetings, and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for the City, including, but not limited to, annual conferences of the League of California Cities, and such other regional and local government groups and committees thereof on which Employee serves as a member, provided such travel and business expenses are included within the annual budget. City agrees to pay Employee's annual membership dues to professional organizations that benefit the Employee and the City as designated and approved in the final budget.

Section 5.14. Longevity Benefits. Due to Employee's tenure with the City, she will receive a longevity benefit of five percent (5%) of her Base Salary, paid bi-weekly with her Base Salary.

Section 6. Termination of Employment and Severance.

Section 6.1 Voluntary Resignation. Employee may resign at any time and agrees to give the City at least thirty (30) days advance written notice of the effective date of Employee's resignation, unless the Parties otherwise agree in writing. If Employee retires from full time public service with the City, Employee shall provide three (3) months advance written notice. Employee's actual retirement date will be mutually established between the Parties. During the notice period, all rights and obligations of the Parties under this Agreement shall remain in full force and effect. Promptly after the effective date of resignation, the City shall pay to Employee all salary and benefit amounts, both accrued and owing, under this Agreement. In the event of voluntary resignation, Employee shall not be entitled to Severance, as set forth in Section 6.3 of this Agreement.

Section 6.2. Termination by City Manager. The City Manager may terminate this Agreement and remove Employee from her position as Director of Parks and Recreation at any time with or without cause and with or without notice. Within ten (10) days of City Manager's termination of this Agreement, Employee may make a written request for a hearing before the City Council, at which time the City Council will have the option to ratify the City Manager's termination decision. In the event Employee does not request a hearing before the City Council, the City Manager's termination decision will stand. The hearing shall take place in closed session at a regularly scheduled City Council meeting. Upon Employee's request for the hearing to take place in open session, she will waive any claims to privacy associated with her rights to employment information that is the basis for her termination, including, but not limited to, her personnel file and any information contained therein, which would otherwise be private.

Section 6.3. Termination Without Good Cause. In the event the City terminates this Agreement without Good Cause, as defined in Section 6.4 below, the City shall pay Employee a sum equal to four (4) months Base Salary ("<u>Severance</u>"). This Severance is subject to the restrictions of Government Code section 53260, including, without limitation, the maximum amount of Severance pay that Employee may receive shall be the lesser of (i) four (4) months base salary or (ii) if the unexpired term of the contract is greater than eighteen (18) months, the maximum cash settlement shall be an amount equal to the monthly salary of the Employee multiplied by eighteen (18). Any cash settlement related to the termination of this Agreement received by Employee from the City shall be fully reimbursed to the City if Employee is convicted of a crime involving an abuse of her office or position while employed with the City, pursuant to Government Code section 53243.2. In the event the City terminates this Agreement, Employee shall be entitled to continued medical and dental benefits at her cost pursuant to the provisions of the federal Consolidated Omnibus Budget Reconciliation Act ("<u>COBRA</u>").

Section 6.4. Termination For Good Cause. The City may at any time immediately terminate this Agreement for Good Cause, as defined below. If Employee is terminated for Good Cause, the City shall not be required to pay any Severance under this Agreement, and the City shall have no obligation to Employee beyond those benefits accrued as of Employee's last day of employment and those the City is obligated to provide under federal or state law.

"<u>Good Cause</u>" for purposes of this Agreement, means a fair and honest cause or reason for termination. These reasons include, but are not limited to:

1. Conviction of a felony;

2. Disclosing confidential information of City;

3. Gross carelessness or misconduct;

4. Unjustifiable and willful neglect of the duties described in this Agreement;

5. Mismanagement;

6. Non-performance of duties;

7. Any conduct which violates the City's Personnel Rules and for which a City employee may be terminated;

8. Repeated and protracted unexcused absences from the Director of Parks and Recreation's office and duties;

9. Willful destruction or misuse of City property;

10. Conduct that in any way has a direct, substantial, and adverse effect on the City's reputation;

11. Willful violation of federal, state or City discrimination laws;

12. Continued substance abuse which adversely affects performance of Employee's duties as the Director of Parks and Recreation;

13. Refusal to take or subscribe any oath or affirmation which is required by law; or

14. Permanent disability of Employee, or Employee becoming otherwise unable to perform the duties of the Director of Parks and Recreation, by reason of sickness, accident, illness, injury, mental incapacity or health, for a period of six (6) weeks following the exhaustion of all available leave balances and any applicable Family Medical Leave Act or California Medical Leave Act leaves, or where the same occurs for forty (40) working days over a sixty (60) working day period following exhaustion of such leaves.

Notwithstanding any provision in this Agreement to the contrary, the City Manager may suspend Employee with full pay and benefits at any time during the Term of this Agreement.

Section 7. <u>Indemnification.</u> The City shall defend, hold harmless, and indemnify Employee against any tort, personnel, civil rights, or professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as Director of Parks and Recreation in accordance with California's Tort Claims Act (Government Code section 825 *et seq*.), and shall provide a defense to Employee in accordance with Government Code sections 995-996.5. The City may decline to defend or indemnify Employee only as permitted by the Government Code. The City may compromise and settle any such claim or suit and pay the amount of any resulting settlement or judgment; provided, however, that the City's duty to defend and indemnify shall be contingent upon Employee's good faith cooperation with such defense. In the event the City provides funds for legal criminal defense pursuant to this Section, Employee shall reimburse the City for such legal criminal defense funds if Employee is convicted of a crime involving an abuse of office or position, as provided by Government Code sections 53243-53243.4.

Section 8. <u>Bonding</u>. City shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

Section 9. <u>Notices</u>. Any notice or communication required hereunder between the City and Employee must be in writing and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS, or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:	City of Riverbank Attn: City Clerk 6707 Third Street Riverbank, CA 95367
and	Churchwell White, LLP Attn: Thomas P. Hallinan 1414 K Street, 3rd Floor Sacramento, CA 95814
If to Employee:	City of Riverbank Attn: Sue Fitzpatrick 6707 Third Street Riverbank, CA 95367 w/cc: home address on file

Section 10. General Provisions.

10.1. Modification of Agreement. This Agreement may be supplemented, amended, or modified only by a writing signed by the City and Employee.

10.2. Entire Agreement. This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties and supersedes all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement.

10.3. Severability of Agreement. If a court or an arbitrator of competent jurisdiction holds any section of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining sections of this Agreement shall not be affected.

10.4. Authority. All Parties to this Agreement 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 state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

10.5. <u>Headings</u>. The headings in this Agreement are included for convenience only and neither affect the construction or interpretation of any section in this Agreement nor affect any of the rights or obligations of the Parties to this Agreement.

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

10.7. <u>Governing Law</u>. This Agreement shall be governed and construed in accordance with the laws of the State of California.

10.8. <u>Waiver</u>. No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the Party against whom the waiver is claimed and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

10.9. <u>Counterparts</u>. This Agreement may be executed in counterparts and all so executed shall constitute an agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

10.10. <u>Venue</u>. Venue for all legal proceedings shall be in the Superior Court in and for the County of Stanislaus in the State of California.

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

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, this Agreement has been entered into by and between EMPLOYEE and CITY as of the date of the Agreement set forth above.

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

By:__________________________________
Sean Scully, City Manager

Date Signed:__________________________

EMPLOYEE:

By:__________________________________
Sue Fitzpatrick, an individual

Date Signed:__________________________

Attested

By:__________________________________
Annabelle H. Aguilar, CMC, City Clerk

Date Signed:__________________________

Approved as to Form and Content:

By:__________________________________
Thomas P. Hallinan, City Attorney

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.F

SECTION 3: CONSENT CALENDAR

Meeting Date:	June 9, 2015
Subject:	A **Resolution** of the City Council of the City of Riverbank Implementing Existing Longevity Benefits for Department Directors and Adjusting Certain Benefits for the Director of Parks and Recreation Consistent with those Available to other Department Directors
From:	Jill Anderson, City Manager
Submitted by:	Alvaro Zamora, Human Resource Analyst

RECOMMENDATION

It is recommended that the City Council adopt a resolution to: 1) Approve the provision of longevity pay and vacation enhancements for Department Directors that are currently available to all other City employees; 2) Adjust the salary range for the position of Parks and Recreation Director to be consistent with the salary range for the Director of Finance and the Local Redevelopment Authority (LRA) Executive Director; and 3) Revise the employment provisions for the Director of Parks and Recreation relating to severance and executive leave to be consistent with the provisions for the Director of Finance and the Local Redevelopment Authority (LRA) Executive Director.

Longevity Benefits

The City currently has 24 employees with 10 or more years of service with the City. Typically, there are no merit increases provided after five years which creates a disincentive for employees to remain with the City of Riverbank. To address this issue, the City created longevity benefits to add pay and vacation hours when employment milestones are met. Longevity Pay is available at the 10th year anniversary, at which time an employee receives a 2.5% salary increase if performance is satisfactory. At the 13th year anniversary an employee receives an additional 2.5% salary increase. At the current time the longevity benefits are offered to all full-time employee, except Department Directors.

It is important to recognize and compensate long-term Department Directors consistent with other members of the staff. The City currently has two directors, the Director of Finance and the Director of Parks & Recreation, who have 10 or more years of service with the City. In order to acknowledge this service and commitment to the City, as well as Directors that may meet the longevity milestones in the future, it is recommended that the City provide longevity benefits to all employees, including Department Directors.

The longevity benefits also include an increase in vacation from four weeks to 5 weeks after sixteen (16) years of service. To date, this vacation increase has not been provided to the City's Department Directors. Therefore it is recommended that the City make this benefit available to all City employees including Department Directors. The Director of Recreation and Parks will become eligible for this benefit in 2017.

Employment Provisions for the Director of Parks & Recreation

Salary Range

The salary range for the position of Director of Parks & Recreation is significantly lower than the salary range for the Director of Finance and Executive Director of the LRA. The Director of Parks & Recreation position is responsible for the overall management of the City's Parks & Recreation Department, including recreation, aquatics, and community events. In addition the position is responsible for the planning, construction, maintenance and rental of City parks and facilities. She also exercises direct and indirect supervision of assigned staff.

The Director of Parks & Recreation has similar levels of management duties and high level of responsibility as that of the Director of Finance and the LRA Executive Director. Therefore it is recommended that the salary for the Director of Parks and Recreation be that same as that of the Director of Finance and the LRA Executive Director.

	Range	**Monthly Salary**
Current Salary	218	$7,196 - $8,747
Proposed Salary	226	$7,909.39 - 9,613.89

Severance Pay and Executive Leave

As a member of the Executive Management Team, the Director of Parks & Recreation serves as an at-will employee, meaning that her employment can be terminated at any time without cause. In recognition of that uncertainty, at-will employees are typically provided severance pay if employment is ended by the employer, in this case the City, without cause.

It is also customary for employees that are exempt from receiving overtime pay to have provisions for Executive Leave. It is recommended that position of Director of Parks and Recreation be assigned the same amount of Severance Pay and Executive Leave that is set forth for the Director of Finance and the Executive Director of the LRA.

Therefore, it is recommended that Director of Parks & Recreation employment provisions include an increase in Severance Pay from 3 months to 4 months and an increase in Executive Leave from 80 hours to 96 hours. These changes do not have a direct impact on the budget unless the services of the Director are no longer needed and employment is terminated by the City without cause, which is not anticipated and highly unlikely.

FINANCIAL IMPACT

The primary financial impact associated with these adjustments will be in the FY 2015-2016 Budget and is approximately $21,900. It is recommended that the longevity pay be provided retroactive to April 1, so the impact to the FY 2014-2015 budget is approximately $5,700 and can be absorbed without an additional appropriation at this time. The majority of the proposed cost will be General Fund expense.

ATTACHMENTS

CITY OF RIVERBANK

RESOLUTION NO. 2015-033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK IMPLEMENTING EXISTING LONGEVITY BENEFTIS FOR DEPARTMENT DIRECTORS AND ADJUSTING CERTAIN BENEFITS FOR THE DIRECTOR OF PARKS AND RECREATION CONSISTENT WITH THOSE AVAILABLE TO OTHER DEPARTMENT DIRECTORS

WHEREAS, the provisions of Title 4, Section 36506 of the Government Code of the State of California provide that the salaries of employees of General Law cities may be fixed or increased by resolution; and

WHEREAS, Title I, Chapter 35 of the Riverbank City Code provides that the City Council may from time to time by resolution, change the compensation of employees of the City and my by resolution adopt salary and wage scales; and

WHEREAS, the City of Riverbank values the work of its staff, including its Department Directors; and

WHEREAS, the City of Riverbank desires to implement Longevity Pay Benefits to all City employees, including Department Directors; and

WHEREAS, the current salary schedule sets forth a different salary range for the Director of Parks and Recreation and needs to be adjusted to be consistent with the salary range established than the City's other Department Directors; and

WHEREAS, the severance pay and executive leave provision of the Director of Parks and Recreation need to be revised to be consistent with those available to the Director of Finance and the LRA Executive Director.

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

1) Approve the provision of longevity pay and vacation enhancements for Department Directors that are made available to all other City employees;

2) Adjust the salary range for the position of Parks and Recreation Director to be consistent with the salary range for the Director of Finance and the Local Redevelopment Authority (LRA) Executive Director; and

3) Revise the employment provisions for the Director of Parks and Recreation relating to severance and executive leave to be consistent with the provisions for the Director of Finance and the Local Redevelopment Authority (LRA) Executive Director.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 9TH day of June, 2015; motioned by Councilmember Jeanine Tucker, seconded by Councilmember Leanne Jones Cruz, and upon City Council roll call was carried by the following vote of 5-0:

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

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor