CITY OF RIVERBANK
REGULAR CITY COUNCIL AND 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

AGENDA

TUESDAY, SEPTEMBER 25, 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-D4)
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

Item 1.1: Report on Teen Center Activities.

Item 1.2: 2018 Cheese & Wine Festival Update.

2. PUBLIC COMMENTS (No Action Can Be Taken)

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

3. CONSENT CALENDAR

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

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

Item 3.B: Approval of the June 25, 2018, Special City Council Minutes.

Item 3.B-1: Approval of the September 11, 2018, City Council Minutes and Local Redevelopment Authority Board Minutes.

Item 3.B-2: Approval of the September 18, 2018, Special Joint City Council and Planning Commission Minutes.

Item 3.C: A **Resolution** to Adopt the 2018-2019 schedule of Park Amenity Rentals, Recreation Programs, and Facility Rental Fees for the City of Riverbank.

Item 3.D: A **Resolution** Adopting by Reference Fair Political Practices Commission Title 2, Division 6, California Code Sections 18730 and 18730.1; the 2018 Conflict of Interest Code List of Designated City Positions; and the Related Economic Interest Disclosure Categories.

Item 3.E: Award Bid for the Patterson Road Sidewalk Project to Ross F. Carroll, Inc., and Authorize Execution of Future Change Orders.

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

4. UNFINISHED BUSINESS

There are no items to consider.

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 9/12/2018.

Item 5.1: **Continuance of the Noticed Public Hearing to Consider a Resolution Approving and Adopting a 5-Year Capital Improvement Plan for Fiscal Years 2018-2023** – It is recommended that the City Council continue this item to allow Staff additional time to gather pertinent budget information by:

1. Opening the Public Hearing; receive comments,
2. Closing the Public Hearing, and
3. By roll call vote, continue the public hearing to the next regular City Council meeting on October 9, 2018.

6. NEW BUSINESS

Item 6.1: **A Resolution Authorizing the Mayor to Execute and Enter into the New Agreement for the City Manager Services and Authorizing a Budget Amendment for FY 2018-2019** – It is recommended that the Riverbank City Council: (1) approve the new City Manager Employment Agreement between the City of Riverbank and Sean Scully in a form approved by the City Attorney; (2) authorize and direct the Mayor to execute the New Agreement on behalf of the City; and (3) authorize budget amendment for Fiscal Year 2018-2019.

Item 6.2: **Workshop / Discussion – Downtown Incentive Program for Business** – It is recommended that the City Council provide direction and feedback on different possibilities for a downtown business incentive program.

7. COMMENTS/REPORTS

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

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 REAL PROPERTY NEGOTIATORS**
Pursuant to Government Code Section 54956.8
Property: 062-031-005, 062-031-006, 062-031-007
Agency Negotiator: Sean Scully, City Manager
Property Negotiator: Aemetis, Inc.

Item 8.2: **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code § 54957.6
Agency representative: Sean Scully, City Manager
Employee organizations: Mid-Management Bargaining Unit

Item 8.3: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (2) potential case

9. REPORT FROM CLOSED SESSION

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

Item 9.2: Report from Closed Session on Item 8.2: **CONFERENCE WITH LABOR NEGOTIATORS** –Mid-Management Bargaining unit

Item 9.3: Report from Closed Session on Item 8.3**: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:** (2) potential case

ADJOURNMENT **(The next regular City Council meeting – Tue., October 9th @ 6:pm)**

UPCOMING EVENTS:

October 13-14 Saturday & Sunday	• **Annual Cheese and Wine Exposition.** o Contract the Parks and Recreation Department at (209) 863-7150.
October 22 Monday	• **Last day to register to vote.** o Visit www.stanvote.com or www.registertovote.ca.gov
November 6 Tuesday	• **Election Day** – Polls open from 7:00 a.m. to 8:00 p.m.
City Hall Friday Office Hours	• **City Offices are Closed Alternating Fridays** o Friday: September 21 and October 5 – **CLOSED** o Friday: September 28 and October 12 – **OPEN** from 8:00 am to 5:00 p.m.
2018 Canceled Regular City Council Meetings	• **City Council voted to cancel the following regular meetings:** o Tuesday, July 10, 2018 o Tuesday, August 14, 2018 o Tuesday, November 27, 2018 o Tuesday, December 25, 2018

AFFIDAVIT OF POSTING

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

Posted this 20th day of September, 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 of (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.

Meeting Schedule	Regular City Council Meetings: 6:00 p.m. on the 2nd and 4th Tuesday of every month, unless otherwise noticed. Local Redevelopment Authority Board: (The City Council also serves as the LRA Board.) Meets on an "as needed" basis. The City Council also serves as the LRA Board.
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/LRA Board, for which special notice has been given. During a specified portion of the hearing, any interested party is invited to present written or oral protests or support for the subject matter under consideration. Written testimony sent or delivered to the City Clerk must be received no later than 5:00 p.m. on the day of the meeting to allow for their distribution to the City Council/LRA Board. Preparations for the meeting are conducted between 5:00 p.m. and 6:00 p.m. and therefore the City Clerk is not available during this time.
Televised / Video of Meetings	• Charter – Channel 2 • AT&T Uverse – Channel 99 • www.riverbank.org – video icon – under Agendas and Minutes link
City Hall Hours	City Hall is open Monday – Thursday; 7:30 am – 5:30 pm and Fridays: 8:00 am – 5:00 pm; CLOSED alternating Fridays
Questions	Contact the City Clerk at (209) 863-7122 or aaguilar@riverbank.org

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

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.1

SECTION 1: PRESENTATIONS

Meeting Date:	September 25, 2018
Subject:	Report on Teen Center Activities
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council receive the report on upcoming Teen Center activities.

SUMMARY

Gerrick Figueroa, Teen Center Coordinator, will give a report on various projects that the Riverbank Teen Center will be working on over the next few months.

BACKGROUND

The Riverbank Teen Center opened in 2011 and has been serving the teens of the community with projects, programs, educational opportunities and outdoor recreation experiences. The current Teen Committee is working on fundraising activities and various projects that the Teen Center Coordinator will present to the City Council.

STRATEGIC PLAN

This item is related to the Strategic Plan by being committed to providing exceptional municipal services in a fiscally sound and professionally responsible manner for our community.

FINANCIAL IMPACT

There is no financial impact.

ATTACHMENT

There are no attachments to this item.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.2

SECTION 1: PRESENTATION

Meeting Date:	September 25, 2018
Subject:	2018 Cheese & Wine Festival Update
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council receive the update of the 2018 Cheese & Wine Festival.

SUMMARY

The 2018 Riverbank Cheese & Wine festival is scheduled to be held in the downtown area of Riverbank on Saturday, October 13th from 10am until 8:00pm and on Sunday, October 14th from 10am until 7:00pm.

Chris Ricci will give a brief update of the upcoming event.

BACKGROUND

This is the 42nd year the Cheese & Wine Festival has been held in Riverbank and the 5th year that the City of Riverbank has administered the event. The City contracts with Chris Ricci Presents, Inc. to promote and assist with the coordination of the Festival.

STRATEGIC PLAN

This event is relevant to the Strategic Plan by assisting Riverbank to be recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment.

FINANCIAL IMPACT

The financial impact from this event to date has been positive, thanks to our many sponsors.

ATTACHMENT

There are no attachments to this item.

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 25 , 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 any proposed ordinances and resolutions for consideration, except by title.

SUMMARY

In lieu of reading the entire text of a proposed ordinance or resolution that is introduced for consideration for adoption and approval, by majority vote, the City Council may waive the reading of the text and introduce the ordinance or resolution by title only for the record.

The proposed ordinances and resolutions, and any related documents that are part of the agenda packet, are available for review by the public on the City's website and in the City Clerk's office at City Hall (North) upon distribution to a majority of the City Council; typically 72 hours prior to the scheduled date and time of the meeting.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENTS

There are no attachments to this report.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.B

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 25, 2018
Subject:	Approval of the June 25, 2018, Special City Council Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the June 25, 2018, Special City Council meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. June 25, 2018, Special City Council Minutes

City of Riverbank
SPECIAL CITY COUNCIL MEETING
(STRATEGIC PLANNING SESSION)

MINUTES OF
MONDAY, JUNE 25, 2018

choose civility

CALL TO ORDER:

The City Council of the City of Riverbank met at 8:30 a.m. on this date at the Riverbank Teen Center, 3600-A Santa Fe Street, Riverbank, California, with Mayor Richard D. O'Brien presiding.

CALL TO ORDER: Mayor Richard D. O'Brien

ROLL CALL:
Present:
Mayor Richard D. O'Brien
Vice Mayor Darlene Barber Martinez (CM-D4)
Councilmember District 2 Cindy Fosi
Councilmember Cal Campbell
Councilmember Leanne Jones Cruz

---

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

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

No one spoke.

2. BUSINESS

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

City Manager Sean Scully opened the meeting, introducing Facilitator Marilyn Snider and Recorder Gail Tsuboi of Snider and Associates.

Management Staff in attendance included Sean Scully, City Manager; Marisela Garcia Assistant City Manager/Director of Finance; Sue Fitzpatrick, Director of Parks & Recreation;

Melissa Holdaway, Administrative Analyst II of the Local Redevelopment Authority; Kathleen Cleek, Development Services Administration Manager; Michael Riddell, Public Works Director; Donna Kenney, Planning and Building Manager; John Anderson, Contract Planner of J.B. Anderson Land Use Planning; Robin Baral, Deputy City Attorney; Erin Kiely, Chief of Police Services; Alvaro Zamora, Human Resources Analyst; Norma Torres-Manriquez, Administrative Analyst/Human Services Specialist; and Cheryl Stefani, Administrative Assistant/Confidential.

Absent: Annabelle Aguilar, City Clerk and Anna Nicolas, Accounting Manager.

The Mission/Purpose Statement, Vision Statement, Core Values/Guiding Principles were reviewed. Group evaluation of the City's Strengths, Weaknesses, Opportunities, and Threats ensued. The goals, accomplishments, and pending objectives of the October 30, 2017 – June 19, 2018, Strategic Objectives matrix were reviewed.

A brief recessed was called for 10:30 a.m.:30 p.m.; the session reconvened at 10:45 a.m.

Another recess was called at 12:15 p.m.; the session resumed at 12:45 p.m.

The meeting ensued; City Council provided their next six-month strategic objectives.

Closing comments were made. The next tentatively scheduled strategic planning session was scheduled for December 18, 2018

ADJOURNMENT

There being no further business, Mayor O'Brien adjourned the meeting at 2:03 p.m.

ATTEST: (Adopted *09/25/2018*) **APPROVED:**

________________________________ ________________________________

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment: Six-Month Strategic Objectives (June 25, 2018 – November 15, 2018)

CITY OF RIVERBANK • SIX-MONTH STRATEGIC OBJECTIVES

25 June 2018 – November 15, 2018

THREE-YEAR GOAL: ***ACHIEVE AND MAINTAIN FINANCIAL STABILITY AND SUSTAINABILITY***						
WHEN	**WHO**	**WHAT**	**STATUS**			**COMMENTS**
			DONE	ON TARGET	REVISED	
November 2018	City Manager Assistant City Manager LRA Admin Analyst II	Award the master developer contract.				
October 2018	City Manager Assistant City Manager	Consider options and associated analysis for feasibility of opting out of CalPERS				
November 2018	All Management Staff	Conduct a User Fee Study and make recommendations to the City Council for updates.				
4^{th} Quarter 2018	City Manager Assistant City Manager	Achieve a tax sharing agreement with the county in relation to property taxes and Public Facility Fees.				

THREE-YEAR GOAL: ***ATTRACT, DEVELOP AND RETAIN QUALITY STAFF***						
WHEN	**WHO**	**WHAT**	**STATUS**			**COMMENTS**
			DONE	ON TARGET	REVISED	
November 2018	Assistant City Manager / Finance Director - Human Resource Dept.	Identify proper staffing for each department and develop a Five-Year Staffing and Succession Plan.				
October 2018	Human Resources Dept.	Hold team building for staff.				
September 2018	Human Resources Dept.	Update the Employee Survey with recommendations for follow up.				

THREE-YEAR GOAL: ***MAINTAIN AND IMPROVE THE CITY'S INFRASTRUCTURE AND SERVICE DELIVERY SYSTEMS***						
WHEN	**WHO**	**WHAT**	**STATUS**			**COMMENTS**
			DONE	ON TARGET	REVISED	
At the July 24, 2018 City Council meeting	Development Services, Admin Manager; Planning & Building Mgr., Human Services Spec/Admin Analyst II	Present to the city Council for direction options for hiring and funding staff to administer GIS to implement PIO/IT.				
November, 2018	Parks and Recreation Dir.	Identify funding and present a City-wide Park and Facility Master Plan to the City Council for action.				
November 2018	City Manager, Assistant City Manager, Input from all Management Staff	Conduct a spatial analysis of all city facilities, identifying needs for the next 50 years, including emerging technology and reserving an additional department to be identified in the future.				
October 2018	Accounting Manager	Develop a plan of action for completion of the water meter project and roll-out of consumption billing.				
September 2018	City Manager, Public Works Director	Identify water needs (storm, waste, potable) within the city in light of potential state charging for groundwater and report the results, with options, to the City Council.				
FUTURE OBJECTIVE	Dev Services Admin Manager	Determine the feasibility of funding stormwater improvement under SB 231 and make a recommendation to the City Council for action.				
FUTURE OBJECTIVE	City Manager, Contract Planner	Develop the East Side Industrial Master Plan.				

THREE-YEAR GOAL: ***EXPAND ECONOMIC DEVELOPMENT OPPORTUNITIES FOR BUSINESSES***						
WHEN	**WHO**	**WHAT**	**STATUS**			**COMMENTS**
			DONE	ON TARGET	REVISED	
September 2018	Planning/Building Manager, Dev Services Admin Manager	Provide the City Council with an update on the removal of obstacles to development at Patterson and Estelle				
October 2018	CM, ACM Planning/Building Manager, Dev Services Admin Manager	Continue development of online processes, e.g., paying fees				
September 2018	City Manager, Contract Planner	Hold a joint City Council-Planning Commission workshop to discuss the plan for Crossroads West.				
September 2018	City Manager, City Attorney, Planning Building Manager, Contract Planner	Negotiate the development agreement for Crossroads West.				
October 2018	Parks and Rec Director, Planning Building Manager	Identify ways to direct traffic to downtown to promote downtown activity, e.g., signs-one on Atchison, one on Patterson; install an arch over 3rd St.				
October 2018	City Manager, Admin Analyst / Human Services Specialist	Develop and present to the City Council for action an incentive system for the businesses downtown.				

THREE-YEAR GOAL: ***ENHANCE PUBLIC SAFETY***						
WHEN	**WHO**	**WHAT**	**STATUS**			**COMMENTS**
			DONE	ON TARGET	REVISED	
September 2018 (As part of final budget)	City Manager, Assistant City Manager	Hire at least one deputy sheriff, making progress toward 1:1000 of population.				
4th Quarter 2018	Admin Analyst II / Human Services Specialist	Hold a mock disaster preparedness event.				
October 2018	Dev Services Admin Manager, Public Works Director	Identify funding for additional streetlights				
October 2018	City Clerk	Present the Illegal Fireworks Ordinance to the City Council for action.				
FUTURE OBJECTIVE	CM, Parks Rec Director, PW Director, Dev Services Admin Manager	Install police cameras in parks, public places and roads.				

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 25, 2018
Subject:	Approval of the September 11, 2018, City Council and Local Redevelopment Authority Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the September 11, 2018, regular City Council and the Local Redevelopment Authority Board meetings have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. September 11, 2018, City Council and LRA Minutes

City of Riverbank
REGULAR CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY BOARD
(The City Council also serves as the LRA Board)

MINUTES OF
TUESDAY, SEPTEMBER 11, 2018

Verbatim proceedings of the meetings may be viewed on-line or a copy may be provided for a fee.

CALL TO ORDER:

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

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

INVOCATION: Pastor Fred Woods

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

AGENDA CHANGES: Mayor/Chair Richard D. O'Brien – ***There were no changes.***

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.

No one declared a conflict.

1. PRESENTATIONS

Item 1.1: Commendation Certificate of Achievement for the 2018 Stanislaus County Summer Reading Challenge Winner.

Mayor O'Brien presented the Certificate to Garrett Wadsworth.

Item 1.2: Presentation by Dr. Camp Superintendent of Riverbank Unified School District on Bond Initiative.

Dr. Camp presented the Measure G information.

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.

Planning and Building Manager Donna Kenney announced that this day was the City of Riverbank's 93rd Birthday.

William Johnson, Stanislaus County Veterans Advisory Commission – District 1, announced an upcoming Veterans meeting on September 24th at the Riverbank Scout Hall at 5:30 p.m.

3. CONSENT CALENDAR

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

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

Item 3.B: Approval of the August 28, 2018, City Council and Local Redevelopment Authority Minutes.

Item 3.C: A **Resolution [No. 2018-064]** Adopting a Formal Financial Policy and Procedure for Returned Checks.

Item 3.D: Acceptance of the Pavement Restoration Project 2018 Conducted by VSS International, Inc. at a Total within Budget Cost of $360,596.25 and Authorization to File a Notice of Completion.

Item 3.E: Acceptance of the Wastewater Treatment Plant Entrance Road Improvement Project Conducted by Garrett Thompson Construction, Inc. at a Total within Budget Cost of $87,190.00 and Authorization to File a Notice of Completion.

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

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

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

4. UNFINISHED BUSINESS

Item 4.1: **Second Reading by Title Only and Adoption of Proposed Ordinance No. 2018-006 Amending the Downtown Specific Plan: Section 2.3.4 Signage, by Repealing this Section in its Entirety and Substituting it with a New Section 2.3.4 Signage** – It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2018-006 and consider its adoption by roll call vote.

City Manager Sean Scully presented the staff report.

Public comment was made by Evelyn Halbert in regards to State law governing signs. City Attorney Tom Hallinan and City Manager Scully responded.

ACTION: ***By motion moved and seconded (Campbell / Jones Cruz / passed 5-0) to approve amending the Downtown Specific Plan: Section 2.3.4 Signage, by repealing this Section in its entirety and substituting it with a new Section 2.3.4 Signage by adoption of Ordinance [No. 2018-006] as presented.***
Motion carried by unanimous City Council roll call vote.
AYES: Fosi, Campbell, Jones Cruz, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

5. PUBLIC HEARINGS

There were no items to consider.

6. NEW BUSINESS

Item 6.1: **Direction on League of California Cities Annual Conference Resolutions** – It is recommended that the City Council provide direction to the voting member (Mayor O'Brien) regarding the City of Riverbank's position on the two resolutions which will be considered at this year's League of California Cities Annual Conference General Assembly.

City Manager Sean Scully presented the staff report of the two Resolutions:

Resolution Number 1: ***"RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING UPON THE LEAGUE TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE***

AND EXPLORE THE PREPARATION OF A BALLOT MEASURE AND/OR CONSTITUTIONAL AMENDMENT THAT WOULD FURTHER STRENGTHEN LOCAL DEMOCRACY AND AUTHORITY".

Resolution Number 2: "A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES"

After City Council's discussion it was directed that the Voting Delegate vote in favor of keeping local control.

7 COMMENTS/REPORTS

A brief report on 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

- ***City Manager Sean Scully announced an informational/educational workshop for City Council, the Planning Commission and the Community on the Crossroads West Project scheduled on September 18th at 6:00 p.m.***

Item 7.2: Council/Authority Member

- ***Council/Authority Member Fosi announced her efforts along with the City Manager to work with Charter Cable to resolve problems.***
- ***Council/Authority Member Campbell commented on an article in the Modesto Bee on voting; encouraging people to get out and vote.***
- ***Council/Authority Member Leanne Jones Cruz announced the Downtown "Sip and Stroll" event on Friday, September 14th from 6:00 p.m. to 9:00 p.m.***
- ***Vice Mayor/Chair Jones Cruz reported on her attendance of a League of Cities Legislative Webinar, announced the Fall and Winter Activity Guide, and the Christian Food Sharing Spaghetti Dinner fundraiser.***

Item 7.3: Mayor/Chair

Mayor/Chair O'Brien had no comments.

8. CLOSED SESSION

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

Item 8.1: CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: 062-031-005, 062-031-006, 062-031-007

Agency Negotiator: Sean Scully, City Manager
Property Negotiator: Aemetis, Inc.

Item 8.2: **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code § 54957.6
Agency representative: Sean Scully, City Manager
Employee organizations: Mid-Management Bargaining Unit

Item 8.3: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (1) potential case

Mayor/Chair O'Brien announced the Closed Session Item and opened the item for public comment; no one spoke. The meetings were recessed and City Council went into Closed Session at 6:30 p.m.

9. REPORT FROM CLOSED SESSION

Mayor/Chair O'Brien reconvened the meetings at 6:48 p.m.

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

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

Item 9.2: Report from Closed Session on Item 8.2: **CONFERENCE WITH LABOR NEGOTIATORS** –Mid-Management Bargaining unit

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

Item 9.3: Report from Closed Session on Item 8.3**: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:** (1) potential case

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

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 6:49 p.m.

ATTEST: (*Adopted 09/25/2018*)	**APPROVED:**
______________________________	______________________________
Annabelle H. Aguilar, CMC **City Clerk / LRA Recorder**	**Richard D. O'Brien** **Mayor / Chair**

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 25, 2018
Subject:	Approval of the September 18, Special Joint City Council and Planning Commission Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the September 18, 2018, Special Joint City Council and Planning Commission workshop have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. September 18, 2018, Minutes

CITY OF RIVERBANK
SPECIAL JOINT CITY COUNCIL AND PLANNING COMMISSION WORKSHOP
MINUTES OF
TUESDAY, SEPTEMBER 18, 2018

choose civility

Verbatim proceedings of the meetings may be viewed on-line or a copy may be provided for a fee.

CALL TO ORDER:

The City Council and Planning Commission of the City of Riverbank met at 6:00 p.m. on this date at the Council Chambers, 6707 Third Street, Suite B, Riverbank, California, with Mayor O'Brien presiding.

FLAG SALUTE: Mayor Richard D. O'Brien

ROLL CALL:
Present

City Council
Mayor Richard D. O'Brien
Vice Mayor Darlene Barber-Martinez (CM-4)
Councilmember Dist. 2 Cindy Fosi
Councilmember Cal Campbell
Councilmember Leanne Jones Cruz

Planning Commission
Chair John Dinan
Vice Chair Robert Ball
Commissioner Joan Stewart
Commissioner Melissa Hughes **(Absent)**
Commissioner Mallorie Fenrich

Alternate Commissioner Steve Link (serves in the absence of a Commissioner)

Mayor O'Brien made opening remarks on how the workshop would be conducted.

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

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

No one spoke.

2. BUSINESS

Item 2:1 **Presentation of Crossroads West Project** - The joint workshop is to educate the City Council, the Planning Commission, and the Community of the general aspects of the Crossroads West Specific Plan and the Environmental Impact Report Project. This is an informational workshop only; no action will be taken. (Project information is available by going to the following link on the City's website: http://www.riverbank.org/437/Crossroads-West-Specific-Plan)

City Manager Sean Scully introduced the project. Contract Planner John Anderson of J.B. Anderson Land Use Planning, Ripon, CA, made the presentation. No action was made.

ADJOURNMENT

There being no further business, Mayor O'Brien adjourned the joint workshop at 6:36 p.m.

ATTEST: (*Adopted 9/25/2018*)

____

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

____

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONSENT CALENDER

Meeting Date:	September 25, 2018
Subject:	A **Resolution** to Adopt the 2018-2019 schedule of Park Amenity Rentals, Recreation Programs, and Facility Rental Fees for the City of Riverbank
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution to approve the 2018-2019 fees for Park Amenity Rentals, Recreation Programs and Facility Rentals. The recommended fee increases, and new classes/programs offered with associated fees are highlighted in Exhibit A.

SUMMARY

The schedule of Park Amenity Rentals, Recreation Programs and Facility Rental Fees for the 2018-2019 Fiscal year is attached as Exhibit A for the City Council consideration.

BACKGROUND

The City Parks and Recreation Department periodically conducts an analysis of its Park and Recreation Programs; the costs of providing those programs; the beneficiaries of those programs, as well as the revenues and expenses incurred with those programs. One-hundred percent (100%) cost recovery is the goal for most of the programs offered. We strive toward this goal through managing expenses as well as revenue. While active cost recovery does occur through most facility, park reservations, and special events; other programs struggle to achieve cost recovery while remaining affordable for the community. The aquatics program is a key example. While the swim team and swim lessons pay for a portion of the associated costs, the aquatics program recovers only about 60% of the annual operational costs. The Teen Center also requires General Fund support. In the past, the City Council has determined that these programs provide public safety benefits and serve as an investment in the City's youth and general public welfare thus ongoing General Fund subsidies have helped fund these programs.

FINANCIAL IMPACT:

The Financial Impact is reflected within the 2018-2019 Budget. Many programs are now self-sufficient with 100% recovery of costs with the exception of the Teen Center, the Aquatics Program and the Christmas Parade.

The Enterprise Fund is supplemented by the General Fund to help support the Community Center and Scout Hall Building operation and maintenance as well as fee waivers that have been approved by the City Council.

The General Fund supports the operations of the Recreation and Park Program operations and maintenance.

The fee adjustments recommended at this time are predominately related to our Aquatics Program, specifically private lessons and pool rentals. These fees are too low and do not compensate for the increase in minimum wage, cost of chemicals, and overall pool operation. The Sensory Sharks & Mermaids pilot program did well last year and will be offered again this year. The proposed cost of this program is $100 for a 6 week program with scholarships available. This program requires a very high instructor to participant ratio with extra lifeguards on deck.

STRATEGIC PLAN

This report has been prepared to accomplish the following Goal established at the March 20, 2017 Strategic Planning Session:

"Achieve and maintain financial stability and sustainability"

ATTACHMENTS:

1) Resolution
2) Exhibit A: Schedule of Fees

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO ADOPT THE 2018-2019 SCHEDULE OF PARK AMENITY RENTALS, RECREATION PROGRAMS, AND FACILITY RENTAL FEES FOR THE CITY OF RIVERBANK

WHEREAS, the City of Riverbank has conducted an analysis of its Parks and Recreation Programs, the costs of providing those Programs, the beneficiaries of those Programs and the revenues and expenses incurred for those programs; and

WHEREAS, the specific fees to be charged for programs is annually reviewed and adopted by the City of Riverbank City Council; and

WHEREAS, any new program fees or fee increases proposed will be presented to the City Council for consideration as needed: and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approve and establish the 2018-2019 Park Amenity Rentals, Recreation Programs and Facility Rental Fees as outlined herein as **Exhibit A.**

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 25th day of September, 2018; motioned by Councilmember ______, seconded by Councilmember ______, and upon roll call was carried by the following vote of ___:

AYES:
NAYS:
ABSENT:
ABSTAIN:

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

Attachments: Fees Schedule – Exhibit A

Exhibit A

CITY OF RIVERBANK – 2018-2019 Parks and Recreation Fees

DESCRIPTION		Current Fee	New Fee
***Park Rental:* (all parks with gazebos)**			
Resident	Rental	$100.00	-
Non-resident	Rental	$125.00	-
***Park Rental:* (small areas at JMP)**			
Resident	Rental	$50.00	-
Non-resident	Rental	$100.00	-
Wedding Gazebo @Jacob Myers	Rental	$500.00	-
Electricity (Jacob Myers/Pavilion)	Rental	$20.00	-
Bounce House permit (except JMP)		$25.00	-
Parking Fee (May – September)		$7.00	-
Castleberg Park – Ball Diamonds			
Lights (2 hour minimum)	Per hour	$20.00	**-**
Park Aide/Site Monitor	Per hour	$18.00	-
Field Use (Exception RYBSA)	Per day	$30.00	-
Tournament (per field)	Per day	$100.00	-
Tournament/Park Aide	Per hour	$18.00	-
FACILITY RENTAL: COMMUNITY CENTER			
Community Center			
Resident	Rental	$1,300.00	-
Non-resident	Rental	$1,600.00	-
Service Group		$500.00	-
(Prior to March 2016)		$350.00	-
Custodial only (w/waiver)		$100.00	-
Set up/Take down		$100.00	-
Memorial Service (3 hours maximum)		$400.00	-
Options:			
Stage		$100.00	-
Sound system	Rental	$50.00	100.00
Set up the day before (4 hour max)		$200.00	-
Meeting Fee (2 hrs.)		$50.00	-
Scout Hall		**Current Fee**	**New Fee**

Exhibit A

CITY OF RIVERBANK – 2018-2019 Parks and Recreation Fees

DESCRIPTION		Current Fee	New Fee
Resident	Rental	$350.00	-
Non-resident	Rental	$400.00	-
Service Group		$100.00	-
Custodial only (w/waiver)		$60.00	-
Meeting Fee (2 hrs.)		$25.00	-
Memorial Service		$200.00	-
Gym Rental			
Refundable Deposit		$250.00	-
Profit Groups		$200.00 per day	-
School/Non-profit (3 hours)		$50.00 per day	-
Additional hours after 3	Per hour	25.00	-
Staff fee		$18.00 per hour	-
Scoreboard		$50.00 per day	-
Sports Complex			
FOOTBALL			
Deposit-County		$200.00	
Deposit- Non-County		$300.00	
Staff – County resident	Per hour	$18.00	-
Staff- Out of county resident	Per hour	$25.00	-
Flag Football – Adult – County	Per hour	$30.00	-
Flag Football – Adult – Non-county	Per hour	$40.00	-
Youth practice – County	Per hour	$20.00	-
Youth practice – Non-county	Per hour	$30.00	-
FIELD USE – GAMES County	Per day	$500.00	-
FIELD USE – GAMES Non-county	Per day	$600.00	-
SOCCER			
Deposit-County		$200.00	
Deposit- Non-County		$300.00	
Field Use – Adult practice – County	Per hour	$25.00	-
Field Use – Adult practice – Non County	Per hour	$35.00	-
Field Use – Adult Games – County	Per hour	$30.00	-
Field Use -Adult Games – Non County	Per hour	$40.00	-
Adult Tournament – County	5 hours	$300.00	-
Adult Tournament – Non County	5 hours	$400.00	-
Youth – Practice – County	Per hour	$10.00	-

Exhibit A

CITY OF RIVERBANK – 2018-2019 Parks and Recreation Fees

DESCRIPTION		Current Fee	New Fee
Youth - Practice – Non County	Per hour	$20.00	-
Youth – Games – County	Per hour	$15.00	-
Youth – Games - Non County	Per hour	$30.00	-
Youth Tournament – County	5 hours	$160.00	-
Youth Tournament – Non County	5 hours	$300.00	-
FOOTBALL AND SOCCER		**Current Fee**	**New Fee**
Staffing – County	Per hour	$18.00	-
Staffing – Non-resident	Per hour	$25.00	-
Field/Parking lights – County	Per day	$30.00	-
Field/Parking Lights- Non-county	Per day	$40.00	-
Chalk/Paint deposit County	Per day	$250.00	-
Chalk/Paint deposit Non-county	Per day	$300.00	-
Chalk/Paint Rental County	Per day	$50.00	-
Chalk/Paint Rental Non-county	Per Day	$60.00	-
Scoreboard Rental County	Per day	$50.00	-
Scoreboard Rental Non-county	Per day	$60.00	-
Snack Bar Rental – County	Per day	$250.00	-
Snack Bar Rental – Non-county	Per day	$350.00	-
Field Prep/open close Resident		$30.00	-
Field Prep/open close Non-resident		$40.00	-
CLASSES/CAMPS			
All Day Summer Camps (8 am to 5 pm)		$100.00 $90 2nd child	**$110.00** **$100 2nd child**
Half Day Camps (9 am to 12 noon)		$55.00	**$65**
Skyhawks Basketball (includes a ball) 70/30		$75.00	**$119.00**
Skyhawks Volleyball 70/30			**$119.00**
Skyhawks Flag Football 70/30			**$95.00**
Mini Camps (3 to 5 year olds)		$25.00	**$15-$30**
CLASSES			
Tot Time	Per session	$80.00	
Kidz Love Soccer (70/30)	Per Session	$78	**$119.00**
Ballet Folklorico (70/30)	Per session	$35.00	
Dance Class (Bellalise 70/30)			**$50.00**
Zumba Gold		$2.00 per class	
Tai Chi Chuan (70/30)		$5.00 per class	
FAMILY ZUMBA (70/30)	Parent/child	$55.00 per session	**$3.00 per class**

Exhibit A

CITY OF RIVERBANK – 2018-2019 Parks and Recreation Fees

DESCRIPTION		Current Fee	New Fee
Recreational Swim		$2.00	
Swim Lessons	Resident	$55.00	
	Non-resident	$60.00	
Sharks & Mermaids		Pilot Program	**$100 per 6 week session with scholarships available**
Private Swim Lessons		$140	**$200.00**
Swim Team	First child	$115.00	**-**
	Additional	$100.00	**-**
Pool Parties	Deposit	$100.00	
		1-60 guests/Resident $90 per hour Non-Res. $100	**$100.00 per hour** **$120.00 per hour**
		61-90 Guests/Resident $100 per hour Non-Res. $110	**$120.00 per hour** **$140.00 per hour**
		91-120 Guests/Resident $110 Non-Res. $120	**$140.00 per hour** **$160.00 per hour**
Pool Pass		$80.00 individual	
		$120.00 family of 4	**$150.00**
SPECIAL EVENTS			
Family Fun Night	Vendor	$25/night	
		$50 all 3 nights	
	Sip n' Paint	$10.00	
HAYRIDE	Adults	$12.00	
	Children	$6.00	
Mother/Daughter Sip n' Paint			**$15.00**
Christmas Booth		$30.00	**$50.00**

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.D

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 25, 2018
Subject:	A **Resolution** Adopting by Reference Fair Political Practices Commission Title 2, Division 6, California Code Sections 18730 and 18730.1; the 2018 Conflict of Interest Code List of Designated City Positions; and the Related Economic Interest Disclosure Categories
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

It is recommended that City Council adopt the Resolution to amend the City's Conflict of Interest Code.

SUMMARY

The Political Reform Act (Government Code Sections 81000-91014) requires local government officials and certain employees to publicly disclose their personal assets and income. They must also disqualify themselves from participating in decisions which may affect their personal economic interests. The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing the Statement of Economic Interests, Form 700, and for interpreting the law's provisions.

Local government agencies must adopt and carry forth a local Conflict of Interest Code ("Code"). This Code must designate positions that make or participate in the making of decisions which may foreseeably have a material effect on any financial interest. This Code must be reviewed biennially to determine if it is accurate or if it requires amending.

The City's existing Code currently requires an amendment to add positions for reporting as determined by the City Attorney to be at a level of which recommendations and/or decisions made by these positions may foreseeably have a material effect on economic interests.

The following positions are recommended to be added to the Conflict of Interest Code List of Designated City Positions:

DESIGNATED POSITION:	DISCLOSURE CATEGORY NUMBER(S) (**Refer to Exhibit-B)
Assistant City Manager	1, 2, & 3
Public Works Director	1, 2, & 3

FINANCIAL IMPACT

There is no financial impact.

ATTACHMENTS

1. Resolution
2. Exhibit-A and Exhibit-B
3. FPPC Title 2, Division 6, California Code Sections 18730 and 18730.1

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, ADOPTING BY REFERENCE FPPC TITLE 2, DIVISION 6, CALIFORNIA CODE SECTIONS 18730 AND 18730.1, AND THE 2016 CONFLICT OF INTEREST CODE LIST OF DESIGNATED CITY POSITIONS AND THE RELATED ECONOMIC INTEREST DISCLOSURE CATEGORIES

WHEREAS, under the Political Reform Act ("Act"), Government Code Section 81000, et seq., requires all public agencies to adopt and publicize a Conflict of Interest Code ("Code"); and,

WHEREAS, the Act provides the main body of the Code and includes such provisions as the manner to report financial interests, the disqualification procedures, and when to file a report; and,

WHEREAS, the Act provides that the Code must designate City positions for which a Statement of Economic Interests, Form 700, must be filed; and,

WHEREAS, the Form 700 is a public document intended to alert public officials and members of the public to the type of financial interests that may create conflicts of interests when participating in the decision-making process; and,

WHEREAS, the Act provides that the Code must assign disclosure categories specifying the types of interests to be reported by employees serving in the designated positions; and,

WHEREAS, the City of Riverbank will continue to incorporate by reference the standard Conflict of Interest Code model adopted by the Fair Political Practices Commission (FPPC), Title 2, Division 6, California Code Sections 18730 and 18730.1, and amendments to it, which will minimize the actions required by the City Council to keep its Code in conformity with the Political Reform Act; and

WHEREAS, the designated positions herein attached as **Exhibit A**, is hereby amended to remove, change, and include the current designated City positions as determined by the City Attorney; and,

WHEREAS, the corresponding disclosure categories herein attached as **Exhibit B** shall be used by the employees serving in those designated positions to determine the level of disclosure required in filing a Statement of Economic Interests, Form 700.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank does hereby declare, determine, and order as follows:

1. The terms of Title 2, Division 6, Sections 18730 and 18730.1 of the California Code and any amendments to it duly adopted by the FPPC, along with the attached **Exhibit A and Exhibit B** in which designated positions and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the City of Riverbank.

2. Persons holding designated positions shall file Statements of Economic Interests, Form 700, pursuant to the Code; with the City Clerk, who shall be deemed the FPPC Filing Officer and who shall make the statements available for public inspection or reproduction.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 25th day of September, 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

Attachments: Exhibit A – 2018 COI Designated Positions
Exhibit B – 2018 COI Disclosure Categories
Copy of FPPC Title 2, Division 6, California Code of Regulations § 18730 and § 18730.1

EXHIBIT – A

CITY OF RIVERBANK
2018 CONFLICT OF INTEREST CODE DESIGNATED CITY POSITIONS
(REQUIRED TO COMPLETE AN FPPC FORM 700)

DESIGNATED POSITIONS:	DISCLOSURE CATEGORY (Refer to Exhibit-B)
Accounting Manager	2
Administrative Analyst II	2
Assistant City Manager	1, 2, & 3
City Clerk/Elections Official	2
Chief of Police	1, 2, & 3
City Mechanic	2
Consultants	1, 2, & 3
Development Services Administration Manager	1, 2, & 3
Director of Finance	1, 2, & 3
Director of Parks and Recreation	1, 2, & 3
Executive Director of the Local Redevelopment Authority	1, 2, & 3
Housing & Economic Development Specialist II	2
Human Resources Manager	2
Human Resources Analyst	2
Parks and Facilities Maintenance Supervisor	2 & 3
Planning and Building Manager	1, 2, & 3
Project Coordinator	2
Public Works Director	1, 2, & 3
Public Works Superintendent	1, 2, & 3
Public Works Supervisor	2 & 3
Recreation Supervisor	2
Wastewater Treatment Plant Supervisor	2 & 3
Water Supervisor	2 & 3

DESIGNATED POSITIONS:	**DISCLOSURE CATEGORY** (Refer to Exhibit-B)
Riverbank Designated Local Authority	1, 2, & 3
Riverbank Successor Oversight Board	1, 2 & 3

EXHIBIT-B

CONFLICT OF INTEREST CODE
ECONOMIC INTEREST DISCLOSURE CATEGORIES

By virtue of the designated employee's position, an investment, interest in real property, or income (including gifts, loans, and travel payments) must be reported on Form 700 if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably affect the employee's economic interests through the participation of collectively making a decision or individually making the decision.

City employees serving in the designated positions as listed in Exhibit-A must disclose their economic interest(s) pursuant to the following corresponding disclosure category/categories as follows:

<u>DISCLOSURE CATEGORIES</u>

<u>Disclosure Category – 1:</u>

a) All interest in real property, which are located in whole or in part within the City.

b) Investment in or incomes from persons or business entities engaged in the business of acquisition or disposal of real property within the City.

<u>Disclosure Category – 2:</u>

a) Investments in any business entity, which within the last two (2) years, has contracted, or disposal of real property within the City.

b) Income from any source which, within the last two (2) years has contracted, or foreseeably in the future may contract with the City of Riverbank to provide services, supplies, materials, machinery, or equipment to the City of Riverbank.

c) Status as a director, officer, sole owner, partner, trustee, employee, or holder of a position of management in any contracted or in the foreseeable future, may contract with the City of Riverbank to provide services, supplies, materials, machinery, or equipment to the City of Riverbank.

d) Investments and income otherwise reportable under paragraphs a) and b) of category 2, shall not be reportable unless the total amount or all contracts by the business entity to provide services, supplies, materials, machinery, or equipment to the City of Riverbank was more than $1,000.00 in the prior calendar year, or unless the total amount of all foreseeable contracts by the business entity to provide services, supplies, materials, machinery, or equipment to the City of Riverbank will be more than $1,000.00 in the next calendar year.

Disclosure Category – 3:

a) Investment in any business entity, which within the last calendar year has been regulated by the City of Riverbank or foreseeably, may be regulated by the City of Riverbank in the next calendar year.

b) Each source of income, provided that the income was furnished by or on behalf of any business entity, which within the last calendar year has been regulated the City of Riverbank or foreseeably may be regulated by the City of Riverbank in the next calendar year.

c) Status as a director, officer, sole owner, partner, trustee, employee, or any position of management in any business entity, which within the last calendar year has been regulated by the City of Riverbank, in the next calendar year.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.[1]

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.[2]

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property[3] is required to be reported,[4] the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property equals or exceeds $2,000, exceeds $10,000, exceeds $100,000, or exceeds $1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,[5] the statement shall contain:

1. The name and address of each source of income aggregating $500 or more in value, or $50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was $1,000 or less, greater than $1,000, greater than $10,000, or greater than $100,000;

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,[6] the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than $10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

(D) This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of $470.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than $470 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed $500 at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of $500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of $100 or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than $250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth $2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth $2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating $500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating $470 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value $1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

---

[1] Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

[2] See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

[3] For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

[4] Investments and interests in real property which have a fair market value of less than $2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

[5] A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

[6] Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14). Certificate of Compliance included.

2. Editorial correction (Register 80, No. 29).

3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).

4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).

5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).

6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).

7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).

8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).

9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).

10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).

11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.

12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).

13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).

14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).

15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).

16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).

17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).

18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

19. Editorial correction of subsection (a) (Register 98, No. 47).

20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District,

nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of*

Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision,

April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 49).

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18730.1. Conflict of Interest Code: Reporting of Gifts.

Nothing contained in an agency's conflict of interest code shall be interpreted to require the reporting of gifts from outside the agency's jurisdiction if the purpose of disclosure of the source of the gift does not have some connection with or bearing upon the functions or duties of the position for which the reporting is required. Nothing in this language is intended to create an inference that all gifts within the jurisdiction are reportable.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028, 87100, 87103, 87207, 87300, 87302, 87309 and 89503, Government Code.

HISTORY

1. New section filed 10-3-2012; operative 11-2-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2012, No. 40).

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.E

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 25, 2018
Subject:	Award Bid for the Patterson Road Sidewalk Project to Ross F. Carroll, Inc., and Authorize Execution of Future Change Orders
From:	Sean Scully, City Manager
Submitted by:	Kathleen Cleek, Development Services Administration Manager Laura Graybill, Project Coordinator

RECOMMENDATION

It is recommended that City Council approve two (2) actions by a roll call vote:

1. Award bid to the lowest responsible bidder, Ross F. Carroll, Inc.; and
2. Authorize the City Manager to execute Change Orders within total project budget.

SUMMARY

In fiscal year 2016/2017, the City of Riverbank was awarded Congestion Mitigation Air Quality (CMAQ) formula funds, to install pedestrian improvements along Patterson Road on the south side between First Street and Claus Road. The scope of work includes constructing sidewalks were sidewalks don't exist and upgrading ramps to be compliant with the American with Disabilities Act (ADA).

The bid opening was held on Thursday, September 20, 2018 to consider the bids for the Patterson Road Sidewalk Project. The following bids were received:

Ross F. Carroll, Inc.	$147,301.00
Garrett Thompson Construction, Inc.	$189,300.00
George Reed, Inc.	$241,679.00
Richard Townsend Construction, Inc.	$249,413.00

Work on the project includes, but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary for the installation of concrete sidewalks, concrete curb, concrete gutter, concrete driveways, concrete retaining, walls, concrete ADA ramps, chain link fence relocation, minor grading, demolition, utility box adjustments, traffic control and all other work included on the plans for the project.

Bids have been reviewed and Ross F. Carroll, Inc. has been identified as the lowest responsible bidder for the project.

It is requested that the City Council provide the City Manager authorization to execute Change Orders if they are within total budget.

BACKGROUND

Congestion Mitigation Air Quality (CMAQ) funds are jointly administered by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). The program provides a flexible funding source for transportation projects and programs that help improve air quality and reduce congestion. The CMAQ guidelines state the management planning organizations should evaluate the cost-effectiveness of the projects and give priority consideration to those that will create the greatest emissions reductions for the least cost, especially in those areas designed non-attainment or maintenance for PM 2.5. All CMAQ projects must meet three eligibility requirements: Have a transportation focus, reduce air emissions, and be located in or benefit a nonattainment or maintenance area.

The Stanislaus Council of Governments (StanCOG) is responsible for the distribution of CMAQ funds. Each agency within StanCOG's jurisdiction receives a fixed funding allocation based on each City's road miles. Additional funds are available through a competitive process based on the project's cost effectiveness. StanCOG works with the local agencies to identify and program projects that adhere to the funding allocation for the agency and meet the CMAQ project eligibility guidelines.

In the Stanislaus region CMAQ is primarily used for traffic signals, public transportation vehicles, sidewalks, and bike and pedestrian paths.

FINANCIAL IMPACT

Costs to be covered by Congestion Mitigation Air Quality (CMAQ) and Local Transportation Funds (LTF) as follows:

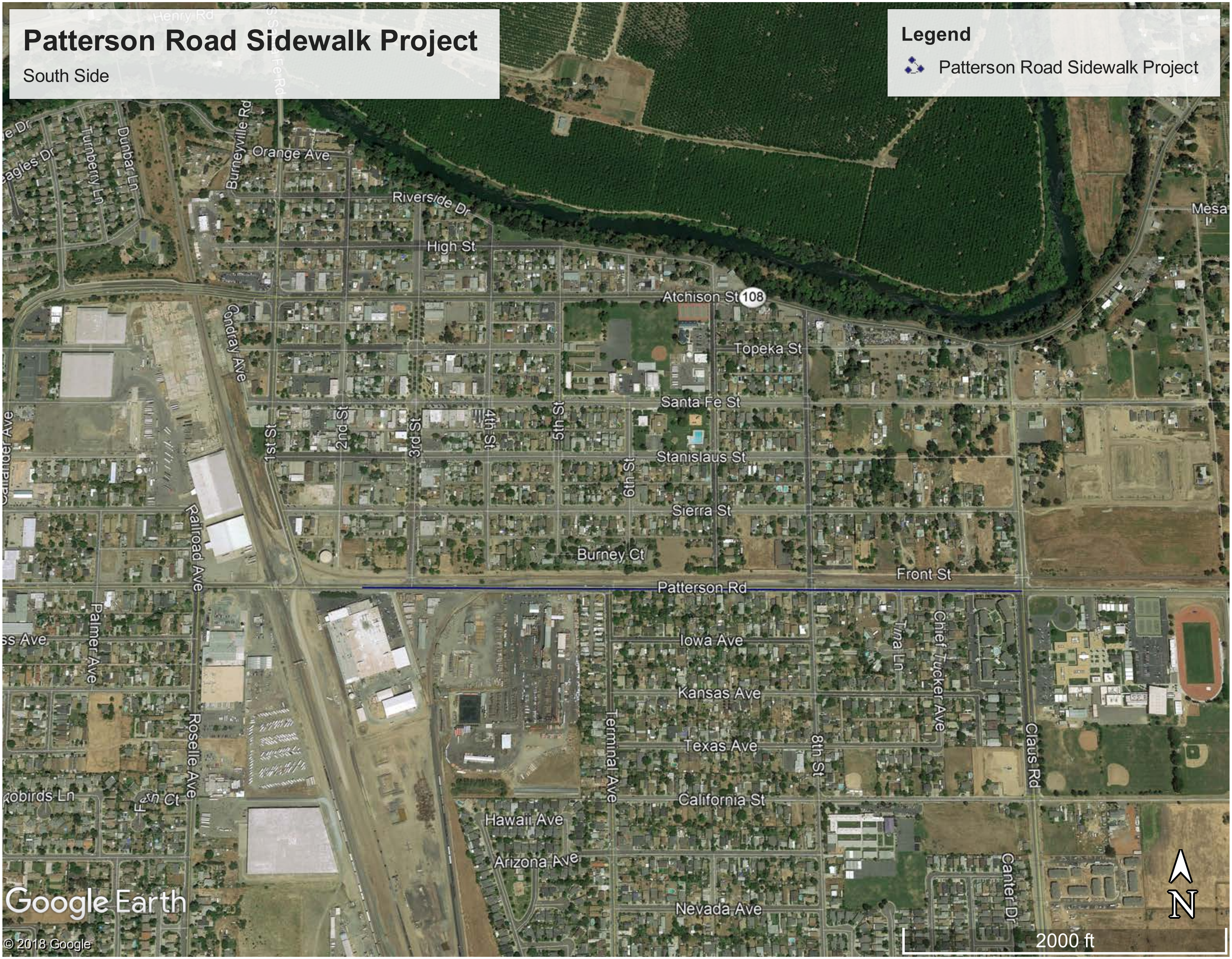
Construction - CMAQ Funds	$118,228.00
Local Transportation Funds (LTF)	$ 74,113.95
Non-Participating Costs (Adjust Utilities to grade) – LTF Funds	$ 24,514.05

ATTACHMENT

1) Site Map

Patterson Road Sidewalk Project

South Side



RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	September 25, 2018
Subject:	Continuance of the Noticed Public Hearing to Consider a Resolution Approving and Adopting a 5-Year Capital Improvement Plan (CIP) for Fiscal Years 2018-2023
From:	Sean Scully, City Manager
Submitted by:	Annabelle H. Aguilar, CMC, City Clerk for Kathleen Cleek, Development Services Administration Manager

RECOMMENDATION

It is recommended that the City Council continue the public hearing to allow Staff additional time to gather pertinent budget information by:

1. Opening the Public Hearing; receive comments,
2. Closing the Public Hearing, and
3. By roll call vote, continue the public hearing to the next regular City Council meeting on October 9, 2018.

SUMMARY

The CIP is a management, planning, and fiscal tool used to ensure public improvements are initiated and that the orderly development of projects is conducted in Riverbank. This program provides the blueprint for identifying the City's improvement needs so that projects can be prioritized, scheduled, and funded. The City of Riverbank's 5-Year CIP is reviewed and updated annually to make sure major public improvements are planned and an overall view of the City's needs are presented and reviewed by City Council.

It was determined that additional time was needed to gather pertinent budget information to create the presentation of the 5-year CIP for fiscal years 2018-2023 for its consideration of approval and adoption.

FINANCIAL IMPACT

There is no financial impact.

ATTACHMENTS

There are no attachments to this report.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	September 25, 2018
Subject:	A **Resolution** Authorizing the Mayor to Execute and Enter into the New Agreement for the City Manager Services and Authorizing a Budget Amendment for FY 2018-2019
From:	Douglas White, City Attorney
Submitted by:	Douglas White, City Attorney

RECOMMENDATION

It is recommended that the Riverbank City Council ("City Council"): (1) approve the new City Manager Employment Agreement ("New Agreement") between the City of Riverbank ("City") and Sean Scully ("Mr. Scully") in a form approved by the City Attorney; (2) authorize and direct the Mayor to execute the New Agreement on behalf of the City; and (3) authorize budget amendment for Fiscal Year 2018-2019.

SUMMARY

The City Council entered into the first City Manager Employment Agreement ("First Agreement") with Mr. Scully on January 2, 2017 which provided for the terms and conditions of his employment. A true and correct copy of the executed First Agreement is attached hereto.

The terms of the First Agreement included the following:

- Three-year term (expiring January 2, 2020) with the possibility of a two-year extension.
- City Manager will receive an annual base salary of one hundred and forty thousand dollars ($140,000) with the possibility of a five percent (5%) salary increase effective January each year if the City Manager receives a performance evaluation rating of "satisfactory" or higher.
- City Manager will receive twenty (20) vacation days, twelve (12) sick days, twelve (12) paid holidays, and twelve (12) executive leave days each year. City Manager may cash out two (2) unused executive leave days at the end of the fiscal year.
- City Manager will be enrolled CalPERS 2%@ 60 Classic plan. City Manager will pay the employee contribution.

- The City will provide the City Manager with life insurance in the amount of fifty thousand dollars ($50,000).
- The City Manager will utilize his own vehicle for City-related travel and will be reimbursed for mileage at the IRS mileage rate. The City Manager will use a City vehicle for City-related travel if a City vehicle is available.
- The City will pay the sum of five thousand dollars ($5,000.00) each year on behalf of the City Manager into a deferred compensation plan.
- The City Manager will receive a sixty-five dollar ($65) per month cell phone allowance.
- The City will contribute two hundred and ninety-two dollars ($292) per month to a pension plan for the City Manager.

In January 2017, the City Council conducted Mr. Scully's annual performance evaluation and review. Mr. Scully received an excellent rating. As such, Mr. Scully was entitled to a five percent (5%) salary increase effective January of 2018 pursuant to the terms of his First Agreement. During Mr. Scully's January 2018 performance evaluation, the City Council decided to extend his employment agreement by an additional year and add additional terms. The City was in the process of negotiating the terms of Mr. Scully's New Agreement when Mr. Scully went out on baby bonding leave. As such, Mr. Scully never received the five percent (5%) salary increase he was entitled to back in January 2018.

The New Agreement makes the following changes to Mr. Scully Agreement:

- Section 3.4. adds a year to the term of the contract (now expiring January 2, 2021) with the possibility of a two-year extension.
- Section 5.1. clarifies that a five percent (5%) step increase will be retroactively applied starting the first pay period in January 2018 making the City Manager's annual base salary one hundred and forty-seven thousand dollars ($147,000).
- Section 5.3. removes the provision that states the City Manager will be evaluated within the first six (6) months of employment because it is no longer applicable. This section also removes the provision that states that the City Manager's annual performance evaluation and review will be conducted in June of each year and adds that the City Manager will be evaluated in January 2019 and each evaluation and review will be conducted in January moving forward. It adds that if the City Manager receives a performance evaluation rating of "satisfactory" or higher, he will receive a salary step increase effective the first pay period following the review and evaluation.
- Section 5.11. adds a provision providing for a two hundred dollar ($200) per month car allowance.
- Section 5.14. increases the deferred compensation amount paid to the City Manager from five thousand dollars ($5,000) to Seven Thousand Five Hundred dollars ($7,500) per year.

All other terms of the employment agreement remain the same.

FINANCIAL IMPACT

The fiscal impact to the City will be as follows: a five (5%) percent salary increase totaling $7,000 per year (5% x $140,000 = $7,000) (not including potential future increases). This was already included in the budget for FY 2018-2019.

A budget amendment for FY 2018-2019 will include:

- Car allowance will cost the City ($200/per month x 9 months [October 2018- June 2019] = $1,800.)
- Increased deferred compensation contribution totaling $7,500 will cost the City and additional $2,500.

Annual fiscal impact for FY 2018-2019 total: $4,300.

STRATEGIC PLAN

These increases are both reasonable and consistent with the City's goal of attracting, developing, and retaining quality staff.

ATTACHMENTS

City Manager First Employment Agreement dated January 2, 2017
Proposed City Manager New Employment Agreement dated September 25, 2018

CITY OF RIVERBANK

RESOLUTION 2018-_______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE AND ENTER INTO THE NEW AGREEMENT FOR CITY MANAGER SERVICES AND AUTHORIZING A BUDGET AMENDMENT FOR FY 2018-2019

WHEREAS, pursuant to the City of Riverbank's ("City") Municipal Code section 31.03, the Riverbank City Council ("City Council") is authorized to hire and appoint the City Manager; and

WHEREAS, on January 2, 2017, the City Council adopted a resolution approving a three (3) year contract, to expire on January 2, 2020, between the City and Sean Scully; and

WHEREAS, the City wishes to continue to employ Sean Scully as City Manager based on a favorable performance evaluation; and

WHEREAS, the City and Sean Scully now wish to enter into a new employment agreement for a term set to expire on January 2, 2021, which will adjust the City Manager's salary and other benefits, and which is attached hereto as Exhibit A ("New Agreement"); and

WHEREAS, the adjustment to the City Manager salary was already included in the budget for Fiscal Year 2018-2019; and

WHEREAS, a budget amendment for the Fiscal Year 2018-2019 is needed to add funds for the City Manager's new car allowance which will cost $1,800 for the rest of the fiscal year and the increased deferred compensation contribution which will cost $2,500 for this fiscal year.

NOW, THEREFORE, BE IT RESOLVED that the City Council approves the New Agreement, attached hereto as Exhibit A, and authorizes the Mayor to execute and enter into the New Agreement on behalf of the City, and authorizes a budget amendment for Fiscal Year 2018-2019 in the amount of $4,300.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 25th day of September, 2018; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:
NAYS:

{CW066834.3}

ABSENT:
ABSTAINED:

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

Attachment: New Employment Agreement

EXHIBIT A

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into this **2nd day of January, 2017** by and between the City of Riverbank, a municipal corporation, ("City") and Sean Scully ("Employee"), an individual. 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. City requires the services of a person with proven executive and administrative qualifications to fill the position of Riverbank City Manager ("City Manager").

B. City, acting by and through the Riverbank City Council ("City Council") has evaluated Employee's knowledge, experience, administrative skills and abilities and desires to hire and appoint Employee as City Manager pursuant to the terms of this Agreement.

C. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as City Manager.

D. 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 11 of this Agreement, Sections 1 through 11 will prevail.

Section 2. Effective Date. This Agreement shall become effective on January 2, 2017 ("Effective Date").

Section 3. Appointment of City Manager, Duties and Term.

Section 3.1. Appointment of City Manager and Duties. Employee shall serve as City Manager of City, and shall be vested with the powers, duties, and responsibilities set forth in Section 31.03(H) of the Riverbank Municipal Code ("R.M.C.") and under California law. Employee shall further perform the functions and duties specified under the laws of the State of California, the R.M.C., the Ordinances and Resolutions of the City, and such other duties and functions as the City Council may from time-to-time assign. The City Council may also designate Employee as the chief executive of other City-related legal entities, such as a redevelopment agency, financing authorities, or joint powers authorities.

Section 3.2. No Secondary Employment. Employee agrees to devote all of his productive time, ability and attention to the City's business. During the Term, as defined in Section 3.4 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 Council. Provided, however, that Employee has the right to volunteer for such nonprofit organizations as he may see fit; and further provided that such volunteer services shall not interfere with his duties on behalf of the City.

Section 3.3. Exempt Employee. The general business hours for City employees are Monday through Fridays, 9:00 a.m. to 5:00 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 City Manager position, unless otherwise provided in this Agreement.

Section 3.4. Term. The term of this Agreement shall be for three (3) years from the Effective Date ("Term"). The City Council may extend the Term for a period of two (2) years. No later than four (4) months prior to the expiration of the Term, the City Council shall provide written notice to Employee as to whether the City Council intends to extend the Term. Termination of this Agreement shall be in accordance with Section 7 below.

Section 4. At-Will Employment. Employee is an at-will employee serving at the pleasure of the City Council as provided in Government Code Section 36506 and R.M.C. Section 31.03(E). Accordingly, City Council may terminate Employee's employment at any time, with or without cause by a three (3) member vote of the City Council pursuant to R.M.C. Section 31.03(E). Employee shall only be entitled to Severance, as defined below, if City terminates Employee's employment without cause as set forth in Section 7.3.

Section 5. Compensation and Evaluations.

Section 5.1. Base Salary. City shall pay Employee an annual salary of One Hundred and Forty Thousand Dollars ($140,000.00) ("Base Salary"), and payable in installments at the same time that the other City employees are paid. A salary review shall occur annually in accordance with Section 5.3 of this Agreement. Employee shall receive a five percent (5%) Base Salary increase each January upon receiving a performance evaluation of at least "Satisfactory."

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 Council agrees to review and evaluate Employee's performance of his duties as City Manager 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. Employee will be evaluated within the first six (6) months of his employment, in June 2017. The annual Review and Evaluation shall then be conducted in June of each year, or at the City Council's discretion.

Section 5.4. Healthcare Benefits. City currently provides medical benefits to its employees through the San Joaquin Valley Insurance Association, which may be adjusted from time-to-time. Employee shall contribute twenty percent (20%) of the cost of his healthcare benefits, and the City will contribute the remaining eighty percent (80%) during the Term of this Agreement. Employee shall contribute twenty percent (20%) of the cost of his dental and vision coverage, and the City will contribute the remaining eighty percent (80%) 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. Retirement Plan. City shall pay the employer cost of participation in the California Public Employees Retirement System ("CalPERS"). Employee shall pay employee cost of such participation. Employee will be enrolled in the CalPERS 2% @ 60 Classic plan, Employee shall pay the seven percent (7%) employee contribution.

Section 5.7. Vacation. Employee shall earn twenty (20) working days of vacation per year with a maximum accrual of four hundred (400) hours. Employee shall immediately be credited with ten (10) days of vacation.

Section 5.8. Sick Leave. Employee shall earn sick leave at the rate of one (1) working day for each month of service.

Section 5.9. 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 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. Employee shall immediately be credited with forty (40) hours of executive leave.

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. City-Related Business Travel Reimbursement. Employee's duties require that he have continuously available transportation for City business or other related purposes. Employee agrees to provide and utilize his own vehicle for City-related business. City shall reimburse Employee for any City-related business travel at the Internal Revenue Service ("IRS") mileage rate, which may change from time to time. Employee shall name City as an additional insured under Employee's automobile insurance coverage. Employee may use a City vehicle for travel on all City-related business based on availability.

Section 5.12. Cell Phone Allowance. Employee shall receive a Sixty-Five Dollars ($65.00) per month cell phone allowance.

Section 5.13. Pension Plan. City shall contribute Two Hundred and Ninety Two Dollars ($292.00) to Employee's pension plan.

Section 5.14. Deferred Compensation. City shall establish and maintain a deferred compensation plan and pay the sum of Five Thousand Dollars ($5,000.00) per year on behalf of Employee into said deferred compensation plan payable in pro rata installments at the same time other employees of the City are paid.

Section 5.15. Professional 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 City. These funds may be limited by the City Council in times of economic distress.

Section 6. Residence. At the time of appointment of Employee, City does not require as a condition of appointment that Employee reside within twenty (20) miles of the City limits of the City of Riverbank. However, Employee voluntarily agrees that as soon as practical after reporting to work, Employee will reside within twenty (20) miles of the City because of the uniqueness of the duties of City Manager. One of the duties of the City Manager is to acquire and maintain a harmonious relationship with the residents of the City as well as with the City Council and the City employees. Employee and City are of the strong opinion that the uniqueness of the position can best be served by the Employee residing within twenty (20) miles of the City, and Employee desires to reside within 20 miles of the City and agrees to do so. As the managerial head of the City, Employee must be readily available to respond to any and all City emergencies requiring his administration and direction.

Section 7. Termination of Employment and Severance.

Section 7.1. Voluntary Resignation. Employee may resign at any time and agrees to give City at least forty-five (45) days advance written notice of the effective date of the Employee's resignation, unless the Parties otherwise agree in writing. If the Employee retires from full time public service with the City, the Employee shall provide at least three (3) months advance written notice. The 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, 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 7.3 of this Agreement.

Section 7.2. Termination by City Council. The City Council may terminate this Agreement and remove Employee from his position as the City Manager at any time with or without cause by a three-fifths (3/5) vote of the entire City Council subject to the provisions of sections 31.03(E) and 31.03(F) of the R.M.C. Employee shall not be removed from office during or within a period of ninety (90) days following any general or special municipal election held at which a member of the City Council is elected. Upon termination, for any reason, City shall compensate Employee for all accrued vacation and executive leave. This compensation shall be based upon Employee's salary as of the date of employment termination.

Section 7.3. Termination Without Good Cause. In the event City terminates this Agreement without cause, as defined below in Section 7.4, City shall pay Employee a sum equal to six (6) months Base Salary ("Severance"). This Severance is subject to the restrictions of Government Code Section 53260, including without limitation, that the maximum amount of Severance pay that Employee may receive shall be the lesser of (i) six (6) 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 City shall be fully reimbursed to City if Employee is convicted of a crime involving an abuse of his office or position while employed with City pursuant to Government Code Section 53243.2. This Severance shall be paid in the same manner as other employees unless otherwise agreed to by the City and Employee. In the event City terminates this Agreement, Employee shall be entitled to continued medical and dental benefits at his cost pursuant to the provisions of the federal Consolidated Omnibus Budget Reconciliation Act ("COBRA").

Section 7.4. Termination For Good Cause. The City may at any time immediately terminate this Agreement for Good Cause as defined in this Section 7.4. If Employee is terminated for good cause the City shall not be required to pay any Severance under this Agreement, and City shall have no obligation to Employee beyond those benefits accrued as of Employee's last day of employment and those City is obligated to provide under federal or state law.

"Good Cause" 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 City's Personnel Rules and for which a City employee may be terminated;

8. Repeated and protracted unexcused absences from City Manager'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 City Manager;

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 City Manager, 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 Council may suspend Employee with full pay and benefits at any time during the Term of this Agreement.

Section 8. <u>Indemnification.</u> 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 City Manager in accordance with California's Government 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. 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 City provides funds for legal criminal defense pursuant to this Section, Employee shall reimburse 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 9. Bonding. City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 10. Notices. Any notice or communication required hereunder between 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, California 95367
and	Churchwell White, LLP ATTN: Thomas P. Hallinan 1414 K Street, 3rd Floor Sacramento, CA 95814

If to Employee: Mr. Sean Scully
City of Riverbank
6707 Third St., Suite A
Riverbank, CA 95367; or
Personal Address indicated in Personnel Record

Section 11. General Provisions.

11.1. Modification of Agreement. This Agreement may be supplemented, amended, or modified only by a writing signed by the City and Employee.

11.2. 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.

11.3. 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.

11.4. 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 the 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.

11.5. 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.

11.6. 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.

11.7. <u>Governing Law</u>. This Agreement shall be governed and construed in accordance with the laws of the State of California.

11.8. <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.

11.9. <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.

11.10. <u>Venue</u>. Venue for all legal proceedings shall be in the Superior Court for the County of Stanislaus in the State of California.

11.11. <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: Richard D. O'Brien
Richard D. O'Brien, Mayor

Date Signed: 11-29-16

By: Annabelle H. Aguilar
Annabelle H. Aguilar, City Clerk

Date Signed: 11-29-16

Approved as to Form and Content:

By: T. P. H.
Thomas P. Hallinan, City Attorney

EMPLOYEE:

By: Sean Scully
Sean Scully, an individual

Date Signed: 12/9/16

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into this 25th day of September, 2018, by and between the City of Riverbank, a municipal corporation ("City") and Sean Scully ("Employee"), an individual. 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. City requires the services of a person with proven executive and administrative qualifications to fill the position of Riverbank City Manager ("City Manager").

B. City, acting by and through the Riverbank City Council ("City Council") has evaluated Employee's knowledge, experience, administrative skills, and abilities and desires to hire and appoint Employee as City Manager pursuant to the terms of this Agreement.

C. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as City Manager.

D. 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 11 of this Agreement, Sections 1 through 11 will prevail.

Section 2. Effective Date. This Agreement shall become effective on September 25, 2018 ("Effective Date").

Section 3. Appointment of City Manager, Duties, and Term.

Section 3.1. Appointment of City Manager and Duties. Employee shall serve as City Manager of City, and shall be vested with the powers, duties, and responsibilities set forth in Section 31.03(H) of the Riverbank Municipal Code ("R.M.C.") and under California law. Employee shall further perform the functions and duties specified under the laws of the State of California, the R.M.C., the Ordinances and Resolutions of the City, and such other duties and functions as the City Council may from time-to-time assign. The City Council may also designate Employee as the chief executive of other City-related legal entities, such as a redevelopment agency, financing authorities, or joint powers authorities.

Section 3.2. No Secondary Employment. Employee agrees to devote all of his productive time, ability, and attention to the City's business. During the Term, as defined in Section 3.4 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 Council. Provided, however, that Employee has the right to volunteer for such nonprofit organizations as he may see fit; and further provided that such volunteer services shall not interfere with his duties on behalf of the City.

Section 3.3. Exempt Employee. The general business hours for City employees are Monday through Friday, 9:00 a.m. to 5:00 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 City Manager position, unless otherwise provided in this Agreement.

Section 3.4. Term. The term of this Agreement shall be from the Effective Date -until January 2, 2021 ("Term"). The City Council may extend the Term for a period of two (2) years. No later than four (4) months prior to the expiration of the Term, the City Council shall provide written notice to Employee as to whether the City Council intends to extend the Term. Termination of this Agreement shall be in accordance with Section 7 below.

Section 4. At-Will Employment. Employee is an at-will employee serving at the pleasure of the City Council as provided in Government Code section 36506 and R.M.C. Section 31.03(E). Accordingly, the City Council may terminate Employee's employment at any time, with or without cause, by a three (3) member vote of the City Council pursuant to R.M.C. Section 31.03(E). Employee shall only be entitled to Severance, as defined below, if City terminates Employee's employment without cause as set forth in Section 7.3.

Section 5. Compensation and Evaluations.

Section 5.1. Base Salary. City shall pay Employee an annual salary of One Hundred and Forty-Seven Thousand Dollars ($147,000.00) ("Base Salary"), payable in installments at the same time that other City employees are paid. This Base Salary shall be effective retroactively to the first pay period in January 2018. This Base Salary does not constitute extra compensation for services previously rendered. This Base Salary is made retroactive to the first pay period of January 2018 to reflect a previously agreed upon increase in pay. A salary review shall occur annually in accordance with Section 5.3 of this Agreement. Employee shall receive a five percent (5%) Base Salary increase each January upon receiving a performance evaluation of at least "Satisfactory."

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 Council agrees to review and evaluate Employee's performance of his duties as City Manager 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.

Employee will be evaluated in January 2019. If Employee receives a satisfactory performance rating or higher, Employee will receive a salary step increase effective the first pay period following the Review and Evaluation.

The Employee's annual Review and Evaluation shall continue to be conducted in January of each year, or at the City Council's discretion.

Section 5.4. Healthcare Benefits. City currently provides medical benefits to its employees through the San Joaquin Valley Insurance Association, which may be adjusted from time-to-time. Employee shall contribute twenty percent (20%) of the cost of his healthcare benefits, and the City will contribute the remaining eighty percent (80%) during the Term of this Agreement. Employee shall contribute twenty percent (20%) of the cost of his dental and vision coverage, and the City will contribute the remaining eighty percent (80%) 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. Retirement Plan. City shall pay the employer cost of participation in the California Public Employees Retirement System ("CalPERS"). Employee shall pay employee cost of such participation. Employee will be enrolled in the CalPERS 2% @ 60 Classic plan, Employee shall pay the seven percent (7%) employee contribution.

Section 5.7. Vacation. Employee shall earn twenty (20) working days of vacation per year with a maximum accrual of four hundred (400) hours. Employee shall immediately be credited with ten (10) days of vacation.

Section 5.8. Sick Leave. Employee shall earn sick leave at the rate of one (1) working day for each month of service.

Section 5.9. 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 at the beginning of each fiscal year, sixteen (16) of which may be cashed out if not used. Any unused executive leave expires on June 30th of each fiscal year. Employee shall immediately be credited with forty (40) hours of executive leave.

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. City-Related Business Travel Reimbursement. Employee's duties require that he have continuously available transportation for City business or other related purposes. Employee agrees to provide and utilize his own vehicle for City-related business. The City shall provide Employee with a monthly auto allowance of $200.00 per month. City shall reimburse Employee for any City-related business travel at the Internal Revenue Service ("IRS") mileage rate, which may change from time to time. Employee shall name City as an additional insured under Employee's automobile insurance coverage. Employee may use a City vehicle for travel on all City-related business based on availability.

Section 5.12. Cell Phone Allowance. Employee shall receive a Sixty-Five Dollar ($65.00) per month cell phone allowance.

Section 5.13. Pension Plan. City shall contribute Two Hundred and Ninety-Two Dollars ($292.00) per month to Employee's pension plan.

Section 5.14. Deferred Compensation. City shall establish and maintain a deferred compensation plan and pay the sum of Seven Thousand Five Hundred Dollars ($7,500.00) per year on behalf of Employee into said deferred compensation plan payable in pro rata installments at the same time other employees of the City are paid.

Section 5.15. Professional 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 City. These funds may be limited by the City Council in times of economic distress.

Section 6. Residence. At the time of appointment of Employee, City does not require as a condition of appointment that Employee reside within twenty (20) miles of the City limits. However, Employee voluntarily agrees that as soon as practical after reporting to work, Employee will reside within twenty (20) miles of the City because of the uniqueness of the duties of City Manager. One of the duties of the City Manager is to acquire and maintain a harmonious relationship with the residents of the City as well as with the City Council and City employees. Employee and City are of the strong opinion that the uniqueness of the position can best be served by the Employee residing within twenty (20) miles of the City, and Employee desires to reside within twenty (20) miles of City and agrees to do so. As the managerial head of City, Employee must be readily available to respond to any and all City emergencies requiring his administration and direction.

Section 7. Termination of Employment and Severance.

Section 7.1. Voluntary Resignation. Employee may resign at any time and agrees to give City at least forty-five (45) days advance written notice of the effective date of the Employee's resignation, unless the Parties otherwise agree in writing. If the Employee retires from full time public service with City, Employee shall provide at least three (3) months advance written notice. The 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, 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 7.3 of this Agreement.

Section 7.2. Termination by City Council. The City Council may terminate this Agreement and remove Employee from his position as City Manager at any time with or without cause by a three-fifths (3/5) vote of the entire City Council subject to the provisions of sections 31.03(E) and 31.03(F) of the R.M.C. Employee shall not be removed from office during or within a period of ninety (90) days following any general or special municipal election held at which a member of the City Council is elected. Upon termination, for any reason, City shall compensate Employee for all accrued vacation and executive leave. This compensation shall be based upon Employee's salary as of the date of employment termination.

Section 7.3. Termination Without Good Cause. In the event City terminates this Agreement without cause, as defined below in Section 7.4, City shall pay Employee a sum equal to six (6) months Base Salary ("<u>Severance</u>"). This Severance is subject to the restrictions of Government Code section 53260, including without limitation, that the maximum amount of Severance that Employee may receive shall be the lesser of (i) six (6) 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 City shall be fully reimbursed to City if Employee is convicted of a crime involving an abuse of his office or position while employed with City pursuant to Government Code section 53243.2. This Severance shall be paid in the same manner as other employees unless otherwise agreed to by City and Employee. In the event City terminates this Agreement, Employee shall be entitled to continued medical and dental benefits at his cost pursuant to the provisions of the federal Consolidated Omnibus Budget Reconciliation Act ("<u>COBRA</u>").

Section 7.4. Termination for Good Cause. The City may at any time immediately terminate this Agreement for Good Cause as defined in this Section 7.4. If Employee is terminated for good cause City shall not be required to pay any Severance under this Agreement, and City shall have no obligation to Employee beyond those benefits accrued as of Employee's last day of employment and those 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 City's Personnel Rules and for which a City employee may be terminated;

8. Repeated and protracted unexcused absences from City Manager'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 City Manager;

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 City Manager, 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 Council may suspend Employee with full pay and benefits at any time during the Term of this Agreement.

Section 8. <u>Indemnification.</u> City shall defend, hold harmless, and indemnify Employee against any tort, personnel, civil rights, 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 City Manager in accordance with California's Government Claims Act (Government Code section 825 *et seq*.), and shall provide a defense to Employee in accordance with Government Code sections 995-996.5. City may decline to defend or indemnify Employee only as permitted by the Government Code. City may compromise and settle any such claim or suit and pay the amount of any resulting settlement or judgment. Provided, however, that City's duty to defend and indemnify shall be contingent upon Employee's good faith cooperation with such defense. In the event City provides funds for legal criminal defense pursuant to this Section, Employee shall reimburse 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 9. Bonding. City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 10. Notices. Any notice or communication required hereunder between 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 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: Mr. Sean Scully
City of Riverbank
6707 Third St., Suite A
Riverbank, CA 95367; or
Personal Address indicated in Personnel Record

Section 11. General Provisions.

Section 11.1. Modification of Agreement. This Agreement may be supplemented, amended, or modified only by a writing signed by City and Employee.

Section 11.2. 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.

Section 11.3. 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.

Section 11.4. 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 have 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 breach would have a material effect hereon.

Section 11.5. 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 11.6. 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.

Section 11.7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

Section 11.8. Waiver. No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

Section 11.9. Counterparts. 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.

Section 11.10. Venue. The venue for all legal proceedings shall be the Superior Court for the County of Stanislaus in the State of California.

Section 11.11. 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.

[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:__________________________________
Richard D. O'Brien, Mayor

Date Signed:__________________________

By:__________________________________
Annabelle Aguilar, City Clerk

Date Signed:__________________________

Approved as to Form and Content:

By:__________________________________
Thomas P. Hallinan, City Attorney

EMPLOYEE:

By:__________________________________
Sean Scully, an individual

Date Signed:__________________________

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6 NEW BUSINESS:

Meeting Date:	September 25, 2018
Subject:	Workshop / Discussion – Downtown Incentive Program for Business
From:	Sean Scully, City Manager
Submitted by:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council provide direction and feedback on different possibilities for a downtown business incentive program.

SUMMARY

At the most recent strategic planning session the City Council engaged in a discussion on different ways to incentivize business growth within the downtown area. A variety of ideas were discussed, in order to focus the potential downtown business incentive program staff would like to conduct a workshop to explore different innovative approaches that have been considered by other jurisdictions as well as any new ideas that Council may desire.

BACKGROUND

As is the case with many downtown areas, Riverbank's downtown core has struggled to attract and retain commercial businesses within its area. While the downtown does have a variety of successful long standing small businesses, there is a general sentiment that the area is underutilized and with more downtown tenants could be a more vibrant business climate. This business climate would not only serve Riverbank as a whole but also the residential area that also inhabits the downtown. There are a variety of different methods that municipalities have implemented to encourage economic growth within specified geographical areas. A few of the many potential concepts include:

1. Small business loans (confined to the downtown area)
2. Fee reductions or waivers (permit fees, business licenses fees etc).
3. Targeted incentive programs for specific types of desirable downtown businesses.
4. Building façade and renovation incentives.

At the time of the workshop staff will present more detail on these concepts as well as a variety of other potential ideas. In addition Council may provide additional ideas that may achieve the overall goal of incentivizing business investment in the downtown area.

FINANCIAL IMPACT

No direct financial impact at this time. However, depending on the method ultimately decided upon potential financial impacts will have to be weighed with any anticipated future tax base growth should the programs prove to be successful.

STRATEGIC PLAN

This item was specifically listed as an action item within the strategic plan section "Expand Economic Development Opportunities for Business".

ATTACHMENTS

None