



**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

AGENDA

TUESDAY, JULY 23, 2019– 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 1 Luis Uribe
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member District 3 Cal Campbell

CHANGES TO THE AGENDA: Mayor/Chair Richard D. O'Brien

CONFLICT OF INTEREST

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

1. PRESENTATIONS

- Item 1.1:** Proclamation – National Health Center Week.
- Item 1.2:** Update on Proposition 68 Grant: Community Center Renovation Project.

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, 2019, City Council and Local Redevelopment Authority Minutes.

Item 3.C: A **Resolution** to Rescind Resolution No. 2019-033 and to Approve in its Place a New Amended Table of System Development Fees Waived or Deferred by the City that Includes a 2% Waiver and 98% Deferral Storm Drain Fee for the St. Frances of Rome Church Office Building Project Located at 2818 Topeka Street.

Item 3.D: A **Resolution** Approving Final Map 01-2019 for Dennis Monterosso and California Estates Subdivision – It is recommended that City Council Approve the Final Map (“FM”) for California Estates based on the required finding that the map is in conformity with the provisions of law and city code. Final Map 01-2019 California Estates – APN: 132-046-078 and - 079. The project consists of a Tentative Map to subdivide approximately 2.21 acres into ten (10) single-family detached residential lots (overall density of 4.5 du/acre), one (1) landscaped storm drainage basin, associated street, sewer, water, and storm drainage improvements.

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 There are no items to consider.

6. NEW BUSINESS

Item 6.1: **Informational item: Presentation of The Feral Cat Ordinance Adopted by the City of Oakdale** – It is recommended that the Riverbank City Council hear the presentation by the City of Oakdale regarding the adoption of the feral cat ordinance.

Item 6.2: **Consideration of a Resolution to Approve Creating a Permanent Moratorium on the Processing and Issuance of Additional Permits for a Cannabis Dispensary within the City of Riverbank and Directing Staff to Bring Forward an Amendment to Riverbank Municipal Code**

Chapter 120: Cannabis Regulations; or Allow the Moratorium to Expire on July 23, 2019 – It is recommended that the City Council review the provided information, take public comment, and chose one of the following options:

1. Approve the proposed Resolution 2019-XXX to make the moratorium on cannabis dispensaries permanent and direct staff to bring forward an amendment to Chapter 120 of the Riverbank Municipal Code; or
2. Allow the moratorium to expire on July 23, 2019.

Item 6.3: **Consideration of a Request for Amendment to the Riverbank Cannabis Collective Development Agreement Amending Payment Schedule and Days of Operation by Adoption of a Resolution to Approve the Execution of a Side Letter to the Development Agreement (Ordinance No. 2018-003) Between the City of Riverbank and Family and Friends Association, Inc. doing business as Riverbank Cannabis Collective, A California Cooperative Corporation, for A Cannabis Dispensary** – It is recommended that the City Council review the provided information, take public comment, and chose one of the following options:

1. Authorize City Manager and City Attorney to create and execute a side letter agreement to the Riverbank Cannabis Collective Development agreement that would postpone the second payment tier (of \$7,500) to December of 2019 and allowing operation of the Dispensary during the Wine and Cheese event and Christmas Festival.
2. Deny request by Riverbank Cannabis Collective, which would keep the current provisions of their Development Agreement in place.
3. A combination of the provisions of option 1 or option 2 listed above.

Item 6.4: **Review of Electronic Signage Locations prior to the City Manager entering a Lease Agreement with Rogers Media Company for an Electronic Sign to Advertise City Events and Downtown Activity** – It is recommended that the City Council review the options for the location of the Electronic Sign prior to the City Manager entering into a Lease agreement with Rogers Media Company for a sign to be placed at a location along Highway 108 to advertise City events and downtown activity.

Item 6.5: **A Resolution Authorizing the Riverbank Dog Park Project and Appropriation of Funds from the General Fund and System Development Fee Program for Completion of the Project** – It is recommended that the City Council consider approving the attached resolution which would authorize moving forward with the Riverbank Dog Park at Jacob Meyers Park and appropriate funds to complete the project.

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 recessing 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 LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: Three (3) potential cases

9. REPORT FROM CLOSED SESSION

Item 9.1: Report from Closed Session on Item 8.1: **CONFERENCE WITH REAL PROPERTY NEGOTIATIONS** – Aemetis, Inc.

Item 9.2: Report from Closed Session on Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:** Three (3) potential cases

ADJOURNMENT

(The next regular City Council meeting on Tuesday, August 13th is canceled; the next regular meeting will be on August 27th at 6:00 p.m.)

UPCOMING EVENTS:

2019 Canceled Regular City Council Meetings	• <u>City Council voted to cancel the following regular meetings:</u> - o July 9, 2019, August 13, 2019, November 26, 2019, and December 24, 2019.
--	--

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 California Ralph M. Brown Act.

Posted this 18th day of July, 2019

/s/ Annabelle R. 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	<u>Regular City Council Meetings:</u> 6:00 p.m. on the 2nd and 4th Tuesday of every month, unless otherwise noticed. <u>Local Redevelopment Authority Board:</u> (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 <u>5:00 p.m. on the day of the meeting</u> to allow for 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.
Written Public Comments	Anyone wishing to provide written public comments may do so <u>prior to 5:00 p.m. of the day of the meeting</u> to allow for distribution to the City Council. Comments must specify what agenda item they are referring to. Comments will become part of the record, however, they will not be read aloud at the meeting.
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 the City Clerk's Office, 6707 Third Street, Suite A, Riverbank, CA, during normal business hours.

RIVERBANK CITY COUNCIL/LRA AGENDA ITEM NO. 1.1

SECTION 1: PRESENTATIONS

Meeting Date:	July 23, 2019
Subject:	Proclamation – National Health Center Week
From:	Sean Scully, City Manager
Submitted by:	Norma Torres-Manriquez, Administrative Analyst II

RECOMMENDATION

It is recommended that the City Council read and present the Proclamation for National Health Center Week to Yamilet Valladolid, Manager of Government Affairs with Golden Valley Health Center.

SUMMARY

National health Center Week is celebrated annual August 4th – 10th; the goal is to raise awareness about the mission and accomplishments of America's health centers over the past five decades. Health centers serve 28 million patients, a number that continues to grow along with the demand for affordable primary care. In addition to their long history health centers produce innovative solutions to the most pressing health care issues in their communities and reach beyond the walls of conventional medicine to provide health care in their community.

Available to receive the proclamation is Golden Valley Health Centers who has a total of 38 Clinics (Merced, Stanislaus and San Joaquin Counties) providing physical and emotional wellness, as well as dental services to these communities among so much more. Our Riverbank community is fortunate to have a Golden Valley Health Center that not only serves so many of our residents and surrounding neighbors but also partners with our local Riverbank High School.

FINANCIAL IMPACT:

There is no financial impact with the report.

ATTACHMENTS

1. Proclamation



City of Riverbank Proclamation National Health Center Week August 4th-10th

WHEREAS: For over 50 years, Community Health Centers have provided high-quality, affordable, comprehensive primary and preventive health care in our nation's underserved communities, delivering value to, and having a significant impact on America's health care system.

WHEREAS: As the country's largest primary care network, Health Centers are the health care home for 28 million Americans in over 11,000 communities across the nation. One in every twelve people in the United States gets their care in a community health center.

WHEREAS: Every day, Health Centers develop new approaches to integrating a wide range of services beyond primary care, including oral health, vision, behavioral health, and pharmacy services, to meet the needs and challenges of their communities.

WHEREAS: The Health Center model continues to prove an effective means of overcoming barriers to healthcare access, including geography, income and insurance status - improving health care outcomes and reducing health care system costs.

WHEREAS: Health Centers reduce overall costs of care by helping manage patients chronic conditions, which keeps them out of costlier health care settings like hospital emergency rooms.

WHEREAS: During National Health Center Week, we celebrate the legacy of America's Health Centers, and their vital role in shaping the past, present, and future of America's health care system.

NOW, THEREFORE, LET IT BE PROCLAIMED by the City Council of the City of Riverbank that August 4th -10th is National Health Center Week. We encourage all our citizens to take part in this week by visiting their local Health Center and celebrating the important partnership between America's Health Centers and the communities they serve.

**Richard D. O'Brien, Mayor
July 23, 2019**

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.2

SECTION 1: PRESENTATION

Meeting Date:	July 23, 2019
Subject:	Update on Proposition 68 Grant: Community Center Renovation Project
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council hear and update on the progress of the Proposition 68 Grant Application.

SUMMARY

The Director of Parks and Recreation has been working on the completion of the Proposition 68 grant application that will be submitted August 5, 2019. The project that will be submitted is the Community Center Park and Pool Renovation Project.

BACKGROUND

The Statewide Park Development and Community Revitalization Program is the largest park related grant program in California's history and possibly U.S. history, with over \$1 million in funding between the 2008 Prop. 68 and the 2006 Prop. 84 Bond Acts. Statewide Park Program competitive grants will create new parks and new recreation opportunities in critically underserved communities across California.

GRANT APPLICATION & FUNDING

Proposition 68 funding will distribute \$650,275,000 throughout competitive grants in multiple rounds. The projects must create a new park, expand an existing park or renovate an existing park. The minimum grant application is for \$200,000 and the maximum grant request is for \$8,500,000.

The grant applications submitted must be for sites that meet the criteria of less than 3 acres per 1,000 people within a half mile radius or have a median household income below \$51,026.

STATUS OF GRANT APPLICATION

The grant application is near completion. The five required community meetings have been held and community input has been collected. Our grant partners are Golden Valley Health Care Center, The Federated Women's Club, Central Valley Resource Center and the Riverbank Chamber of Commerce.

PROS Consulting, Inc. has assisted with our community meetings as well as the completion of the site plan, cost estimate and environmental design that will give us additional points for the grant. The project was submitted to the Conservation Corp and they have agreed that this project is a project they would be able to assist with. This process also gives us additional points.

The City will be notified in December 2019 if our grant is successful.

STRATEGIC PLAN

The City of Riverbank is a regional leader in sustainable development offering a unique, culturally diverse, safe, and welcoming community with a thriving downtown, recreational opportunities for all ages and sustainable economy that supports our growing population.

FINANCIAL IMPACT

The financial impact would be positive as there are no match funds required for this grant.

ATTACHMENT

There are no attachments.

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	July 23, 2019
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/LRA Board may waive the reading of the text and introduce the ordinance or resolution by title only for the record.

The full text of 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/LRA Board; 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 / LOCAL REDEVELOPMENT AUTHORITY
AGENDA ITEM NO. 3.B**

SECTION 3: CONSENT CALENDAR

Meeting Date:	July 23, 2019
Subject:	Approval of the June 25, 2019, 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 June 25, 2019, 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. June 25, 2019, 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, JUNE 25, 2019**

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 Vice Mayor/Chair Darlene Barber-Martinez presiding.

FLAG SALUTE

Vice Mayor/Chair Darlene Barber-Martinez

INVOCATION

Reverend Charles Neal, Riverbank Ministerial Association

ROLL CALL

Present:

Mayor/Chair Richard D. O'Brien (excused absence)
Vice Mayor/Chair Darlene Barber-Martinez (CM-D4)
Council/Authority Member District 1 Luis Uribe
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member District 3 Cal Campbell

AGENDA CHANGES: Vice Mayor/Chair Darlene Barber-Martinez – *No changes were made.*

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.

Vice Mayor/Chair Barber-Martinez declared a conflict with Item 5.1-B due to residing within the Crossroads Landscape and Lighting District, and therefore will recuse herself during consideration of the Item.

1. PRESENTATIONS

There were no presentations.

2. PUBLIC COMMENTS (No Action Can Be Taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the City Council/LRA Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to

another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the City Council/LRA Board.

Russell Fowler introduced himself as the Riverbank Representative for Assemblyman Heath Flora.

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 May 28, 2019, City Council and Local Redevelopment Authority Minutes.

Item 3.B-1: Approval of the June 11, 2019, City Council and Local Redevelopment Authority Minutes.

Item 3.C: A Resolution [No. 2019-058] to Approve and Adopt the Revised 2019 City of Riverbank Expenditure Plan Project List for Measure L Funds

Item 3.D: Award Bid for the Pavement Restoration Project 2019 to VSS International, 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.

ACTION: *By motion moved and seconded (Campbell / Fosi / passed 4-0) to approve Consent Calendar Items 3.A through 3.D as presented; Motion carried by unanimous City Council and LRA Board roll call vote.*

AYES: Campbell, Fosi, Uribe, and Vice Mayor/Chair Barber-Martinez

NAYS: None / ABSENT: Mayor/Chair O'Brien / ABSTAINED: None

4. UNFINISHED BUSINESS

There were no items to consider.

5. PUBLIC HEARINGS

The public notices for all Public Hearing Items were published in the Riverbank News on 6/12/2019.

Item 5.1: Two Resolutions for Each Landscape and Lighting District to:
1) Amend and/or Approve the Engineer's Report and the Levy and Collection of Annual Assessments Related Thereto for Fiscal Year 2019/2020; and

2) Ordering the Levy and Collection of Annual Assessments for Fiscal Year 2019/2020.

The Landscape and Lighting Districts are named as follows:

5.1-A: Consolidated Landscaping & Lighting District

[Resolution No. 2019-059 and No. 2019-060]

***5.1-B:** Crossroads Landscaping & Lighting District

[Resolution No. 2019-061 and No. 2019-062]

5.1-C: Ridgewood Place Landscaping & Lighting District

[Resolution No. 2019-063 and No. 2019-064]

5.1-D: River Cove Landscaping & Lighting District

[Resolution No. 2019-065 and No. 2019-066]

5.1-E: Sierra Vista Estates Landscaping & Lighting District

[Resolution No. 2019-067 and No. 2019-068]

It is recommended that the City Council conduct the public hearing for each Landscape and Lighting District as listed, and consider the adoption of each corresponding proposed resolutions by roll call vote.

Community Development Administration Manager Kathleen Cleek presented the staff report.

Vice Mayor Barber-Martinez opened the public hearing at 6:09 p.m.; no one spoke, the hearing was closed.

ACTION: ***By motion moved and seconded (Uribe / Campbell / passed 4-0) to adopt Resolution No. 2019-059, 2019-060, 2019-063, 2019-064, 2019-065, 2019-066, 2019-067, and 2019-068 for the amendment and/or approval of the Engineer's Report and the Levy and Collection of Annual Assessments related thereto for Fiscal Year 2019/2020, and ordering the Levy and Collection of Annual Assessments for Fiscal Year 2019/2020 of each corresponding Landscape and Lighting District as presented, respectively.***
Motion carried by unanimous City Council roll call vote.
AYES: Campbell, Fosi, Uribe, and Vice Mayor Barber-Martinez
NAYS: None / ABSENT: Mayor O'Brien / ABSTAINED: None

****Reference Item 5.1-B: Vice Mayor Barber-Martinez recused herself at 6:09 p.m. and Councilmember Campbell presided.***

Councilmember Campbell opened the public hearing at 6:10 p.m.; no one spoke, the hearing was closed.

ACTION: *By motion moved and seconded (Uribe / Fosi / passed 3-0) to adopt Resolution No. 2019-061 and No. 2019-062 for the amendment and/or approval of the Engineer's Report and the Levy and Collection of Annual Assessments related thereto for Fiscal Year 2019/2020, and ordering the Levy and Collection of Annual Assessments for Fiscal Year 2019/2020 for the Crossroads Landscape and Lighting District as presented.*
Motion carried by unanimous City Council roll call vote.
AYES: Fosi, Uribe, and Councilmember Campbell
NAYS: None / ABSENT: Mayor O'Brien / ABSTAINED: None

Vice Mayor Barber-Martinez returned to the dais to preside over the remainder of the meeting at 6:11 p.m.

Item 5.2: **A Resolution for Each Storm Drain Maintenance District Ordering the Levy and Collection of Assessments for Fiscal Year 2019/2020.**

The Districts are named as follows:

5.2-A: Riverbank Storm Drain Maintenance District No. 2006-01 (Heartlands)
[Resolution No. 2019-069]

5.2-B: Riverbank Storm Drain Maintenance District No. 05-01 (Sterling Ridge)
[Resolution No. 2019-070]

It is recommended that the City Council conduct the public hearing for each District as listed, and consider the adoption of each corresponding proposed resolution by roll call vote.

Community Development Administration Manager Kathleen Cleek presented the staff report.

Vice Mayor Barber-Martinez opened the public hearing at 6:12 p.m.; no one spoke, the hearing was closed.

ACTION: *By motion moved and seconded (Uribe / Fosi / passed 4-0) to adopt Resolution No. 2019-069 and 2019-070 to approve Ordering the Levy and Collection of Assessments for Fiscal Year 2019/2020 for the Heartlands Storm Drain Maintenance District and Sterling Ridge Storm Drain Maintenance District as presented, respectively.*
Motion carried by unanimous City Council roll call vote.
AYES: Campbell, Fosi, Uribe, and Vice Mayor Barber-Martinez
NAYS: None / ABSENT: Mayor O'Brien / ABSTAINED: None

Item 5.3: **A Resolution [No. 2019-071] Adopting the Fiscal Year 2019-2020 Annual Operating Budget – It is recommended that the City Council**

consider adopting a Resolution approving the Fiscal Year 2019-2020 Annual Operating Budget.

Assistant City Manager/Finance Director Marisela Garcia presented the budget.

Vice Mayor Barber-Martinez opened the public hearing at 6:41 p.m.; no one spoke, the hearing was closed.

City Council and Staff discussed the budget.

ACTION: By motion moved and seconded (Fosi / Campbell / passed 4-0) to adopt Resolution No. 2019-071 to adopt the Fiscal Year 2019-2020 Annual Operating Budget as presented. Motion carried by unanimous City Council roll call vote.

AYES: Campbell, Fosi, Uribe, and Vice Mayor Barber-Martinez

NAYS: None / **ABSENT:** Mayor O'Brien / **ABSTAINED:** None

LRA Item 5.4: **Review and Adoption of Preliminary Fiscal Year 2019-20 Local Redevelopment Authority (LRA) Budget** – It is recommended that the Local Redevelopment Authority (LRA) Board of Directors (Board) review and approve the Preliminary Fiscal Year 2019-2020 LRA Budget.

LRA Administrative Analyst II Melissa Holdaway presented the budget report.

Vice Chair Barber-Martinez opened the public hearing at 6:48 p.m.; no one spoke, the hearing was closed.

ACTION: By motion moved and seconded (Campbell / Uribe / passed 40) to adopt Resolution No. 2019-002 to adopt the Preliminary Fiscal Year 2019-20 Local Redevelopment Authority (LRA) Budget as presented.

Motion carried by unanimous City Council roll call vote.

AYES: Campbell, Fosi, Uribe, and Vice Chair Barber-Martinez

NAYS: None / **ABSENT:** Chair O'Brien / **ABSTAINED:** None

6. NEW BUSINESS

Item 6.1: **Informational Item: Update on Smoke Testing of the Collection System** – It is recommended that Council hear an update on the upcoming Smoke Testing Project and associated outreach materials.

Public Works Director Michael Riddell presented the staff report.

City Council and Staff discussed the Item.

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 introduced new employee Gabriel Salazar as the Associate Planner; announced the scheduled consideration of Crossroads West Specific Plan and Annexation Proposal by LAFCO (Stanislaus Local Agency Formation Commission); and commented on the need for Community support to stop the use of illegal fireworks.*

Item 7.2: Council/Authority Member

- *Council/Authority Member Uribe announced he will be meeting with downtown businesses to discuss the Sip and Stroll event, and will be reporting on the Stanislaus Homeless Alliance Meeting at the next Council meeting.*
- *Council/Authority Member Fosi announced the Friday, Summer Concert in the Park Event at Jacob Myers Park.*
- *Council/Authority Member Campbell encouraged the public to report illegal fireworks and the availability of Staff to receive reports over the 4th of July Holiday.*
- *Vice Mayor/Chair Barber-Martinez: 1) announced the Kids Health and Safety Bike Rodeo Event; 2) reported on her attendance of the Stanislaus County Social and Environmental Justice Forum; 3) reported on her attendance of the California League of Cities Community Services Policy Meeting; 4) announced the Community Center Park and Pool Grant meeting and requested the Community's input; 5) encouraged everyone to be safe during the 4th of July Holiday; and 6) announced that the City Council meeting on July 9th had been canceled by the Council at the beginning of the year.*

Item 7.3: Mayor/Chair - Absent

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 LEGAL COUNSEL – ANTICIPATED LITIGATION** Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (2) potential cases

Vice Mayor/Chair Barber-Martinez announced the Closed Session Item(s) and opened the Item(s) for public comment; no one spoke. The meetings were recessed and City Council went into Closed Session at 7:12 p.m.

9. REPORT FROM CLOSED SESSION

Vice Mayor/Chair Barber-Martinez reconvened the meetings at 7:51 p.m.

Item 9.1: Report from Closed Session on Item 8.1: **CONFERENCE WITH REAL PROPERTY NEGOTIATIONS** – Aemetis, Inc.

Vice Mayor Barber-Martinez reported that direction was provided to staff.

Item 9.2: Report from Closed Session on Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:** (2) potential cases

Vice Mayor Barber-Martinez reported that direction was provided to staff.

ADJOURNMENT

There being no further business, Vice Mayor/Chair Barber-Martinez adjourned the meetings at 7:51 p.m.

ATTEST: *(Adopted 7/23/2019)*

APPROVED:

Marisela H. Garcia
Asst. City Manager/Recorder

Darlene Barber-Martinez
Vice Mayor/Chair

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONSENT CALENDAR

Meeting Date: July 23, 2019

Subject: A **Resolution** to Rescind Resolution No. 2019-033 and to Approve a New Amended Table of System Development Fees Waived or Deferred by the City that Includes a 2% Waiver and 98% Deferral Storm Drain Fee for the St. Frances of Rome Church Office Building Project Located at 2818 Topeka Street

From: Sean Scully, City Manager

Submitted by: Sean Scully, City Manager
Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council approve the proposed resolution to establish a new table of System Development fees, which includes an amended Storm Drain Fee that will be two percent (2%) waived and ninety-eight percent (98%) deferred for the St. Frances of Rome Church Building Project.

SUMMARY

St. Frances of Rome Church submitted a written request to waive payment of their System Development Fees, which will be assessed on the construction of a single-story 1,920 square foot office building when they are issued their building permit. At the regular City Council meeting of May 14, 2019, Council partially waived or deferred all fees except for the Storm Drain fee. Council requested a calculation be done on the percentage of storm water that could be captured on site by the landscaping to determine the amount of waiver and/or deferral of the Storm Drain fee.

BACKGROUND

The City currently collects System Development Fees at building permit issuance to defray the impact of new development as authorized by Government Code §66000-66025. The City's System Development Fee program is codified in §150.30 titled "System Development Fees" which establishes the authority for imposing and charging the fees. This project would be assessed the following estimated System Development Fees for the project:

System Development Fee Type	Amount
Streets/Public Works	\$10,925.76
Water	\$3,921.60
Waste Water	\$3,137.28
Storm Drain	\$7,970.88
Parks and Recreation	\$0
Police/General Government	\$693.12
5% Administrative Fee	\$1,402.56
Total System Development Fees	\$28,051.20

This waiver and/or deferral of fees only applies only to Riverbank's System Development Fees and not any plan check fees, building permit fees, or inspection fees. It does not include any fees imposed by any other agency such as Stanislaus County, the fire district, or a school district. St. Frances of Rome Church has the ability to negotiate with these other agencies to waive or defer their fees.

DETERMINATION OF FEES

The City Council during their May 14, 2019 meeting agreed to waive fifty percent (50%) of the Church's Streets/Public Works fee and one hundred percent (100%) of the 5% Administrative Fee. Except for the Storm Drain fee, all other fees were deferred. A determination of the Storm Drain fee was not made the night of the meeting. Council asked for a study to be done to see what percentage of rain water will be accommodated by the new landscaping and storm water swales. The study was completed and the project architect determined only 2% or the project's storm water would be accommodated by the landscaping. The chart below was amended to show 2% of the Storm Drain fee waived and 98% deferred (in blue).

(Estimated) System Development Fee Type	SDF's	SDF's Waived	SDF's Deferred
Streets/Public Works	\$10,925.76	(50%) = \$5,462.88	(50%) = \$5,462.88
Water	\$3,921.60		(100%) = \$3,921.60
Waste Water	\$3,137.28		(100%) = \$3,137.28
Storm Drain	\$7,970.88	(2%) = \$159.42	(98%) = \$7,811.46
Parks & Recreation	\$0		
Police/General Government	\$693.12		\$693.12
5% Administrative Fee	\$1,402.56	(100%) = \$1,402.56	
Total System Development Fees	\$28,051.20		
Total (+/-) SDF's Waived		\$7,024.86	
Total (+/-) SDF's Deferred			\$21,026.34

FINANCIAL IMPACT

The System Development Fee program is designed as a mechanism to collect impact fees to build infrastructure necessary to support new growth City-wide. Careful evaluation of each proposed project is necessary to understand potential funding shortfalls which might be created as a result of granting waiver requests. In the case presented above, waiving all system development fees would have resulted in a negative financial impact of \$28,051.20 to the City. Instead, the City will waive a total of \$7,024.86 in fees and defer a total of \$21,026.34 in fees. All deferred fees will be due before building permit final.

STRATEGIC PLAN

This item is indirectly related to the City's Strategic Plan through fee program updates.

ATTACHMENT

Attachment 1 - Resolution No. 2019-XXX Storm Drain Fee Waiver and Deferral

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO RESCIND RESOLUTION NO. 2019-033 AND TO APPROVE IN ITS PLACE A NEW AMENDED TABLE OF SYSTEM DEVELOPMENT FEES WAIVED OR DEFERRED BY THE CITY THAT INCLUDES A 2% WAIVER AND 98% DEFERRAL OF THE STORM DRAIN FEE FOR THE ST. FRANCES OF ROME CHURCH OFFICE BUILDING PROJECT LOCATED AT 2818 TOPEKA STREET

WHEREAS, it is necessary as established in the Riverbank Municipal Code for the proper and effective operation of City Government to establish, amend, or authorize fees for services in order to provide for the financial support of City Government; and

WHEREAS, from time to time, the City Council reviews these fees to ensure that they are adequately supporting the operation of City Government; and

WHEREAS, on March 18, 2019, the City received a request from St. Francis of Rome Church to waive their System Development Fees (SDF) for an office building project; and

WHEREAS, St. Francis of Rome Church has requested the City Council review, waive, and/or defer the System Development Fees assessed on the construction of their office building project located at 2818 Topeka Street; and

WHEREAS, unless waived or deferred, St. Francis of Rome Church will be assessed the following estimated System Development Fees for the office building project at building permit issuance (non-residential projects do not pay a fee for parks and recreation):

System Development Fee Type	Amount
Streets/Public Works	\$10,925.76
Water	\$3,921.60
Waste Water	\$3,137.28
Storm Drain	\$7,970.88
Parks and Recreation	\$0
Police/General Government	\$693.12
5% Administrative Fee	\$1,402.56
Total System Development Fees	\$28,051.20

WHEREAS, in accordance with City Council's direction and Resolution No. 2019-033 adopted on May 14, 2019, the deferral of the Storm Drain SDF of \$7,970.88, was approved with the stipulation that the City would conduct an analysis to determine what percentage of rain water will be accommodated by the new landscaping and storm water swales in order to make a final determination of what percentage, if any, of the Storm Drain Fee could be waived; and

WHEREAS, a study was completed and the project Architect determined 2% of the project's storm water would be accommodated by the landscaping, which will be the percentage waived; therefore, the remaining storm water of 98% will be the percentage of the Storm Drain Fee deferred; and

WHEREAS, this resolution includes the analyzed and final determination of the percentages of the Storm Drain Fee to be waived and deferred (indicated in the table below); and

WHEREAS, the following amended System Development fees table herein are the projected fees that are waived or deferred by the City and shall be paid by St. Frances of Rome Church; and

(Estimated) System Development Fee Type	SDF's	SDF's Waived	SDF's Deferred
Streets/Public Works	\$10,925.76	(50%) = \$5,462.88	(50%) = \$5,462.88
Water	\$3,921.60		(100%) = \$3,921.60
Waste Water	\$3,137.28		(100%) = \$3,137.28
Storm Drain	\$7,970.88	(2%) = \$159.42	(98%) = \$7,811.46
Parks & Recreation	\$0		
Police/General Government	\$693.12		\$693.12
5% Administrative Fee	\$1,402.56	(100%) = \$1,402.56	
Total System Development Fees	\$28,051.20		
Total (+/-) SDF's Waived		\$7,024.86	
Total (+/-) SDF's Deferred			\$21,026.34

WHEREAS, for this proposed project, any System Development Fees deferred shall be assessed and paid upon issuance of a Certificate of Occupancy; and

WHEREAS, the aforementioned waivers and deferrals would only apply to Riverbank's System Development Fees, and does not include any permit fees, plan check fees, inspection fees, or fees imposed by any other agency such as the Fire District, School District, or Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby rescinds Resolution No. 2019-033, and in its place approves the waivers and deferrals as stated above in the aforementioned amended System Development Fees table for an estimated total of (+/-) \$7,024.86 fees waived and \$21,026.34 fees deferred.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of July 2019; motioned by _____, seconded by _____, and upon roll call was carried by the following vote of _-_:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Marisela H. Garcia
Asst. City Manager/Recorder

Richard D. O'Brien
Mayor

Attachment: Copies of Waiver Request and Justification that were attached to rescinded Resolution 2019-033

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.D

SECTION 3: CONSENT CALENDAR

Meeting Date:	July 23, 2019
Subject:	A Resolution Approving Final Map 01-2019 For Dennis Monterosso And California Estates Subdivision
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

Approve the Final Map ("FM") for California Estates based on the required finding that the map is in conformity with the provisions of law and city code.

Final Map 01-2019 California Estates – APN: 132-046-078 and -079. The project consists of a Tentative Map to subdivide approximately 2.21 acres into ten (10) single-family detached residential lots (overall density of 4.5 du/acre), one (1) landscaped storm drainage basin, associated street, sewer, water, and storm drainage improvements.

BACKGROUND

On August 18, 2015, the Riverbank Planning Commission adopted Resolution No. 2015-020 thereby approving Tentative Subdivision Map No. 02-2015 for the development of California Estates for ten (10) single family residential lots. A map extension request of five (5) months was approved by the Planning Commission on July 18, 2017 with Resolution 2017-015. The proposed Final Map (Exhibit A) was first submitted to the City Engineer in December 2017 and deemed a timely filing but the map was not approved until the subdivision improvements were complete and a one (1) year warranty bond obtained.

The developer has been working on the on-site and off-site improvements including the extension of Matthew Lane, installation of utilities, curb, gutter, sidewalks and a stormwater basin with irrigation and landscaping. The subdivision improvements are now complete and its Public Works punch lists satisfied.

Pursuant to Riverbank Municipal Code Section §152.074 (C)(2), the City Council shall, at the meeting at which it receives the map or at its next regular meeting after the meeting at which it receives the map, approve the map if it is determined to be in conformity with the provisions of law and of this chapter. The Council shall disprove the map if it is determined not to be in conformity with the provisions of law and of this chapter and shall advise the subdivider of its disapproval, and the reason or reasons thereof.

The City Engineer and Planning and Building Manager have reviewed the final map and have determined that the plans are in substantial compliance with city standards and with the conditions placed upon the tentative map, including annexing into city-wide Community Facilities District (CFD) 2016-01.

FISCAL IMPACT

Short term is revenue neutral; fees are paid for inspections, processing fees, and System Development Fees. Long term impact is normally negative as service costs to new residential are not typically fully recovered. Future payments into CFD 2016-01 will greatly assist in covering those service costs.

ATTACHMENTS

1. Resolution No. 2019-XXX
Exhibit A - Final Map 01-2019

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPROVING FINAL MAP 01-2019 FOR DENNIS MONTEROSSO
AND CALIFORNIA ESTATES SUBDIVISION**

WHEREAS, Dennis Monterosso is the developer for California Estates VTM No. 02-2015 (2.21 Acres and 10 Single Family Residential Lots); and

WHEREAS, Subdivider shall pay all fees due the City of Riverbank as required by City Ordinances and Policies, including any that have been deferred; and

WHEREAS, Subdivider recognizes that the City of Riverbank may withhold future building permits should adopted Mitigation Measures not be implemented in a timely manner.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the contract City Engineer to record Final Map 01-2019 for California Estates, Dennis Monterosso VTM No. 02-2015 (2.21 Acres and 10 Single Family Residential Lots) upon determination that the map (**Exhibit A** attached hereto) is in conformity with the provisions of State law and City Code.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of July, 2019; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Marisela H. Garcia
Asst. City Manager/Recorder

Richard D. O'Brien
Mayor

Attachment: Exhibit A – Final Map 01-2019

OWNER'S STATEMENT

THE UNDERSIGNED, HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE, OR HAVE SOME INTEREST OF RECORD IN THE LAND SHOWN ON THIS MAP, AND WE CONSENT TO THE MAKING AND FILING OF THIS MAP IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY, CALIFORNIA.

WE OFFER FOR DEDICATION TO THE PUBLIC FOR PUBLIC USE MATTHEW LANE, LOT "A", 10 FOOT WIDE P.U.E., ~~THE 15 FOOT WIDE SANITARY SEWER & STORM DRAIN EASEMENT, AND THE 10 FOOT WIDE STORM DRAIN EASEMENT~~, ALL AS SHOWN WITHIN THE EXTERIOR BOUNDARY OF THE LAND BEING DIVIDED.

OWNER: DENNIS MONTEROSSO, AN UNMARRIED MAN

BY: _____ DATE: _____
DENNIS MONTEROSSO

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA }
COUNTY OF _____ } SS
ON _____ BEFORE ME, _____
A NOTARY PUBLIC PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.
WITNESS MY HAND AND OFFICIAL SEAL.
NOTARY'S SIGNATURE _____
PRINT NOTARY'S NAME _____
PRINCIPAL COUNTY OF BUSINESS _____
REGISTRATION # _____
MY COMMISSION EXPIRES: _____

CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT THE OWNER(S) OF THE PROPERTY SHOWN ON THE ACCOMPANYING MAP HAVE FILED WITH THE BOARD OF SUPERVISORS:
(CHECK ONE)
☐ A BOND OR DEPOSIT APPROVED BY SAID BOARD TO SECURE THE PAYMENT OF TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES, WHICH ARE AT THE TIME OF FILING THIS MAP, A LIEN AGAINST SAID PROPERTY OR ANY PART THEREOF.
☒ A RECEIPTED TAX BILL OR BILLS OR SUCH OTHER EVIDENCE AS MAY BE REQUIRED BY SAID BOARD SHOWING FULL PAYMENT OF ALL APPLICABLE TAXES.

DATED THIS 14th DAY OF June, 2019.
ELIZABETH A. KING
CLERK OF THE BOARD OF SUPERVISORS
STANISLAUS COUNTY

BY: Patricia Gonzalez, DEPUTY
Patricia Gonzalez
PRINT NAME

CALIFORNIA ESTATES

BEING A SUBDIVISION OF PARCELS A & B, AS SHOWN ON THAT CERTAIN MAP RECORDED IN BOOK 29 OF PARCEL MAPS, AT PAGE 76, STANISLAUS COUNTY RECORDS, AND LYING IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, CITY OF RIVERBANK, STANISLAUS COUNTY, CALIFORNIA.

MAY 2019
PAGE 1 OF 2

HAWKINS & ASSOCIATES ENGINEERING
436 MITCHELL RD. MODESTO,
CALIFORNIA 95354

CITY CLERK'S ACCEPTANCE OF DEDICATION CERTIFICATE:

THIS IS TO CERTIFY THAT AT A REGULAR MEETING HELD ON THE _____ DAY OF _____, 2019, THE CITY COUNCIL OF THE CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, APPROVED THIS FINAL MAP AND ACCEPTED ON BEHALF FOR PUBLIC USE THE STREETS, AVENUES, ROADS, LOT "A", THE 15' WIDE SANITARY SEWER AND STORM DRAIN EASEMENT, THE 10' WIDE STORM DRAIN EASEMENT, AND THE 10' WIDE PUBLIC UTILITY EASEMENT ALL AS SHOWN ON THIS FINAL MAP.

DATED THIS _____ DAY OF _____, 2019

BY: _____
ANNABELLE AGUILAR
CITY CLERK, CITY OF RIVERBANK

PRINT NAME _____

TAX COLLECTOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT THERE ARE NO LIENS AGAINST THE PROPERTY OR ANY PART THEREOF FOR ANY UNPAID STATE, COUNTY, SCHOOL, MUNICIPAL OR LOCAL TAXES, OR SPECIAL ASSESSMENTS, EXCEPT SPECIAL ASSESSMENTS OR TAXES NOT YET PAYABLE AGAINST THE LAND SHOWN ON THIS MAP.

AS TO STATE, COUNTY, SCHOOL, OR MUNICIPAL TAXES:

DATED THIS 14 DAY OF June, 2019.
Lauren Klein, Donna Riley
STANISLAUS COUNTY TAX COLLECTOR

BY: _____, DEPUTY

PRINT NAME: Rebekah Scott

APN: 132-046-078
132-046-079

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF DENNIS A. MONTEROSSO IN FEBRUARY OF 2016. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY, AND THE MONUMENTS ARE OF THE CHARACTER AND IN THE LOCATIONS SHOWN HEREON AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED THIS 23rd DAY OF May, 2019.

KEVIN J. GENASCI, P.L.S. 8660



CITY ENGINEER'S CERTIFICATE

THIS IS TO STATE THAT I HAVE EXAMINED THE ACCOMPANYING FINAL MAP, THAT THE SUBDIVISION IS SHOWN SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND THE MUNICIPAL CODE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH, AND THE MAP IS TECHNICALLY CORRECT.

DATED THIS _____ DAY OF _____, 2019.

WILLIAM F. KULL, CITY ENGINEER
P.L.S. 5792

PLANNING COMMISSION CERTIFICATE:

THIS IS TO CERTIFY THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE TENTATIVE MAP RECOMMENDED AND APPROVED BY THE PLANNING COMMISSION AT A DULY AUTHORIZED MEETING HELD ON THE 18TH DAY OF AUGUST, 2015 BY PLANNING RESOLUTION NO. 2015-020

DATED THIS _____ DAY OF _____, 2019.

BY: _____
DONNA M. KENNEY
SECRETARY OF PLANNING COMMISSION

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2019, AT _____ O'CLOCK
_____.M. IN BOOK _____ OF MAPS, AT PAGE _____, STANISLAUS COUNTY RECORDS, AT THE REQUEST OF HAWKINS & ASSOCIATES ENGINEERING, INC.

FEE: \$ _____

INSTRUMENT NO. _____ FEE: \$ _____ PAID

DONNA LINDNER
COUNTY RECORDER

BY: _____
DEPUTY COUNTY RECORDER

THE COURSE OF NORTH 89°24'03" WEST ALONG THE NORTH LINE OF PARCELS A AND B, AS SHOWN ON THE MAP RECORDED AUGUST 16, 1979 IN BOOK 29 OF PARCEL MAPS, AT PAGE 76, STANISLAUS COUNTY RECORDS, IS THE BASIS FOR ALL BEARINGS ON THIS MAP.

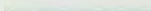
BEING A SUBDIVISION OF PARCELS A & B, AS SHOWN ON THAT
CERTAIN MAP RECORDED IN BOOK 29 OF PARCEL MAPS, AT PAGE 76,
STANISLAUS COUNTY RECORDS, AND LYING IN THE SOUTHEAST
QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 9 EAST,
MOUNT DIABLO BASE AND MERIDIAN, CITY OF RIVERBANK,
STANISLAUS COUNTY, CALIFORNIA.

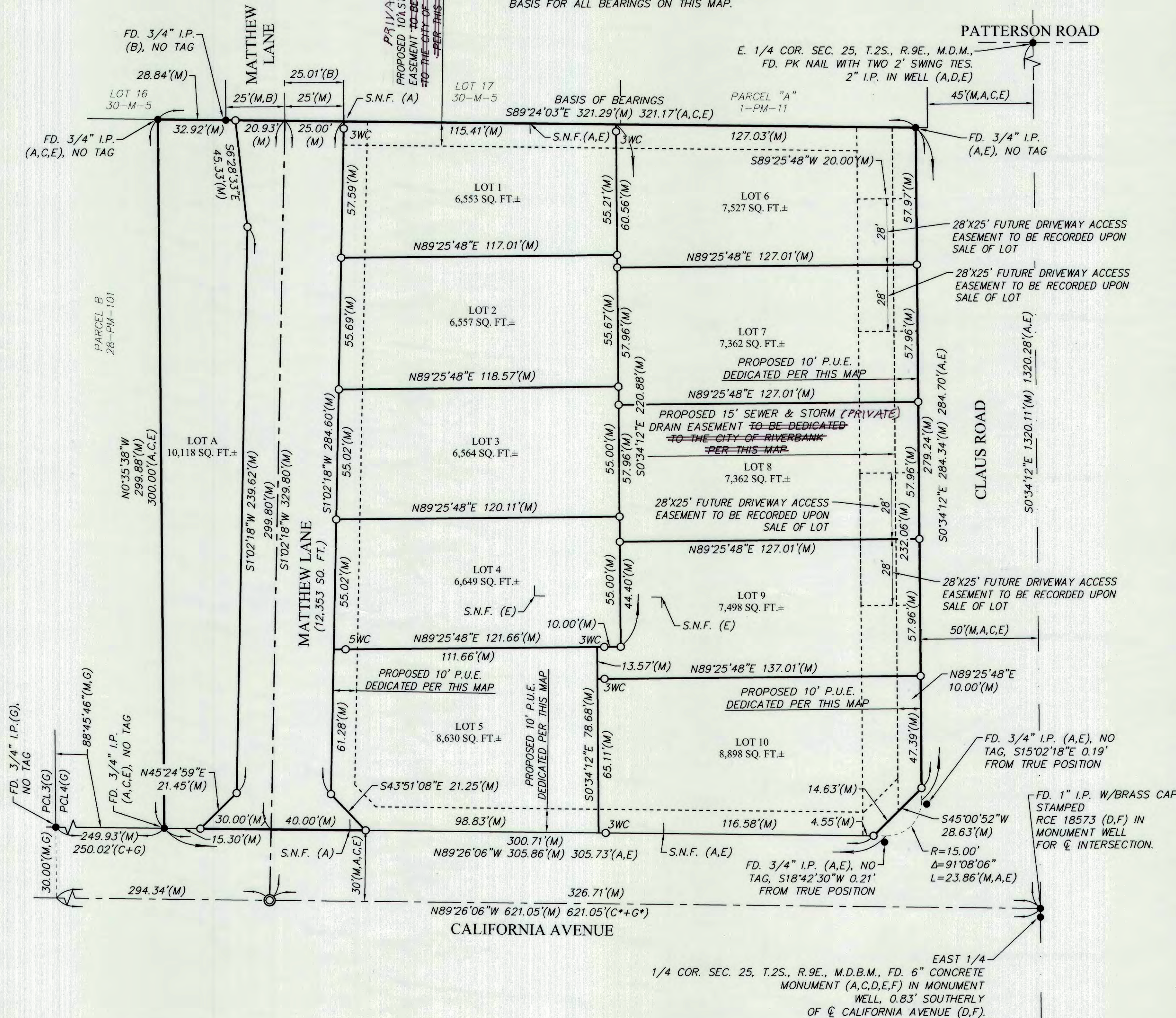
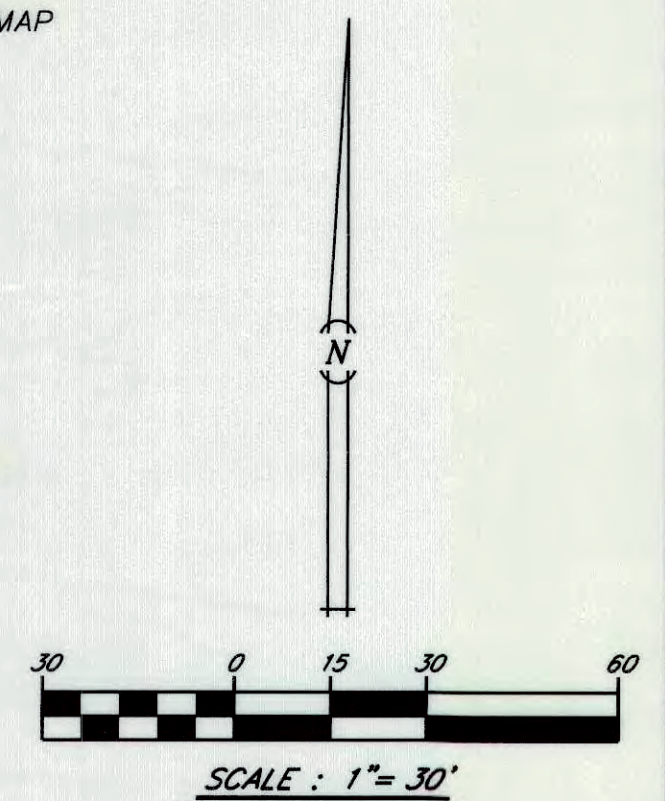
HAWKINS & ASSOCIATES ENGINEERING
436 MITCHELL RD. MODESTO,
CALIFORNIA 95354

- A. BOOK 22 OF SURVEYS, AT PAGE 83, S.C.R.
- B. BOOK 30 OF MAPS, AT PAGE 5, S.C.R.
- C. BOOK 28 OF PARCEL MAPS, AT PAGE 101, S.C.R.
- D. VOLUME 34 OF MAPS, AT PAGE 79, S.C.R.
- E. BOOK 29 OF PARCEL MAPS, AT PAGE 76, S.C.R.
- F. FIELD NOTES FROM COUNTY FIELD BOOK #C184, S.C.R.
- G. BOOK 42 OF PARCEL MAPS, AT PAGE 5, S.C.R.

1. ALL DISTANCES ARE MEASURED AND GROUND UNLESS OTHERWISE NOTED.
2. THIS MAP REFERS TO APPROVED TENTATIVE MAP 02-2015
3. THE GROSS AREA OF THIS SUBDIVISION IS 2.21 ACRES. THE LOT AREAS SHOWN ON THIS MAP ARE NET AREAS.
4. THIS SUBDIVISION CONTAINS 10 RESIDENTIAL LOTS, 1 PUBLIC STREET (MATTHEW LANE), AND 1 STORM DRAINAGE BASIN LOT (LOT "A").
5. LOT "A" (STORM DRAINAGE BASIN) IS TO BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION.

- FOUND MONUMENT AS NOTED
- INDICATES SET 3/4" I.P. TAGGED L.S. 8660
- 3WC INDICATES SET 3/4" I.P. TAGGED L.S. 8660
3.00' FROM TRUE POSITION ALONG LOT LINE
- 5WC INDICATES SET 3/4" I.P. TAGGED L.S. 8660
5.00' FROM TRUE POSITION ALONG LOT LINE
- ◎ INDICATES SET 3/4" I.P. TAGGED L.S. 8660
IN MONUMENT WELL
- I.P. INDICATES IRON PIPE
- (M) MEASURED AS NOTED ON THIS MAP
- (A) RECORD PER REFERENCE
- (R) RADIAL BEARING
- S.C.R. STANISLAUS COUNTY RECORDS
- PM PARCEL MAP
- M RECORD MAP
- P.U.E. PUBLIC UTILITY EASEMENT
- * CALC PER RECORD

 SUBDIVISION BOUNDARY
 PROPOSED RIGHT-OF-WAY LINE
 PROPOSED LOT LINE
 PROPOSED CENTERLINE
 PROPOSED EASEMENT
 EXISTING SECTION LINE
 EXISTING RIGHT-OF-WAY LINE
 EXISTING LOT LINE
 EXISTING CENTERLINE
 EXTENSION OF LOT LINE



RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	July 23, 2019
Subject:	Informational item: Presentation of The Feral Cat Ordinance Adopted by the City of Oakdale
From:	Sean Scully, City Manager
Submitted by:	Norma Torres-Manriquez, Administrative Analyst II

RECOMMENDATION

It is recommended that the Riverbank City Council hear the presentation by The City of Oakdale regarding the adoption of the feral cat ordinance.

SUMMARY

The City of Riverbank contracts with the City of Oakdale for Animal Control services. The City of Riverbank's Ordinance 91.01 (Animal Control Ordinance Adopted by Reference) adopted in 2008 states that "The City of Oakdale Animals and Fowl Ordinance is hereby incorporated by reference and made a part of this code the same as if set forth in full herein." Per the City of Riverbank Ordinance the City adopts into code those Animal Control Ordinances approved by the City of Oakdale.

Staff has provided a copy of the Oakdale feral cat ordinance along with a copy of the staff report presented by the City of Oakdale Chief of Police, Scott Heller at the July 1, 2019, Oakdale City Council meeting (see attachment 1 and 2).

Oakdale Chief of Police, Scott Heller will present to Council the ordinance and the efforts that the Animal Control staff is working on to ensure that the Feral Cat Colony Program is successful in both Oakdale and Riverbank.

BACKGROUND

The City of Oakdale adopted (on July 1, 2019) the update to Article IV of Chapter 4 (City of Oakdale Municipal Code) related to feral cats. The intent of the Ordinance update is to provide a more efficient and human form of managing feral cats in the community. The adopted feral cat ordinance by the City of Oakdale makes it unlawful to intentionally provide food, water, or other forms of sustenance to feral cats unless the person signs a statement committing to partnering with Animal Services through the "Cat Colony

Program”. The “Cat Colony Program” provides a responsible and more humane option to managing feral cat colonies.

STRATEGIC PLAN

The adoption of this resolution will aid in the health and safety of the City.

FINANCIAL IMPACT

No fiscal impact to the City at this time.

ATTACHMENT

1. **City of Oakdale Staff Report for Feral Cat Ordinance meeting 7-1-19-** City of Oakdale City Council Staff Report for the meeting of July 1, 2019: Subject – waive the second reading of an Ordinance Adding Section 4-21.1 to Article IV of Chapter 4 of the Oakdale City Code relating to “Feral Cats” with Amendments to Section 4-35 of Article V of Chapter 4 of the Oakdale City Code and Adopt Said Ordinance.
2. **City of Oakdale Copy of Ordinance Approved 7-1-19 -** City of Oakdale Ordinance 1264- adopted July 1, 2019



**CITY OF OAKDALE
CITY COUNCIL STAFF REPORT**

Date: July 1, 2019

To: City Council

From: Scott Heller, Chief of Police

Subject: Waive the Second Reading of an Ordinance Adding Section 4-21.1 to Article IV of Chapter 4 of the Oakdale City Code relating to “Feral Cats” with Amendments to Section 4-35 of Article V of Chapter 4 of the Oakdale City Code and Adopt Said Ordinance.

I. BACKGROUND

The City Council at its meeting on June 17, 2019, introduced an Ordinance related to “Feral Cats” amending Chapter 4 of the Oakdale City Code. During the discussion of the proposed Ordinance, the City Council requested clarifications be added to the language of the Code related to the proposed Ordinance. These clarifications included: a specific requirement to have written permission from the property owner where any proposed caretaking function of feral cats would occur; additional language making it unlawful to abandon/release cats (outside of the provisions of the proposed Ordinance); and specific criminal and administrative sanctions indicated for violations of the proposed Ordinance.

The proposed addition of Section 4-21.1 Feral Cats would make it unlawful to intentionally provide food, water, or other forms of sustenance to feral cats unless the person signs a statement committing to partnering with Animal Services through the “Cat Colony Program”. The “Cat Colony Program” provides a responsible and more humane option to managing feral cat colonies.

The proposed update is in accordance with current laws and best practices to provide a more efficient process for the management of animal services challenges related to feral cats. The proposed addition of Section 4-21.1 Feral Cats incorporates clarification language requested during the introduction of the Ordinance and necessary updates to Chapter 4 of the Oakdale City Code to ensure consistency with the penalties section.

II. DISCUSSION

Chapter 4 of the Oakdale City Code is in need of amending to provide for more efficient operations and more humane management of animal services within the community. The proposed updates are in accordance with current laws and best practices to provide a more efficient process for the management of animal services challenges related to feral cats.

CITY OF OAKDALE
City Council Staff Report (Continued)

SUBJECT: Adoption of a Proposed Ordinance amending Chapter 4 of the Oakdale City Code Relating to Feral Cats
MEETING DATE: July 1, 2019

A feral cat is a cat that lives permanently outside of a domestic home and is not owned and cared for as a typical companion animal or pet, as a result of having been born feral, abandoned by an owner, or rendered homeless, wild or stray by any other means, whose unusual and consistent temperament is extreme fear and resistance to contact with people. Generally, feral cats are a health and safety hazard to humans given they may carry disease and otherwise negatively impact general city sanitation.

A feral cat colony is a population of feral domesticated cats. Members of a feral cat colony can include cats that have strayed after living with human caretakers and can include their offspring which have had little to no human contact at all. Feral colonies occur when unsterilized domesticated cats become, intentionally or otherwise, disconnected from their respective human owners and managed domestic environment. These once domesticated cats quickly have to learn to fend for themselves and then form breeding communities to survive.

Cats reach sexual maturity between the ages of five to nine months. A cat's "heat cycle" can last up to 21 days and they have the ability to reproduce all year long. The pregnant cat's gestation period is between 61 to 69 days. Female cats can have up to 5 litters each year. Feral cats can have anywhere from 3 to 6 kittens per litter.

Stray and feral cats can be prolific reproducers with estimations that an unspayed female cat, her mate, and all of their offspring, producing just 2 litters per year, with 2.8 surviving kittens per litter can reach totals of 12 cats in one year, 67 cats in 2 years, 376 cats in 3 years, and over 2,000 cats in just 4 years!

Animal Services has seen an increase in complaints and incidents related to feral and stray cats. For example, in 2017 450 stray cats were taken into the Animal Shelter. In 2018, the number of stray cats increased to 564. This increase continues to place pressure on Animal Services as it prioritizes "no-kill" options such as adoption and rescue. However, even with the best of efforts, the increases in stray and feral cats in the community are driving up the number of cats being euthanized.

Animal Services is seeking a better solution to lower the need to euthanize cats and increase community health and safety by attempting to partner with those feeding stray and feral cats and providing a responsible way to manage the growing challenge.

The proposed addition of City Code Section 4-21.1 Feral Cats would make it unlawful to intentionally provide food, water, or other forms of sustenance to feral cats unless the person signs a statement committing to partnering with Animal Services through the "Cat Colony Program". The "Cat Colony Program" provides a responsible option to managing a feral cat colony. The "Cat Colony Program" guidelines are grounded in the proposed Ordinance and developed and updated

CITY OF OAKDALE
City Council Staff Report (Continued)

SUBJECT: Adoption of a Proposed Ordinance amending Chapter 4 of the Oakdale City Code Relating to Feral Cats
MEETING DATE: July 1, 2019

through existing partnerships between City Staff and OSPA, ASTRO, local veterinarians, the City of Riverbank, and any other interested stakeholders.

Under the proposed Ordinance, feeding and maintaining a feral cat colony would be permitted with a signed statement agreeing to all of the following conditions:

- (1) Register with Animal Services and Control as a caretaker of feral cats;
- (2) Feed feral cat(s) daily in a manner that does not leave excess food in the area;
- (3) Provide Animal Services written authorization from the owner of the property where the caretaking of feral cats will occur;
- (4) Regularly trap and spay/neuter cats over the age of eight (8) weeks;
- (5) Evaluate all trapped cats for symptoms of illness to include feline leukemia and feline immune deficiency virus, and test if illness is suspected, and have those who test positive humanely euthanized or isolated indoors, abiding by veterinarian recommendation;
- (6) Identify all trapped cats by tipping their ears;
- (7) Arrange to have all trapped cats vaccinated for rabies in addition to any other vaccination or immunization requirement imposed by the State.

Additionally, the proposed Ordinance makes it specifically unlawful for any person to knowingly and intentionally abandon or otherwise release a cat upon any public or private property or public right of way outside of the provisions of the Ordinance.

Any violation of the Ordinance may be punishable as a misdemeanor and subject to a fine of not more than five hundred dollars or imprisonment in the county jail for not more than six months, or both such fine and imprisonment. In addition, any violations may be subject to the administrative citation process as set forth in the Oakdale City Code.

With the updated clarification language related to penalties for violations of the new proposed section (4-21.1) within Chapter 4 of the City Code, it is necessary to update Section 4-35 within Chapter 4, which describes the penalties for violations of sections within the chapter.

The proposed updates to Section 4-35 add Section 4.21.1 as one of the listed sections which may be charged as a misdemeanor. Additional language in Section 4-35 was cleaned up and modified to provide overall consistency with the City Code. This included a change of an identified typo, changing the word “article” to “chapter”. And, the addition of language indicating, violations of the chapter may be subject to the administrative citation process as set forth in the City Code. Further specifics regarding the administrative process are specified in Article V of Chapter 19 of the City Code.

It is Staff’s opinion and in accordance with best practices and to assist with the management of animal services within the community, Article IV of Chapter 4 should be amended to include the addition of City Code Section 4-21.1 Feral Cats along with the necessary updates to Section 4-35 to specify and authorize the

CITY OF OAKDALE
City Council Staff Report (Continued)

SUBJECT: Adoption of a Proposed Ordinance amending Chapter 4 of the Oakdale City Code Relating to Feral Cats
MEETING DATE: July 1, 2019

proposed penalties. The proposed updates are in accordance with current laws and best practices to provide a more efficient process for the managements of animal services challenges related to feral cats.

The City of Oakdale provides animal services to the City of Riverbank on a contractual basis. The City of Riverbank has adopted the City of Oakdale Animals and Fowl Ordinance, which is codified in Chapter 4 of the City of Oakdale Municipal Code. With the addition of this Ordinance (4-21.1) and the necessary update to Section 4-35, the City of Riverbank would also adopt the Ordinance unless otherwise determined by City Council action.

The Ordinance with amended language is attached. The new proposed language is marked with italics and underlined. Language to be removed is indicated with a line striking through the items to remove.

III. ENVIRONMENTAL REVIEW

The Ordinance does not constitute a project subject to review under the California Environmental Quality Act ("CEQA"). The Ordinance will not result in any direct or indirect environmental impacts.

IV. FISCAL IMPACTS

None.

IV. ALTERNATIVES

1. Proceed with the amending of Chapter 4 of the Oakdale City Code and adopt the Ordinance with the addition of Section 4-21.1 Feral Cats and amendments to Section 4-35 Criminal Sanctions;
2. Continue the adoption of the Ordinance to the next regular City Council meeting, with changes or revisions provided by the City Council;
3. Reject the adoption of the Ordinance.

IV. RECOMMENDATION

Staff recommends waiving the second reading of an Ordinance adding Section 4-21.1 to Article IV of Chapter 4 of the Oakdale City Code relating to "Feral Cats" and amending section 4-35 of Article V of Chapter 4 of the Oakdale City Code relating to "Criminal Sanctions" and adopt the said Ordinance.

V. ATTACHMENTS

Attachment A: Proposed Ordinance



**IN THE CITY COUNCIL
OF THE CITY OF OAKDALE
STATE OF CALIFORNIA
ORDINANCE 1264**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKDALE, ADDING
SECTION 4-21.1 TO ARTICLE IV OF CHAPTER 4 OF THE OAKDALE CITY CODE
RELATING TO "FERAL CATS" AND AMENDING SECTION 4-35 OF ARTICLE V OF
CHAPTER 4 OF THE OAKDALE CITY CODE RELATING TO "CRIMINAL
SANCTIONS"**

**The CITY COUNCIL OF THE CITY OF OAKDALE, CALIFORNIA DOES ORDAIN AS
FOLLOWS:**

SECTION 1. AMENDMENT OF CODE: Article IV of Chapter 4 of the Oakdale City Code is hereby amended to add the title of Section 4-21.1, Feral Cats to read as follows:

Sec. 4-21.1 Feral cats.

(a) A feral cat is a cat that lives permanently outside of a domestic home and is not owned and cared for as a typical companion animal or pet, as a result of having been born feral, abandoned by an owner, or rendered homeless, wild or stray by any other means, whose unusual and consistent temperament is extreme fear and resistance to contact with people.

It shall be unlawful for any person within the City of Oakdale to intentionally provide food, water, or other forms of sustenance to a feral cat unless the person furnishes Animal Services with a signed statement agreeing to all of the following conditions:

- (1) Register with Animal Services and Control as a caretaker of feral cats;*
- (2) Provide Animal Services written authorization from the owner of the property where the caretaking of feral cat(s) will occur;*
- (3) Feed feral cat(s) daily in a manner that does not leave excess food in the area;*
- (4) Regularly trap and spay/neuter cats over the age of eight (8) weeks;*



**IN THE CITY COUNCIL
OF THE CITY OF OAKDALE
STATE OF CALIFORNIA
ORDINANCE 1264**

- (5) Evaluate all trapped cats for symptoms of illness to include feline leukemia and feline immune deficiency virus, and test if illness is suspected, and have those who test positive humanely euthanized or isolated indoors, abiding by veterinarian recommendation;
- (6) Identify all trapped cats by tipping their ears;
- (7) Arrange to have all trapped cats vaccinated for rabies in addition to any other vaccination or immunization requirement imposed by the State.
- (b) It shall be unlawful for any person to knowingly and intentionally abandon or otherwise release a cat upon any public or private property or public right of way outside of the provisions of this section.
- (c) Any violation of this section may be punishable as a misdemeanor and subject to a fine of not more than five hundred dollars or imprisonment in the county jail for not more than six months, or both such fine and imprisonment. In addition, any violations may be subject to the administrative citation process as set forth in this Code.

AMENDMENT OF CODE: Article V of Chapter 4 of the Oakdale City Code is hereby amended to read as follows:

Sec. 4-35 Criminal Sanctions.

The violation of any part of this article chapter is an infraction, with the exception of sections 4-1, 4-4, and 4-12 and 4.21.1, which may be charged as a misdemeanor or infraction. Fine amounts for all sections listed in Chapter 4, articles I through V, will be established by resolution. In addition, any violations may be subject to the administrative citation process as set forth in this Code. (Ord. No. 1000, § 1; Ord. No. 1169.)



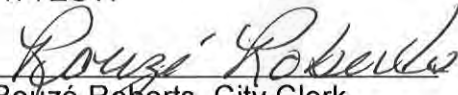
**IN THE CITY COUNCIL
OF THE CITY OF OAKDALE
STATE OF CALIFORNIA
ORDINANCE 1264**

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

Introduced at a regular meeting of the City Council of the City of Oakdale held on June 17, 2019, and second reading on July 1, 2019, the foregoing Ordinance was passed and adopted by the following vote:

AYES:	COUNCIL MEMBERS:	Chiara, Smith, Bairos, Murdoch, and McCarty	(5)
NOES:	COUNCIL MEMBERS:	None	(0)
ABSENT:	COUNCIL MEMBERS:	None	(0)
ABSTAIN:	COUNCIL MEMBERS:	None	(0)

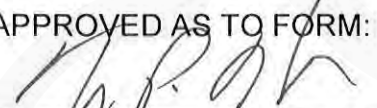
ATTEST:


Rouzé Roberts, City Clerk

SIGNED:


JR McCarty, Mayor

APPROVED AS TO FORM:


Tom Hallinan, City Attorney

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date: July 23, 2019

Subject: Consideration of a **Resolution** to Approve Creating a Permanent Moratorium on the Processing and Issuance of Additional Permits for a Cannabis Dispensary within the City of Riverbank and Directing Staff to Bring Forward an Amendment to Riverbank Municipal Code Chapter 120: Cannabis Regulations; or Allow the Moratorium to Expire on July 23, 2019

From: Sean Scully, City Manager

Submitted by: Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council review the provided information, take public comment, and chose one of the following options:

1. Approve the proposed Resolution 2019-XXX (Attachment 1) to make the moratorium on cannabis dispensaries permanent and direct staff to bring forward an amendment to Chapter 120 of the Riverbank Municipal Code; or
2. Allow the moratorium to expire on July 23, 2019.

SUMMARY

The City of Riverbank had two cannabis dispensary applications approved through the public hearing process in fiscal year 2017-2018 and none in FY 2018-2019. On January 23, 2018, the City Council considered and approved a temporary six (6) month moratorium on dispensary applications in order to evaluate the actual experiences of the first two dispensaries after they opened. The first dispensary, Flavors has been in operation since mid-April 2018. The second dispensary, Riverbank Cannabis Company ("the Cannabis Company"), has been in operation since January 2019. Planning has had one application on hold since the moratorium was established ("Elevations" at Third and Atchison Streets).

On June 26, 2018 Council extended the moratorium for a second six (6) month period because Flavors had only been open a few months and the Riverbank Cannabis Company had yet to open due to construction activities. There had not been enough time to assess the situations. On January 8, 2019 Council extended the moratorium for one (1) year, but then on February 26, 2019 Council reconsidered the moratorium and reduced its length to six (6) months with an expiration date of July 23, 2019.

The Stanislaus County Sheriff's Office Crime Analysis Unit was asked to review Riverbank incident data that was obtained directly from their Record Management System. In the one year period after Flavors commenced business, city-wide calls for service increased 6% from the one year period before Flavors opened. For the same time periods, calls for service within 1,000 feet of Flavors increased 17%. Twenty (20) calls total to the property were reported but those calls were either unrelated to the business (traffic stop or traffic collision on the street in front of the business) or were self-initiated extra patrols of the area around the business made by Deputies (false alarms, suspicious persons, etc). There were two suspicious person calls at Flavors between April 2018 and April 2019: one called in by Flavors security (care home resident wandering aimlessly) and one made by a Deputy (legitimate broke down motorist).

Information concerning the Riverbank Cannabis Company is based on the 5 months before they opened and the 5 months after they opened. In the period after the Cannabis Company commenced business, city-wide calls for service increased 6% from the 5 month period before they opened. For the same time periods, calls for service within 1,000 feet of the Cannabis Company increased 13%. Three calls total to the property were reported but all 3 were determined to be false alarms.

According to Chief Kiely, none of the above calls are a concern for Riverbank Police Services and should be of no concern for the community. City staff continues to monitor the parking and circulation around both businesses and has little to report from either location. Flavors' parking lot was full on April 20, 2019 (4/20) as staff expected and the Cannabis Company has focused on medicinal patients who cannot drive by using a small bus to shuttle them to the dispensary and home again. Parking at the Cannabis Company is readily available, both street parking and in the public lot across the street.

There was some discussion amongst the Council last time this item was considered as to whether the moratorium should be lifted as it related to the ongoing sustainability of the currently approved Cannabis businesses. It is important to note that the Council (nor Planning Commission) is under no duty to approve future dispensary applications if the moratorium is lifted. If the moratorium is made permanent the Council would not be able to even consider applications moving forward (unless the code was amended).

STRATEGIC PLAN

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

FINANCIAL IMPACT

With a moratorium in place, the City has not been accepting any new applications or processing the application currently on hold. Therefore, the City did not receive any new deposits or fees during the moratorium and its extensions. However, Flavors has made Public Benefit payments totaling \$473,137.16 in FY 2018-2019. Riverbank Cannabis Company has made \$32,500 in payments to date since February 2019. Both dispensaries are in good standing with the City and their project conditions.

ATTACHMENT

1. City Council Resolution No. 2019-XXX - Permanent Dispensary Moratorium.

CITY OF RIVERBANK

RESOLUTION NO. 2019-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO APPROVE CREATING A PERMANENT MORATORIUM ON THE PROCESSING AND ISSUANCE OF ADDITIONAL PERMITS FOR A CANNABIS DISPENSARY WITHIN THE CITY OF RIVERBANK AND DIRECTING STAFF TO BRING FORWARD AN AMENDMENT TO RIVERBANK MUNICIPAL CODE CHAPTER 120: CANNABIS REGULATIONS

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

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six (6) cannabis plants within a private residence; and

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

WHEREAS, the City Council adopted, by Ordinance No. 2018-001 and No. 2018-003, respectively, two (2) Development Agreements for cannabis dispensaries before adopting a moratorium on permitting additional dispensaries; and

WHEREAS, thereafter, the City Council adopted Resolution No. 2018-003 for a six-month moratorium, and Resolution No. 2018-056 for another six-month moratorium, and Resolution No. 2019-001 for an additional one-year moratorium, that was later rescinded and replaced by the final moratorium Resolution No. 2019-008 reducing the time from one year to six months; each action conducted to allow the City to evaluate the operation of the two existing dispensaries before making a decision to process additional permit applications; and

WHEREAS, the City Council, based on its independent review and analysis of staff's recommendations, oral and written testimony, and the record as a whole, finds, after due study, deliberation, and public hearing, and based on its independent judgment, that one and a half years is enough time to study the situation and prohibit additional medicinal and/or adult use cannabis dispensaries within the City of Riverbank; and

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

WHEREAS, the current moratorium is due to lapse on July 23, 2019 and no more extensions are allowed by statute.

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

SECTION 1. Council imposes a permanent moratorium on the issuance and processing of permits for medicinal and/or adult use cannabis dispensaries. The moratorium shall apply to those applications or future applications who have not yet been considered at Planning Commission and City Council. The purpose of this moratorium is to prohibit additional cannabis dispensaries and their impact on surrounding neighborhoods.

SECTION 2. Council seeks to make the moratorium permanent and directs the City Manager and City staff to bring forward an ordinance amendment on Chapter 120: Cannabis Regulations.

SECTION 3. Council hereby directs and orders that no permits for cannabis dispensaries shall be issued or processed by the City of Riverbank due to the permanent moratorium.

SECTION 4. This Resolution shall take effect and be in full force from and after the date of its passage.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of July, 2019; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of ____-____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Marisela H. Garcia
Asst. City Manager/Recorder

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.3

SECTION 6: NEW BUSINESS

Meeting Date: July 23, 2019

Subject: Consideration of a Request for Amendment to the Riverbank Cannabis Collective Development Agreement Amending Payment Schedule and Days of Operation by Adoption of a **Resolution** to Approve the Execution of a Side Letter to the Development Agreement (Ordinance No. 2018-003) Between the City of Riverbank and Family and Friends Association, Inc. doing business as Riverbank Cannabis Collective, A California Cooperative Corporation, for A Cannabis Dispensary

Submitted by: Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council review the provided information, take public comment, and chose one of the following options:

1. Authorize City Manager and City Attorney to create and execute a side letter agreement to the Riverbank Cannabis Collective Development agreement that would postpone the second payment tier (of \$7,500) to December of 2019 and allowing operation of the Dispensary during the Wine and Cheese event and Christmas Festival.
2. Deny request by Riverbank Cannabis Collective, which would keep the current provisions of their Development Agreement in place.
3. A combination of the provisions of option 1 or option 2 listed above.

SUMMARY

In late June the City of Riverbank received a request from the Riverbank Cannabis Collective (RCC) asking if the City would consider some changes to their Development Agreement (DA) with the City of Riverbank. The request specifically requests three components:

1. The letter (attached) requests a change to the payment schedule. Section 4.2 of the development agreement (also attached) increases the public benefit payment on the 1st day of the seventh month after opening from \$5,000 to \$7,500. The request asks that the payment schedule remain at \$5,000 for the remainder of the calendar year (2019). At that time the DA payment schedule will continue as stated in the agreement.
2. The second and third requests asks the Council to consider an amendment to section 1.7 (C) which requires closure of the RCC during the Cheese and Wine

Event and Christmas Parade events. The request notes that these are major foot traffic and downtown shopping days and RCC would like the opportunity to have their business open during these times.

The Development Agreement has specific provisions that allow for minor and major amendments to the agreement. The City Manager has authority to approve minor amendments and also the authority to determine if a requested amendment constitutes a major amendment which then gets referred to the City Council for consideration. Since the request included both changes to financial consideration and specific provisions (added by Council) to the hours of operation, the determination was made that the amendment requests constituted a major amendment and therefore should be considered by the City Council.

ANALYSIS:

The letter from RCC indicates that the business has experienced some difficulty drawing customers to their area as the downtown is still in the process of revitalization. The request (from a financial perspective) is fairly minimal, the total financial difference between their proposal and the original agreement is approximately \$15,000. The primary 3 year term of the agreement (not including the extensions) minimum payments would equal approximately \$291,000 over that time frame. This amendment would bring that total down to approximately \$276,000. However it is not anticipated that the business will remain at the minimum payment schedule as long as their revenues continue to grow, the development agreement increases to 6% of gross revenues as soon as the amounts exceed what the minimum payment is. Revenue reports provided by RCC have recently shown slow but incremental growth.

The request for allowance to be open during the Wine and Cheese and Christmas Parade also relate directly to RCC hoping to participate in the added commerce downtown as a result of these special events. Council initially placed these restrictions on the development agreement in an abundance of caution given that Riverbank had not previously had a use of this type in the downtown area and only limited experience city-wide with this type of uses. From a public safety perspective the operation of the dispensary has had essentially no adverse impact to the downtown area. Additionally the rules against consumption in public would not change if Council were to approve this request.

STRATEGIC PLAN

The completion of development agreements (and consideration of amendments) for cannabis activities such as dispensaries is a specific objective. It is consistent with the established General Plan goal to Achieve and Maintain Financial Stability and Sustainability as part of the City's Vision "To be recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment.

Minimal, potentially less up to \$15,000 less revenue that otherwise would have been received under the agreement. However, the amendment may allow the business to reach sustainability more quickly which would end up having a long term revenue benefit to the City of Riverbank Public Benefit fund.

ATTACHMENT

1. Request from Riverbank Cannabis Collective
2. Original Development Agreement with Riverbank Cannabis Collective
3. Proposed Resolution

Dear City Council of Riverbank,

We are grateful for the opportunity given to us to be a part of the Downtown core businesses. It has been a pleasure to become a part of the community and to see the Downtown start to grow. We would like to certainly continue to grow with it.

In order to do so, we would like to address a few points for a renegotiation of our development agreement with the City of Riverbank.

- We would like to be open for business during the Cheeses and Wine Festival to take advantage of one of the largest Downtown shopping days available to businesses in the core.
- We would like to be open during the Christmas Day Parade, again, another one of the major foot traffic days available to the downtown businesses.
- Due to the lack of foot traffic and difficulty to draw business to the core, we humbly request to delay the raising of the monthly amount of our payment from \$5000 to \$7500. We request to remain at \$5000 monthly for the rest of the year. We are in the unique situation of being located in a downtown area that is in the process of being revitalized and is off the typical Riverbank citizens path, drawing customers to this area has proven to be a challenge.

We appreciate your consideration in regards to these requests.

Thank you and have a blessed day,

Deanna M. Garcia, CEO Riverbank Cannabis Collective
(916) 340-5065
Deanna.Garcia@sbcglobal.net

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
TO:

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

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2018-0010297-00

Friday, FEB 16, 2018 07:53:58
Ttl Pd \$0.00 Rcpt # 0004087051
AKN/R2/1-48

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

DEVELOPMENT AGREEMENT

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

RECITALS

- A. On October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers.
- B. On November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act ("AUMA"), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use.
- C. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which creates a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in Commercial Cannabis Activity, as defined in Section 1.4 of this Agreement, may operate in a particular jurisdiction.

48/m

- D. Developer proposes to improve, develop, and use real property to operate a Cannabis Dispensary, as defined in Section 1.4 of this Agreement, in strict accordance with California Cannabis Laws, as defined in Section 1.4 of this Agreement and the Municipal Code of the City of Riverbank, as each may be amended from time to time (the "Project").
- E. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 *et seq.* (the "Development Agreement Statute"), which authorizes City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application.
- F. Consistent with the requirements of the Development Agreement Statute, City has adopted Resolution No. 99-39 ("City Development Agreement Resolution") authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City.
- G. The City Development Agreement Resolution requires a written application with specified data to be submitted to City for consideration of any development agreement.
- H. Developer submitted an application to City for consideration of a development agreement for the Project.
- I. Developer leases that certain real property located at 6609 Third Street in the City of Riverbank, County of Stanislaus, State of California, Assessor's Parcel Number 132-011-019, of which Developer intends to improve approximately three thousand one hundred (3,100) square feet of space (the "Site"), more particularly described in the legal description attached hereto as **Exhibit A** and the Site Map attached hereto as **Exhibit B**.
- J. Government Code section 65865 requires that an applicant for a development agreement hold a legal or equitable interest in the real property that is the subject of the development agreement.
- K. Developer has leased the Site for the purpose of operating the Project. A copy of the lease is attached hereto as **Exhibit C**, within satisfaction of the requirement of Riverbank Municipal Code Chapter 120. The legal owner of the Site is aware of, and agrees to, the operation of the Project upon the Site.
- L. On August 22, 2017, the City Council adopted Ordinance No. 2017-007 to revise Riverbank Municipal Code 120 to establish a Cannabis Business Pilot Program to regulate all cannabis businesses within the City.

- M. Government Code section 65867.5 and the City Development Agreement Resolution require the Planning Commission hold a public hearing to review an application for a development agreement.
- N. On December 19, 2017, the Planning Commission, in a duly noticed and conducted public hearing, considered Developer's application for this Agreement.
- O. On December 19, 2017, the Planning Commission recommended against the City Council adoption of Ordinance No. 2017-27, which would allow Developer to operate the Project at the Site.
- P. On January 9, 2018, pursuant to Government Code section 65867.5 and the City Development Agreement Resolution, the City Council reviewed, considered, adopted, and entered into this Agreement pursuant to Ordinance No. 2018-003.
- Q. This Agreement is entered into pursuant to the Development Agreement Statute and the City Development Agreement Resolution.
- R. City and Developer desire to enter into this Agreement to (i) facilitate the orderly development of the Site; (ii) create a physical environment that is consistent with and complements City's goals and visions; (iii) protect natural resources from adverse impacts; (iv) improve, upgrade, and create additional community facilities and infrastructure, enhance services, and assist in implementing the goals of the General Plan; and (vi) reduce the economic risk of development of the Site to both City and Developer.
- S. The Parties intend, through this Agreement, to allow Developer to develop and operate the Project in accordance with the terms of this Agreement.
- T. The City Council has determined that this Agreement is consistent with City's General Plan and has conducted all necessary proceedings in accordance with Riverbank Municipal Code for the approval of this Agreement.

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

AGREEMENT

ARTICLE 1 GENERAL PROVISIONS

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

Section 1.2. Recitals. The Recitals above are true and correct and are hereby incorporated into and made a part of this Agreement. In the event of any inconsistency between the Recitals and the provisions of Articles 1 through 10 of this Agreement, the provisions of Articles 1 through 10 shall prevail.

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

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

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

- (a) "Additional Insureds" has the meaning set forth in Section 6.1.
- (b) "Additional Licenses" has the meaning set forth in Section 2.4.
- (c) "Adult-use cannabis" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by adults 21 years of age or over in California pursuant to the California Cannabis Laws.
- (d) "Agreement" means this Development Agreement, inclusive of all Exhibits attached hereto.
- (e) "Application" means the cannabis business application for a development agreement required by Riverbank Municipal Code Chapter 120 and Section 4 of the City Development Agreement Resolution.

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

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

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

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

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

(k) "California Cannabis Laws" includes AUMA, MAUCRSA, CUA, the Medical Marijuana Program Act of 2004 codified as Health and Safety Code sections 11362.7 through 11628.3, and any other applicable laws that may be enacted or approved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1.8. Priority of Enactment. In the event of a conflict between the various land use documents referenced in this Agreement, the Parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (a) General Plan, (b) Agreement, (d) Conditional Use Permit, and (e) Subsequent City Approvals.

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

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

Section 1.11. Funding Agreement for Processing Costs. Developer has deposited Twenty Thousand Dollars (\$20,000) with City to pay for the Application, all actual fees and expenses incurred by City that are related to the preparation and processing of this Agreement, including recording fees, publishing fees, staff time, consultant and attorney fees and costs (collectively, "Processing Costs"), and the first installment of the Public Benefit. The Processing Costs are refundable solely to the extent of non-expended

Processing Costs. Developer shall be entitled to a refund of available Processing Costs only after City determines all financial obligations associated with the Project have been received and paid by City.

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

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

ARTICLE 2 DEVELOPMENT OF PROPERTY

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

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

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

Type 10	Retailer
---------	----------

Developer shall be permitted to use the Site consistent with the Authorized License for the Term of this Agreement and during the time Developer is applying for the Authorized License with the applicable State Licensing Authority. Notwithstanding the foregoing, Developer is required to apply for and obtain the Authorized License from the State of California. If the State Licensing Authority does not grant the Authorized License to Developer, Developer shall immediately cease Commercial Cannabis Activity on the Site. Developer shall also, within thirty (30) calendar days of receiving notice from the State Licensing Authority, notify City of the State Licensing Authority's denial or rejection of any license. If the Authorized License is not granted by the State of California, Developer shall immediately cease operations. In this situation, this

Agreement shall terminate immediately. The Parties intend for this Agreement and the Conditional Use Permit to serve as the definitive and controlling documents for all subsequent actions, discretionary or ministerial, relating to development of the Site and Project.

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

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

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

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

Section 2.7. Initiatives and Referenda. If any City ordinance, rule or regulation, or addition to the Riverbank Municipal Code is enacted or imposed by a citizen-sponsored initiative or referendum after the Effective Date that would conflict with this Agreement, an associated Conditional Use Permit, Subsequent City Approvals, or reduce the development rights or assurances provided to Developer in this Agreement, such

Riverbank Municipal Code changes shall not be applied to the Site or Project; provided, however, the Parties acknowledge that City's approval of this Agreement is a legislative action subject to referendum. City shall cooperate with Developer and shall undertake such reasonable actions as may be appropriate to ensure this Agreement remains in full force and effect and is implemented in accordance with its terms to the fullest extent permitted by state or federal law.

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

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

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

Section 2.11. Changes Mandated by Federal or State Law. The Site and Project shall be subject to subsequently enacted state or federal laws or regulations that may preempt the Riverbank Municipal Code, or mandate the adoption or amendment of local regulations, or are in conflict with this Agreement or local rules or guidelines associated with the Cannabis Business Pilot Program. As provided in Section 65869.5 of the Development Agreement Statute, in the event state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Upon discovery of a subsequently enacted federal or state law meeting the requirements of this Section, City or Developer shall provide the other Party with written notice of the state or federal law or regulation, and a written statement of the conflicts thereby raised with the provisions of the Riverbank Municipal Code or this Agreement. Promptly thereafter, City and Developer shall meet and confer in good faith in a reasonable attempt to modify this Agreement, as necessary, to comply with such federal or state law or regulation provided City shall not be obligated to agree to any modification materially increasing its obligations or materially adversely affecting its rights and benefits hereunder. In such discussions, City and Developer will attempt to preserve the terms of this Agreement and the rights of Developer derived from this Agreement to the maximum feasible extent while resolving the conflict. If City, in its judgment, determines it necessary to modify

this Agreement to address such conflict, City shall have the right and responsibility to do so, and shall not have any liability to Developer for doing so or be considered in breach or default of this Agreement. City also agrees to process, in accordance with the provisions of this Agreement, Developer's proposed changes to the Project that are necessary to comply with such federal or state law and that such proposed changes shall be conclusively deemed to be consistent with this Agreement without further need for any amendment to this Agreement.

Section 2.12. Health and Safety Emergencies. In the event that any future public health and safety emergencies arise with respect to the development contemplated by this Agreement, City agrees that it shall attempt, if reasonably possible as determined by City in its discretion, to address such emergency in a way that does not have a material adverse impact on the Project. If City determines, in its discretion, that it is not reasonably possible to so address such health and safety emergency, to select that option for addressing the situation which, in City's discretion, minimizes, so far as reasonably possible, the impact on development and use of the Project in accordance with this Agreement, while still addressing such health and safety emergency in a manner acceptable to City.

ARTICLE 3 ENTITLEMENT AND PERMIT PROCESSING, INSPECTIONS

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

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

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

Section 3.4. Further Consistent Discretionary Actions. The exercise of City's authority and independent judgment is recognized under this Agreement, and nothing in

this Agreement shall be interpreted as limiting City's discretion or obligation to hold legally required public hearings. Except as otherwise set forth herein, such discretion and action taken by City shall, however, be consistent with the terms of this Agreement and not prevent, hinder or compromise development or use of the Site as contemplated by the Parties in this Agreement.

ARTICLE 4 PUBLIC BENEFIT, PROCESSING, AND OVERSIGHT

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

Section 4.2. Public Benefit.

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

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

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

(c) Developer shall file an applicable statement that complies with the California State Board of Equalization, California Department of Tax and Fee

Administration, or either's successor agency (the "State Taxing Authority") for sales tax purposes showing the true and correct amount of Gross Receipts from Operations of the Project during the applicable time period. Developer shall provide a copy of such statement to City upon request by City.

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

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

Section 4.4. Records. Developer shall keep records of all Commercial Cannabis Activity in accordance with Chapter 16 (commencing with Section 26160) of Division 10 of the Business and Professions Code and the applicable State Cannabis Regulations. All records required by this Section shall be maintained and made available for City's examination and duplication (physical or electronic) at the Site or at an alternate facility as approved in writing by the City Manager or his or her designee.

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

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

Section 4.7. Protections from City Tax. Notwithstanding Section 4.2, for the Term of this Agreement, Developer shall be exempt from any City tax, including a business

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

ARTICLE 5 PUBLIC FACILITIES, SERVICES, AND UTILITIES

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

ARTICLE 6 INSURANCE AND INDEMNITY

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

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

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

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

(iii) Contain standard separation of insured provisions.

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

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

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

(iii) Contain standard separation of insured provisions.

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

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

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

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

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

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

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

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

Section 6.4. Failure to Indemnify; Waiver. Failure to indemnify City, when required by this Agreement, shall constitute a material breach of this Agreement and of any applicable Conditional Use Permit and Subsequent City Approvals, which shall entitle City to all remedies available under law, including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which City may rescind its approval of any applicable Conditional Use Permit. Developer's failure to indemnify City shall be a waiver by Developer of any right to proceed with the Project, or any portion thereof, and a waiver of Developer's right to file a claim, action or proceeding against City or City's Agents based on City's rescission or revocation of any Conditional Use Permit, Subsequent City Approvals, or City's failure to defend any claim, action, or proceeding based on Developer's failure to indemnify City.

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

ARTICLE 7 MORTGAGEE PROTECTION

This Agreement, once executed and recorded, shall be superior and senior to any lien placed upon the Site or any portion thereof following recording of this Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value. This Agreement shall immediately be deemed in default and immediately terminate upon the foreclosure or transfer of any interest in the Site or Project, whether by operation of law or any other method of interest change or transfer, unless the City Manager has authorized such change or transfer in advance, in writing.

ARTICLE 8 DEFAULT

Section 8.1. General Provisions.

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

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

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

(d) Following consideration of the evidence presented and said review before City, and after providing the Charged Party an additional five (5) calendar day period to

cure, the Charging Party may institute legal proceedings against the Charged Party or may give written notice of termination of this Agreement to the Charged Party.

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

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

Section 8.2. Annual Review. City shall, at least every twelve (12) months during the Term of this Agreement, review the extent of good faith, substantial compliance of Developer and City with the terms of this Agreement. Such periodic review by City shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. City shall deposit in the mail or fax to Developer a copy of all staff reports and, to the extent practical, related exhibits concerning this Agreement or the Project's performance, at least seven (7) calendar days prior to such periodic review. Developer shall be entitled to appeal a determination of City or City Manager to the City Council. Any appeal must be filed within ten (10) calendar days of the decision of City or the City Manager, respectively. Developer shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before City, the City Manager, or City Council, as applicable. The reasonable cost for City's annual review of this Agreement shall be paid by Developer, not to exceed the actual costs incurred by City in connection with the review.

Section 8.3. Estoppel Certificates.

(a) City shall, with at least twenty (20) calendar days prior written notice, execute, acknowledge, and deliver to Developer, Developer's lender, potential investors, or assignees an Estoppel Certificate in writing which certifies that this Agreement is in full force and effect, that there are no breaches or defaults under the Agreement, and that the Agreement has not been modified or terminated and is enforceable in accordance with its terms and conditions.

(b) At Developer's option, City's failure to deliver such Estoppel Certificate within the stated time period shall be conclusive evidence that the Agreement is in full

force and effect, that there are no uncured breaches or defaults in Developer's performance of the Agreement or violation of any City ordinances, regulations, and policies regulating the use and development of the Site or the Project subject to this Agreement.

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

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

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

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

ARTICLE 9 TERMINATION

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

Section 9.2. Effect of Termination on Developer's Obligations. Termination of this Agreement shall eliminate any further obligation of Developer to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement, in whole or in part, shall not, however, eliminate

the rights of Developer to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

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

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

ARTICLE 10 OTHER GENERAL PROVISIONS

Section 10.1. Assignment and Assumption. Developer shall not have the right to sell, assign, or transfer all or any part of its rights, title, and interests in all or a portion of Site, or Project, subject to or a part of this Agreement, to any person, firm, corporation, or entity during the Term of this Agreement without the advance written consent of the City Manager. This assignment prohibition applies to the corporate and business entities of Developer that are a Party to this Agreement. Any assignment or transfer prohibited by this Agreement will be considered an immediate breach of this Agreement and City may elect to immediately terminate this Agreement. If the City Manager approves an assignment or transfer of any interest detailed in this Section 10.1, City and Developer shall execute an "Assignment and Assumption Agreement" in the form attached hereto as **Exhibit G**.

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

Section 10.3. Notices. Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when

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

If to City:	City of Riverbank 6707 3rd Street Riverbank, California 95367 Attention: City Manager
and	
	Churchwell White LLP 1414 K Street, 3 rd Floor Sacramento, California 95814 Attention: Douglas L. White, Esq.
If to Developer:	F.F.A. PO Box 1386 Riverbank, CA 95367 Attention: Deanna Garcia and/or Kimberly Cargile

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

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

Section 10.6. Cumulative Remedies. In addition to any other rights or remedies, City and Developer may institute legal or equitable proceedings to cure, correct, or remedy any default, to specifically enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of the provisions of this Agreement. The prevailing party in any such action shall be entitled to reasonable attorneys' fees and costs. Notwithstanding the foregoing or any other provision of this Agreement, in the event of City default under this Agreement, Developer agree that Developer may not seek, and shall forever waive any right to, monetary damages against City, but excluding therefrom the right to recover any fees or charges paid by Developer in excess of those permitted hereunder.

Section 10.7. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity challenging this Agreement or any associated entitlement, permit, or approval granted by City to Developer for the Project (collectively, "Project Litigation"), the Parties agree to cooperate with each other as set forth herein. City may elect to tender the defense of any lawsuit filed and related in whole or in part to Project Litigation with legal counsel selected by City. Developer will indemnify, hold City harmless from, and defend City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees, and expenses of litigation awarded to the prevailing party or parties in such litigation. Developer shall pay all litigation fees to City, within thirty (30) days of receiving a written request and accounting of such fees and expenses, from City. Notwithstanding the aforementioned, City may request, and Developer will provide to City within seven (7) days of any such request, a deposit to cover City's reasonably anticipated Project Litigation fees and costs.

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

acquired an interest in the Site, and all rights and interests of such person in the Site shall be subject to the terms, requirements, and provisions of this Agreement.

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

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

Section 10.11. Standard Terms and Conditions.

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

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

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

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

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

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

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

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

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

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

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

(l) **Authority.** All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states, or firms and that all former requirements necessary or required by state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, no Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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

"CITY"

Date: February 13, 2018

CITY OF RIVERBANK, CA
a California Municipal Corporation

By: 
Sean Scully
City Manager

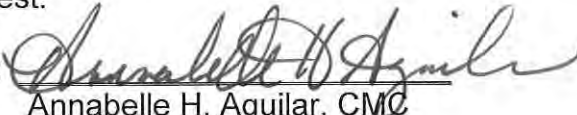
"DEVELOPER"

Date: February 13, 2018

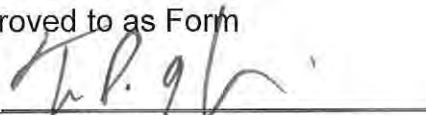
F.F.A. DBA RIVERBANK CANNABIS
COLLECTIVE, a California corporation

By: 
Deanna Garcia
Business Owner

Attest:

By: 
Annabelle H. Aguilar, CMC
City Clerk

Approved to as Form

By: 
Tom Hallinan
City Attorney

California All-Purpose Acknowledgment

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

State of California)
County of Sacramento)

On February 12, 2018, before me Samantha Godinez, a Notary Public, personally appeared Deanna Garcia who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

Witness my hand and official seal.



(Signature)



(Seal)

California All-Purpose Acknowledgment

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

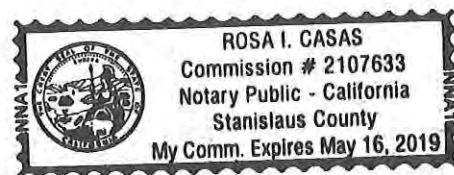
State of California)
)
County of Stanislaus)

On Feb. 15, 2018, before me Rosa I Casas, a Notary Public, personally appeared Sean Scully who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

Witness my hand and official seal.

Rosa I Casas
(Signature)



(Seal)

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 132-011-019

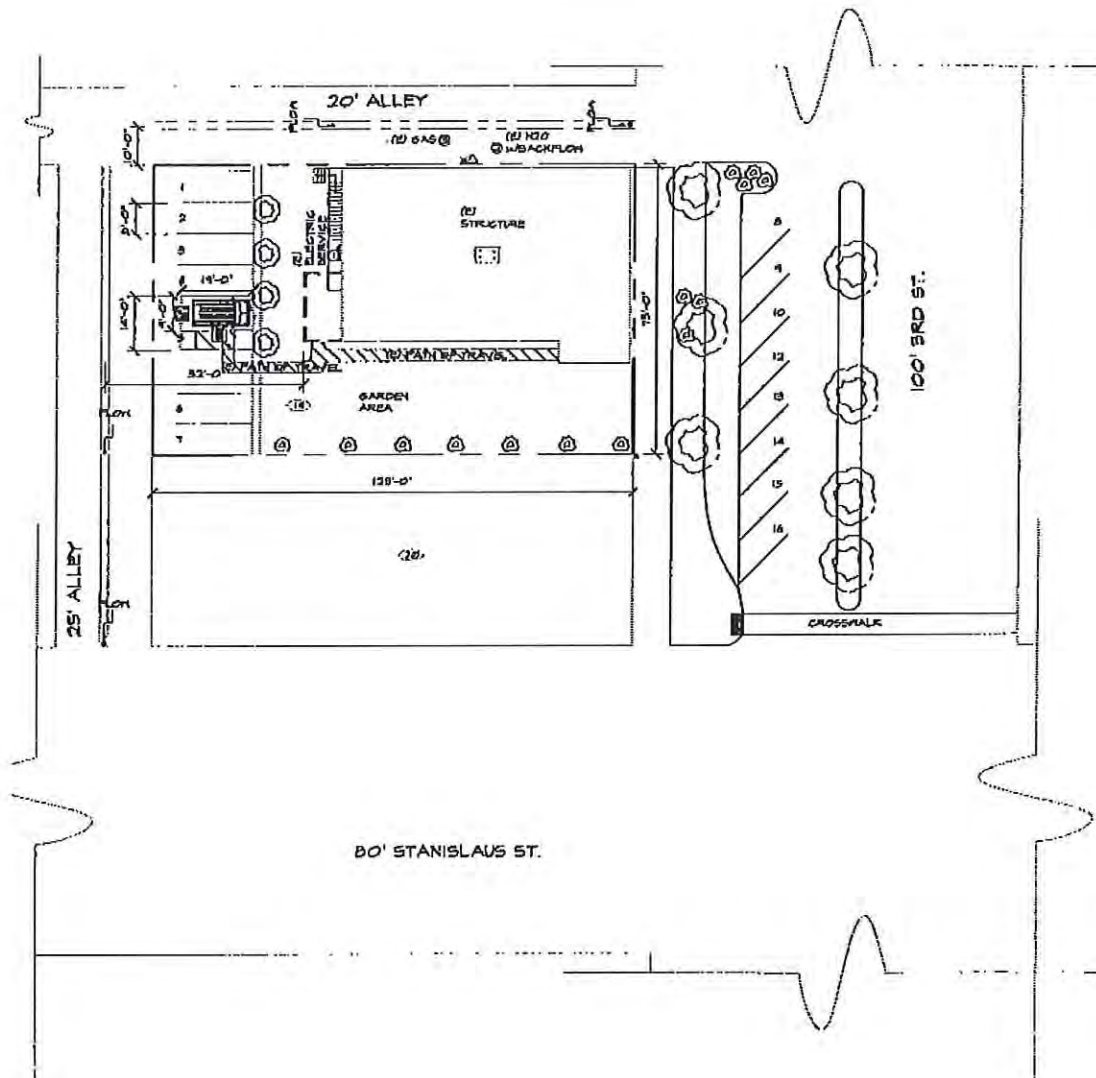
THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

LOTS 13, 14 AND 15 IN BLOCK 14 OF THE "TOWN OF RIVERBANK", ACCORDING TO THE REVISED MAP OF THE TOWN OF RIVERBANK, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN THE OFFICE OF THE RECORDER OF STANISLAUS COUNTY, CALIFORNIA, ON OCTOBER 11, 1910 IN BOOK 5 OF MAPS, AT PAGE 16.

Grant Deed
SCA0000129.doc / Updated: 05.24.16

Printed: 11.02.16 @ 12:11 PM
CA-CT-FSST-02180.054511-FSST-5111602703

Exhibit B



SITE MAP

SCALE: 1"=20'-0"

Exhibit C

LETTER OF INTENT

Property : 6609 3rd Street Riverbank Ca. 95367

Owner : GERMAN CHAVEZ ; MARIA ATBA

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

Building:

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

Schedule:

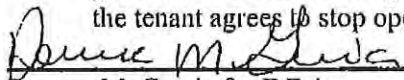
1. Application to the city of Riverbank allow time of 12 weeks for approval. (Jan 1. 2018)
2. Building drawings, building permits and city approval allow time of 8 weeks for approval (Dec1. 2017)
3. Build out of lower level allow time of 10 weeks for building of lower level and passing of city inspections.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

Revenue:

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

Federal Cause:

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


Deanna M. Garcia for F.F.A

10-6-17
Dated

Exhibit D

Notice of Non-Performance Penalty

DATE: _____, 20__

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

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

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

- A. By Instrument No. _____, which was recorded in the Official Records of Stanislaus County, California on _____, 2018, City recorded a development agreement between City and F.F.A. dba Riverbank Cannabis Collective ("Developer"), dated January 9, 2018 (the "Development Agreement"), relating to the development and operation of a cannabis dispensary.
- B. Pursuant to Section 4.2 of the Development Agreement, Developer agrees to pay to City a Public Benefit on the first business day of each month during the term of the Development Agreement.
- C. On _____, 20__, the Public Benefit was due to City by Developer. City did not receive payment.
- D. Pursuant to Section 4.5 of the Development Agreement, if Developer fails to make payment when it is due, City may impose a penalty of one percent (1%) of the total of the past due amounts ("Penalty"). As of _____, 20__, the past due amount equals \$ _____. The Penalty owed by Developer equals \$ _____ ("Penalty Amount").
- E. Pursuant to Section 4.5 of the Development Agreement, Developer shall make payment of the Penalty Amount in a single installment due within fifteen (15) days of delivery of this Penalty Notice ("Penalty Due Date").

- F. Pursuant to Section 4.6 of the Development Agreement, if Developer fails to pay the Penalty Amount before the Penalty Due Date, then, in addition to the Penalty Amount specified in subdivision (D), Developer shall pay City interest on the Penalty Amount, at the rate of eighteen percent (18%) per annum ("Penalty Interest Payment"), computed from the Penalty Due Date specified in subdivision (E). The Penalty Interest Payment is due fifteen (15) days following delivery of the Penalty Due Date. As of _____, 20__, the Penalty Interest Payment amount equals \$_____.
- G. Nothing contained herein shall constitute a waiver of City's future claims for the Public Benefit, Penalty, or interest on the Penalty.

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

CITY OF RIVERBANK,
a California municipal corporation

By: _____
City Manager

Exhibit E

INDEMNITY AGREEMENT FOR LAND USE ENTITLEMENT PROCESSING

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

RECITALS

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

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

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

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

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

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

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

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

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

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

AGREEMENT

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

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

Section 2. Applicant’s Indemnification Obligations.

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

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

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

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

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

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

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

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

If to City: City of Riverbank
6707 3rd Street
Riverbank, California 95367
Attention: City Clerk

With copy to

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

and

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

If to Applicant:

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

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

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

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

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

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

Section 10. Authority. All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement, and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states, or firms and that all former requirements necessary or required by state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

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

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

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

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

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

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

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

Section 18. 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 19. 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.

[SIGNATURE PAGE TO FOLLOW]

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

APPLICANT

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

By: _____

Name: _____

Its: _____

Date: _____

CITY

City of Riverbank, a California municipal
corporation

By: _____
Sean Scully, City Manager

Date: _____

APPROVED AS TO FORM:

By: _____
Douglas L. White, Deputy City Attorney

Exhibit F

Notice of Termination

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

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

NOTICE OF TERMINATION AND RELEASE OF DEVELOPMENT AGREEMENT

DATE: _____, 20__

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

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

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

- A. By Instrument No. _____, which was recorded in the Official Records of Stanislaus County, California on _____, 20__, City recorded a development agreement between City and F.F.A. dba Riverbank Cannabis Collective ("Developer"), dated _____, 20__ (the "Development Agreement"), relating to the development and operation of a cannabis dispensary.
- B. Pursuant to Sections 1.7 and 9.1 of the Development Agreement, the term of the Development Agreement expires three (3) years from _____, 20__, on _____, 20__.

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

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

CITY OF RIVERBANK,
a California municipal corporation

By: _____
City Manager

Exhibit G

Assignment and Assumption Agreement

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

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

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

RECITALS

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

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

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

D. In accordance with the terms of the Development Agreement, Assignor has provided to the City Manager a written request for consent to assignment. The City Manager has received the information he or she deems appropriate and consulted with the City Attorney for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement. This Agreement is intended to meet the requirements Section 10.1 of the Development Agreement for an Assignment and Assumption Agreement, and

is executed with the consent of the City Manager, as contemplated in the Development Agreement.

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

1. The foregoing Recitals are true and incorporated herein by this reference as though set forth in full.
2. Assignor hereby assigns to Assignee all of the Assignable Rights of Assignor under the Development Agreement.
3. Assignee hereby assumes all of the burdens and obligations of Assignor under the Development Agreement, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this Agreement, Assignee shall become substituted for Assignor as the "Developer" under the Development Agreement.
4. This Agreement shall take effect and be binding only upon the City Manager's consent to and approval of the Agreement.
5. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement. Assignee acknowledges that the Assignable Rights are as set forth in Section 10.1 of the Development Agreement, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that City is not party to such other agreements.
6. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

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

[Signatures on the following page]

ASSIGNOR / DEVELOPER:

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

Its: _____

ASSIGNEE

_____, a
California _____

By: _____

AGREED TO AND ACCEPTED:

CITY OF RIVERBANK
a California municipal corporation

City Manager

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO APPROVE THE EXECUTION OF A SIDE LETTER TO THE DEVELOPMENT AGREEMENT (ORDINANCE NO. 2018-003) BETWEEN THE CITY OF RIVERBANK AND FAMILY AND FRIENDS ASSOCIATION, INC. (F.F.A.), DOING BUSINESS AS RIVERBANK CANNABIS COLLECTIVE, A CALIFORNIA COOPERATIVE CORPORATION, FOR A CANNABIS DISPENSARY

WHEREAS, on January 23, 2018 the City Council adopted Ordinance No. 2018-003 approving the City of Riverbank to enter into a Development Agreement ("Agreement") effective January 9, 2018, with Family and Friends Association doing Business as Riverbank Cannabis Collective for a cannabis dispensary; and

WHEREAS, in June, 2019 a letter of request from the Riverbank Cannabis Collective, attached hereto as **Exhibit A**, requesting for the City's consideration of three (3) component amendments to the Agreement; and

WHEREAS, the Development Agreement contains specific provisions (Section 1.9) that authorize the City Manager to approve minor amendments to the Agreement and refer major amendments to the City Council; and

WHEREAS, the requested three amendments pertain to a financial consideration as well as specific agreement provisions that were added by the City Council and therefore deemed to be matters of approval or denial by the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank does hereby determine and declare the following amendments to said Development Agreement:

SECTION 1: The request by the Riverbank Cannabis Collective for the payment schedule in Section 4.2 of the Development Agreement to remain at \$5,000.00 for the remainder of the 2019 calendar year is hereby (approved/denied) [to be entered upon execution of this resolution].

SECTION 2: The request by the Riverbank Cannabis Collective to be open during the Riverbank Cheese and Wine Festival is hereby (approved/denied) [to be entered upon execution of this resolution].

SECTION 3: The request by the Riverbank Cannabis Collective to be open during the Riverbank Christmas Day Parade and festivities is (approved/denied) [to be entered upon execution of this resolution].

AND BE IT FURTHER RESOLVED that the City Council of the City of Riverbank does hereby approve the City Attorney and City Manager to develop a side letter to the Agreement consistent to the direction of the three amendments by the City Council.

AND BE IT FURTHER RESOLVED that the City Council of the City of Riverbank does hereby authorize the City Manager to execute the side letter to the Agreement, and further directs the City Clerk to have the side letter recorded by this Resolution as part of the Development Agreement, if so deemed required.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of July, 2019; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Marisela H. Garcia
Asst. City Manager /Acting City Clerk

Richard D. O'Brien
Mayor

Attachment: Exhibit A – Letter of request for amendments to the DA (Ordinance 2018-003)

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.4

SECTION 6: NEW BUSINESS

Meeting Date:	July 23, 2019
Subject:	Review of Electronic Signage Locations prior to the City Manager entering a Lease Agreement with Rogers Media Company for an Electronic Sign to Advertise City Events and Downtown Activity
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council review the options for the location of the Electronic Sign prior to the City Manager entering into a Lease agreement with Rogers Media Company for a sign to be placed at a location along Highway 108 to advertise City events and downtown activity.

SUMMARY

On April 23, 2019, this item was brought to the City Council and authorization was given for the City Manager to enter into a lease agreement with Rogers Media Company for the installation of an electronic sign along Highway 108 to advertise City events and downtown activity. It was recently requested that City staff return to the City Council to review those options again prior to entering into a lease agreement.

BACKGROUND

During the June 25, 2018 Strategic Planning session, one of the goals that were set was to assist in the expansion of economic development opportunities for downtown businesses. Signage that would direct traffic to downtown to promote downtown activity was to be explored. On July 17, 2018 the Planning Commission, with a vote of 5-0 recommended that City Council approve an amendment to the Downtown Specific Plan to permit electronic signage to be located on SR 108 between the east end of Atchison Street and the south end of Callander Avenue.

On April 23, 2019 options were presented to the City Council for location of the electronic signage. The "Fountain Site" along 108 was one option and the "Del Rio" site was another. After consideration of both sites, the City Council decided the "Del Rio" site would be best and staff was given direction to proceed with negotiations with the property owner. It was determined that the "Fountain Site" may take away from the aesthetics of the fountain.

Since that time staff has been actively involved in negotiations and discussions on this project location. Recently Rogers Media Company representatives expressed some concern regarding less than optimal traffic flow at the Del Rio site. Some concerns that Rogers Media have expressed about the Del Rio location are that one side of the sign would need to be static to direct people downtown. This would limit the advertising of multiple local businesses or events. In addition, the sign would need to be larger than the community may want. If a sign is placed on private property there could be lease issues as it is not possible for forecast ownership many years into the future. Most importantly, there seems to be not enough traffic and advertisers may not be interested in the location.

In addition, in reviewing the potential exposure of the site at this location (given that the sign will be static on the eastern side) there is a potential concern that the maximum value for community outreach/downtown businesses of a large scale sign of this type may not be realized due to this placement. Since the potential agreement would be for a lengthy term (25 years) without limited ability to alter the sign location after its permanent placement, the City Manager requested that staff return to the City Council for further discussion on potential sites.

The options that will be reviewed are as follows:

- 1) The Fountain site along Highway 108 but with a smaller sign than was presented at the first meeting.
- 2) The Del Rio site (continue forward with original direction).
- 3) The Del Rio Marquee.
- 4) The site of the former Liquor Store on Third and Atchison.
- 5) Direct the Planning and Building Manager and Parks and Recreation Director to explore other areas of the City outside of the Downtown Specific Plan area.

STRATEGIC PLAN

The Electronic Signage is relevant to the Strategic Plan's vision; ***The City of Riverbank is a regional leader in sustainable development offering a unique, culturally diverse, safe, and welcoming community with a thriving downtown, recreational opportunities for all ages and sustainable economy that supports our growing population.***

FINANCIAL IMPACT

There would be no financial impact to the General Fund as the electronic signage lease would generate revenue of at minimum \$15,000 per year.

ATTACHMENT

1. There are no attachments to this report.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.5

SECTION 6: NEW BUSINESS

Meeting Date:	July 23, 2019
Subject:	A Resolution Authorizing the Riverbank Dog Park Project and Appropriation of Funds from the General Fund and System Development Fee Program for Completion of the Project
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council consider approving the attached resolution which would authorize moving forward with the Riverbank Dog Park at Jacob Meyers Park and appropriate funds to complete the project.

SUMMARY

The City of Riverbank Parks and Recreation Department and the Riverbank Dog Park Task Force have determined that the best site for a small dog park that can be developed in the very near future is the open grass area in the back section of Jacob Myers Park. The site was determined after a number of public meetings and discussions with key stake holders (including the Friends of Jacob Meyers Park). Bids have been received for the fencing for this park, the approximate cost for the project (mow strip, fencing etc) shall not to exceed \$30,000 is being requested.

BACKGROUND

The City Park and Recreation Department has been working with a Dog Park task force for the past few years. Many sites have been reviewed and over time were deemed not feasible. There were a variety of reasons for this, but primarily concerns were voiced over proximity to residential uses. More recently, the Parks and Recreation Department has worked with the task force to develop a site plan for the open grass area at the end of the loop trail at Jacob Myers Park. The site plan includes a small dog area and a separate large dog area. The area was attractive because it is more remote than other central park areas and also is minimal in cost to establish. In addition, the area is immediately adjacent to a park host site which would allow for easy opening and closing of the dog park each day. If approved, staff will work to develop reasonable rules of use for the dog park. The increase in maintenance is expected to be minor as the area is already maintained through a mowing contract with Grover.

As the City moves through the Citywide Park Master Plan over the next 10 months, it is recommended that a larger area (at least one acre) be set aside and planned for as a City Dog Park with all the amenities that the Parks and Recreation Director and Community envision. The dog park area at Jacob Myers Park would for the time being provide a small dog park for the Community to enjoy until further development occurs and a larger dog park (with more amenities) can be developed.

STRATEGIC PLAN

The Citywide Park Master Plan Project is relevant to the Strategic Plan's vision to ***Enhance the Quality of Life*** by maintaining and refreshing the parks, trails and facilities to provide exceptional services. Exploring opportunities for a Dog Park was specifically listed as a goal in the latest Strategic Planning session.

FINANCIAL IMPACT

The Nexus Fee Study dated January 29, 2015 was approved by the City Council on March 25, 2015. In this study under City of Riverbank Growth- Related Parks Facility Needs, the Dog Park is listed as Project No. 21 showing a total cost of \$16,459, which would be 33% of the total cost of the park.

The CIP for Fiscal Year 2018-2023 was approved by the City Council on October 9, 2018. In the CIP under Parks and Recreation the Dog Park is listed as Project #PK-007 with a funding source as Fundraising/Grant \$60,000 for 2019-20 and \$10,000 for 2020-21. The CIP is flexible with funding sources and is only used as a planning tool to inform the City Council and the Public what projects we are working on and researching funding sources to complete the projects.

The low bid for the fencing for this dog park is \$27,800. A Bid Award not to exceed \$30,000 is requested to be paid from Park System Development Fees in the amount of \$16,459 and it is requested that \$13,541 be supplemented by the General Fund.

ATTACHMENT

1. Exhibit A: Site Plan
2. Resolution



small dog park
4,000 sq. ft.

large dog park
12,700 sq ft

unleashing area

unleashing area

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE RIVERBANK DOG PARK PROJECT AT JACOB MEYERS PARK AND APPROPRIATING FUNDS FROM THE PARK SYSTEM DEVELOPMENT FEES AND GENERAL FUND FOR THE COMPLETION OF THE PROJECT

WHEREAS, the City of Riverbank does not currently have a community Dog Park; and

WHEREAS, one of the City's goals for the Strategic Plan is to explore opportunities for a Dog Park in Riverbank; and

WHEREAS, the City Parks and Recreation Department and the Riverbank Dog Park Task Force have been working together to locate an appropriate site for a Dog Park; and

WHEREAS, the City Parks and Recreation Department and the Riverbank Dog Park Task Force have determined that the open grass area at the end of the loop trail located in Jacob Myers Park as shown in **Exhibit A** attached hereto would provide an adequate site for the City's first community Dog Park; and

WHEREAS, the Friends of Jacob Myers Park Committee are in favor of this addition to the Park; and

WHEREAS, the Nexus Fee Study dated January 29, 2015 and adopted by the City Council on March 25, 2015, listed the Dog Park as Project No. 21 in the City of Riverbank Growth-Related Parks Facility Needs showing a cost of \$16,459, which is 33% of the \$30,000 total cost for needed to fence the designated area; and

WHEREAS, a bid award not to exceed \$30,000 is requested to be paid from the Park System Development Fees in the amount of \$16,459, and the remaining amount of \$13,541 be supplement by the appropriation of funds from the General Fund.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the Riverbank Dog Park Project to be located in Jacob Myers Park, and to be established by fencing a designated area at a cost not to exceed \$30,000; to be paid from Parks System Development Fees in the amount of \$16,459 and supplemented by appropriated funds from the General Fund in the amount of \$13,541.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of July, 2019; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Marisela H. Garcia
Asst. City Manager/Recorder

Richard D. O'Brien
Mayor

Attachment: Exhibit A - Site Map