



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, JANUARY 28, 2020– 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 (CM-D1) Luis Uribe
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member District 3 Cal Campbell
Council/Authority Member District 4 Darlene Barber-Martinez
- CHANGES TO THE AGENDA:** Mayor/Chair Richard D. O'Brien

CONFLICT OF INTEREST

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

1. PRESENTATIONS There are no presentations.

2. PUBLIC COMMENTS (No Action Can Be Taken)

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

3. CONSENT CALENDAR

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

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

Item 3.B: Approval of the December 10, 2019, City Council and Local Redevelopment Authority Minutes.

Item 3.B-1: Approval of the January 14, 2020, City Council and Local Redevelopment Authority Minutes.

Item 3.C: Out of State Travel Request for Michael Riddell, Public Works Director, to attend the California Water Environment Association Annual Conference on March 31 – April 1, 2020, in Reno, Nevada.

Item 3.D: Award Bid for the Parking and Trail Improvements at Jacob Myers Park Project to Ross F. Carroll, Inc. and Authorize Execution of Future Change Orders.

Item 3.E: **Resolution** Authorizing the Submittal of an Application to the California State Department of Housing and Community Development for Funding under the CalHome Program; the Execution of a Standard Agreement, and if Selected for such Funding, Execution of any Amendments Thereto; and any Related Documents Necessary to Participate in the CalHome Program.

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

4. UNFINISHED BUSINESS

Item 4.1: **Second Reading by Title Only and Adoption of Proposed Ordinance No. 2020-001 Amending Title XV: Land Usage, Chapter 153: Zoning of the Riverbank Municipal Code by Repealing in Their Entirety Section 153.280: Intent and Purpose Through Section 153.285: Specific Requirements for Certain Zones Under Subsection: Signs and Substituting Them with New Sections 153.280 Through 153.285** – It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2020-001, and consider its adoption by roll call vote.

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 1/15/2020.

Item 5.1: **First Reading and Introduction by Title Only of a Proposed Ordinance Approving a Development Agreement by and Between the City of Riverbank and Elevations Plus, LLC, a California Corporation Doing Business as Elevations** – It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval, which will initiate the second reading by title only at the ~~January 28, 2020~~, February 11, 2020, regular City Council meeting to consider its adoption. At their regular meeting on December 17, 2019, the Planning Commission unanimously voted 5-0 and adopted PC Resolution 2019-022 recommending that the City Council approve Development Agreement 03-2017, and by a vote of 5-0 adopted PC Resolution 2019-023 approving Conditional Use Permit 06-2017.

Item 5.2: **First Reading and Introduction by Title Only of a Proposed Ordinance Amending Title XI: Business Regulations by Adding a Chapter 126: Hemp Cultivation to the Riverbank Municipal Code to Prohibit the Outdoor Cultivation of Hemp** – It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval by making a finding that the City-wide prohibition of outdoor hemp cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment and malodorous smells that may result from such activities. Said approval will also initiate the second reading by title only at the February 11, 2020, regular City Council meeting to consider its adoption.

Item 5.3: **First Reading and Introduction by Title Only of a Proposed Ordinance Amending Title XV: Land Usage; Chapter 150: Building Regulations; Section 150.01 through 150.16: Adoption of Standard Codes; and Adopting by Reference the 2019 California Administrative, Building, Residential, Electrical, Mechanical, Plumbing Energy, Existing Building, Historical Building, Fire, and Green Building Standards** – It is recommended that the City Council Introduce and pass to a second reading an Ordinance entitled “An Ordinance of the City Council of the City of Riverbank Amending Title XV: Land Usage; Chapter 150: Building Regulations; Section 150.01 through 150.16: Adoption of Standard Codes; and Adopting by Reference the 2019 Edition of the California: Administrative Code, Building Code; Residential Code; Green Building Standards Code; Plumbing Code; Electrical Code; Fire Code; Mechanical Code; Energy Code; Existing Building Code; Historical Code and Referenced Standards Code; and Amendments.”

6. NEW BUSINESS

- Item 6.1:** **PROS Consulting Update on the Parks and Recreation Needs Assessment Survey Results** – It is recommended that the City Council review the Riverbank Parks and Recreation Needs Assessment Survey Results presented by PROS Consulting as part of the Citywide Park Master Plan.
- Item 6.2:** **Five-Year Financial Forecast** – It is recommended that the City Council receive a presentation regarding the General Fund Five-Year Financial Forecast.
- Item 6.3:** **Request to Accept the Proposal Submitted by SS Consulting for Coordination of the Riverbank 2020 Cheese & Wine Festival and Authorize Staff to Enter into Contract Negotiations** – It is recommended that the City Council accept the proposal submitted by SS Consulting and approve City Staff to begin contract negotiations. The negotiated contract for Council's approval will be agendized at a later date.
- Item 6.4:** **A Resolution Authorizing the Purchase of a Property Located at 3021 High Street (APN: 132-003-022), Authorizing the City Manager to Execute Necessary Documents to Complete the Sale, and Authorizing Appropriation of \$76,000 from the Sewer and Water Operational Funds for Purchase of the Property** – It is recommended that the City Council approve the resolution which authorizes the property purchase of 3021 High Street, Riverbank, and the City Manager to execute any final documents necessary to complete the purchase and appropriation of funds for said purchase.
- Item 6.5:** **Adjustments to the 2020 Regular City Council Meetings Schedule** - It is recommended that the City Council cancel the regular City Council meetings of July 14th, August 11th, November 24th, and December 22nd, for a modified summer schedule and to minimize conflicts with Holiday activities.

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.
Under Negotiation: Price, terms of payment, or both

Item 8.2: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: One (1) potential case

Item 8.3: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code § 54956.9(a)
Name of Case: Stanislaus Consolidated Fire Protection District v. City of Riverbank and DOES 1-20
Stanislaus County Superior Court Case No. CV-19-004402

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:** One (1) potential case

Item 9.3: Report from Closed Session on Item 8.3: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:** Stanislaus Consolidated Fire Protection District v. City of Riverbank and DOES 1-20

ADJOURNMENT (The next regular City Council meeting – Tuesday, Feb. 11 @ 6:00 pm)

AFFIDAVIT OF POSTING

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

Posted this 23rd day of January, 2020

/s/ Annabelle H. Aguilar, C.M.C., City Clerk / L.R.A. 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. 3.A

SECTION 3: CONSENT CALENDAR

Meeting Date:	January 28, 2020
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:	January 28, 2020
Subject:	Approval of the December 10, 2019, regular 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 December 10, 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. December 10, 2019, regular 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, DECEMBER 10, 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 Mayor/Chair Richard D. O'Brien presiding.

FLAG SALUTE

Mayor/Chair Richard D. O'Brien

INVOCATION

Reverend Charles Neal, Riverbank Ministerial Association

ROLL CALL

Present:

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

City Attorney Nubia Goldstein was present in the absence of City Attorney Tom Hallinan.

AGENDA CHANGES: Mayor/Chair Richard D. O'Brien – *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.

Mayor O'Brien declared a conflict with Item 6.1 and therefore would recuse himself from consideration of the Item of Business.

1. PRESENTATIONS

Item 1.1: Recognition – Robert Ball, Leaving the Office of Planning Commissioner.

Mayor O'Brien presented a plaque to Mr. Ball.

Item 1.2: Administer the Oath of Office and Present the Certificate of Appointment to Planning Commissioner Steve Link.

Commissioner Link was not present; the Oath would be rescheduled.

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.

No one spoke.

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 November 12, 2019, City Council and Local Redevelopment Authority Minutes.

Item 3.C: A Resolution [No. 2019-103] to Rescind Resolution No. 2005-043 and to Authorize the City Manager to Approve Budget Amendments up to \$25,000.

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

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

AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor/Chair O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

4. UNFINISHED BUSINESS

Item 4.1: Second Reading by Title Only and Adoption of Proposed Ordinance No. 2019-008 Amending Title XIII: Land Usage, Chapter 134: Prohibition Against Underage Drinking And Social Host Liability by Repealing this Chapter in its Entirety and Substituting it with a New

Chapter 134: Prohibition Against Underage Drinking And Cannabis Use And Social Host Liability, to the Riverbank Municipal Code of Ordinances – It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2019-008 and consider its adoption by roll call vote.

City Manager Sean Scully presented the staff report.

ACTION: *By motion moved and seconded (Campbell / Barber-Martinez / passed 5-0) to approve Amending Title XIII: Land Usage, Chapter 134: Prohibition Against Underage Drinking And Social Host Liability by Repealing this Chapter in its Entirety and Substituting it with a New Chapter 134: Prohibition Against Underage Drinking And Cannabis Use And Social Host Liability, to the Riverbank Municipal Code of Ordinances by adoption of Ordinance [No. 2019-008] as presented. Motion carried by unanimous City Council roll call vote.*
AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 11/6/2019. The public notice for Item 5.2 was published in the Riverbank News on 11/27/2019.

Item 5.1: **A Resolution Accepting the Fiscal Year 2018-19 Annual AB 1600 Report of System Development Fee Activity** – It is recommended that the City Council adopt a Resolution accepting the Fiscal Year 2018-19 Annual AB 1600 Report of System Development Fee Activity.

Assistant City Manager/Director of Finance Marisela Garcia presented the staff report.

Mayor O'Brien opened the public hearing at 6:10 p.m.; no one spoke, the hearing was closed.

ACTION: *By motion moved and seconded (Barber-Martinez / Fosi / passed 5-0) to adopt Resolution No. 2019-104 accepting the Fiscal Year 2018-19 Annual AB 1600 Report of System Development Fee Activity as presented. Motion carried by unanimous City Council roll call vote.*
AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

Item 5.2: **Conduct the Public Hearing and Table Consideration of the Closeout of the 16-CDBG-11211 Grant Under the State of California Housing and Community Development Economic Development Over The Counter (OTC) Allocation in Support of a Commercial Business to Finance Public Infrastructure to Meet the Needs of Repsco Inc.** – It is

recommended that the City Council conduct the public hearing and table the matter by:

1. Questions or Comments by the Council;
2. Open the public hearing;
3. Receive comments;
4. Close the public hearing; and
5. By roll call vote, table the public hearing until further notice.

City Manager Sean Scully presented the staff report.

Mayor O'Brien opened the public hearing at 6:13 p.m.; no one spoke, the hearing was closed.

ACTION: *By motion moved and seconded (Uribe / Campbell / passed 5-0) to approve to table the Item of Business and its public hearing until further notice, as presented. Motion carried by unanimous City Council roll call vote.*

AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

6. NEW BUSINESS

Item 6.1: **Conduct Public Interviews and Select an Applicant to serve as the Riverbank Representative on the Stanislaus County Fire Protection District Board of Directors; and Adopt a Resolution [No. 2019-105] to Approve the Appointment of (TBD) to the Stanislaus Consolidated Fire Protection District Board of Directors as the City of Riverbank Representative** – It is recommended that the City Council conduct the public interviews and by a majority roll call vote select an applicant as the City of Riverbank's Representative to the SCFPD Board of Directors, and confirm the appointment by adoption of a Resolution.

Mayor O'Brien had declared a conflict of interest and recused himself from this Item due to being a participating applicant of the interviews. Mayor O'Brien handed the gavel to Vice Mayor Barber-Martinez who presided over this business item.

City Clerk Annabelle Aguilar presented the staff report; including explaining the opinion issued by the State Attorney General in regards to the "Doctrine of Incompatible Offices" and the result of the opinion declaring that the Mayor of Riverbank could serve in both capacities of Mayor and SCFPD Riverbank Representative on the Board of Directors, if the appointment was made by the City Council.

Vice Mayor Barber-Martinez explained the interview process, drew numbers to determine the order of which each applicant would be interviewed, and proceeded with the interviews. It was determined that Mayor Richard O'Brien would be interviewed first, followed by Mr. Chad Homme. Each applicant had 3 minutes to present their qualifications, education, and their interest to serve as the Riverbank Representative on the Board. Thereafter, each Councilmember asked two questions, and Vice Mayor Barber-Martinez asked the final question.

Upon completion of the interviews, the applicants left the Chamber, and the public comment period was opened.

Public comments were made by Mr. Charles Neal, Riverbank, who was opposed to the appointment of the Mayor. Fire Chief Mike Whorton commented on the comments made by Mayor O'Brien.

Members of the Council considered the applicants.

ACTION: *By motion moved and seconded (Fosi / Campbell / passed 3-1) to appoint Mr. Chad Homme as the Riverbank Representative to the Stanislaus Fire Protection District Board of Directors. Motion carried by City Council roll call vote.*
AYES: Campbell, Fosi, and Vice Mayor Barber-Martinez
NAYS: Uribe / ABSENT: None / ABSTAINED: None

The applicants returned to the Chamber and Vice Mayor Barber-Martinez congratulated Mr. Homme as the appointed Representative to the Fire District's Board of Directors; both applicants took a seat. Mayor O'Brien returned to his seat, however, remained recused from consideration of this Item.

The interview process concluded and Resolution [No. 2019-105] was considered to officially approve the appointment of Mr. Chad Homme.

ACTION: *By motion moved and seconded (Campbell / Fosi / passed 4-0) to adopt Resolution No. 2019-105 to Approve the Appointment of Chad Homme to the Stanislaus Consolidated Fire Protection District Board of Directors as the City of Riverbank Representative. Motion carried by unanimous City Council roll call vote.*
AYES: Campbell, Fosi, Uribe, and Vice Mayor Barber-Martinez
NAYS: None / ABSENT: None / ABSTAINED: None

The public interview and selection proceedings concluded at 7:01 p.m., and Mayor O'Brien continued to preside over the remainder of the business items.

Item 6.2: *Consider a Resolution [No. 2019-106] to approve a Memorial at Sorenson Park for Ismael Martinez-Huertas as Requested by Mrs. Alcira Vega – It is recommended that the City Council consider authorizing a memorial for Ismael Martinez-Huertas at Sorenson Park.*

City Manager Sean Scully presented the staff report.

ACTION: *By motion moved and seconded (Fosi / Uribe / passed 5-0) to adopt Resolution No. 2019-106 to approve a Memorial at Sorenson Park for Ismael Martinez-Huertas as Requested by Mrs. Alcira Vega (spouse) as presented.*

Motion carried by unanimous City Council roll call vote.

AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

- Item 6.3:** **A Resolution [No. 2019-107] Requesting that the Stanislaus County Sheriff's Department Appoint Lieutenant Ed Ridenour to the Position of Chief of Police for Riverbank Police Services** – It is recommended that the City Council approve the attached resolution formally requesting that the Stanislaus County Sheriff appoint Lieutenant Ed Ridenour to the position of Chief of Police for Riverbank Police Services.

City Manager Sean Scully presented the staff report.

Stanislaus County Lieutenant Ed Ridenour introduced himself. Stanislaus County Sheriff Dirske, and current Riverbank Police Chief Erin Kiely, spoke in favor of the selection of Lieutenant Ridenour to serve as the next Riverbank Police Chief upon the retirement of Chief Kiely.

Public comment was made by Mr. Neal who spoke favorably of Chief Kiely's service to Riverbank.

ACTION: *By motion moved and seconded (Barber-Martinez / Campbell / passed 5-0) to adopt Resolution No. 2019-107 requesting that the Stanislaus County Sheriff's Department Appoint Lieutenant Ed Ridenour to the Position of Chief of Police for Riverbank Police Services as presented.*

Motion carried by unanimous City Council roll call vote.

AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

- Item 6.4:** **Water Consumption Billing Update** – It is recommended that the City Council receive an update regarding the status of water consumption billing and provide direction to staff.

Assistant City Manager / Director of Finance Marisela Garcia presented the update.

City Council and Staff discussed the Item; Councilmember Fosi spoke in favor of beginning the consumption billing immediately in January, and not wait until March.

Public comments were made by Deanna Garcia who spoke in regards to providing assistance to low-income seniors, and making sure notices were bilingual. Mr. Charles Neal spoke in favor of rolling out the billing as fast as possible. Ms. Marisela Garcia provided information on the City's senior assistance program, and assured bilingual notification.

ACTION: *By motion moved and seconded (Uribe / Barber-Martinez / passed 4-1) to begin consumption billing March 1, 2020.*

Motion carried by City Council roll call vote.

AYES: Campbell, Uribe, Barber-Martinez, and Mayor O'Brien

NAYS: Fosi / None / ABSENT: None / ABSTAINED: None

Item 6.5: **Cannabis Development Proposals – On-Site Consumption – Discussion and Direction** – It is recommended that the City Council review the provided information regarding the onsite consumption of cannabis, take public comment, and provide direction to staff.

Some options for direction could include:

1. Direct staff to research and return to City Council draft code amendments to the cannabis ordinance that Council could consider that addresses onsite consumption.
2. Determine that the current code is sufficient and that no changes are needed at this time, which would keep in place no allowance for onsite consumption.
3. Request additional research and analysis.

Planning and Building Manager Donna Kenney presented the staff report on a request made by the Riverbank Cannabis Collective dispensary.

Written comments in favor of onsite consumption were emailed to the entire City Council by Ms. Deanna Garcia, part owner of the dispensary.

City Council and Staff discussed the Item.

Public comments were made Ms. Kimberly Carlyle, a Board Member of the dispensary, and Ms. Deanna Garcia, dispensary owner, who spoke in favor of the request. Mr. Charles Neal spoke in opposition of the request.

City Council declared to not permit onsite consumption, nor would there be any changes made to the current City Municipal Code or existing Development Agreement.

7 **COMMENTS/REPORTS**

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

Item 7.1: Staff

- *City Manager Sean Scully announced a Santa visit for residents, since the Christmas events had been canceled.*
- *Public Works Director/LRA Director Michael Riddell provided an update of the Sewer System Smoke program.*

Item 7.2: Council/Authority Member

- *Council/Authority Member Uribe announced he would be attending the next scheduled meeting of the Stanislaus Homeless Alliance, the 2020 Point and Count meeting, and the Riverbank Downtown Coalition Committee meeting.*

- *Vice Mayor/Chair Barber-Martinez reported on the success of several Christmas charity events, and reported on her attendance of a League of Cities webinar on the Legislative Bills passed in 2019.*

Item 7.3: Mayor/Chair

Mayor/Chair O'Brien: 1) Requested a City financial review in January 2020, 2) spoke in regards to the homeless housing, 3) announced the January 9th or January 23rd [Mayor's] Faith- Based and Nonprofit meeting, 4) was pleased to see the smart phone availability to monitor water consumption, 5) announced that he would be going to Washington D.C. to meet with Officials in regards to the property transfer of the Army Ammunition Plant, 6) requested to receive staff's end of the year reports before the Christmas break for the State of the City Address that will be scheduled in March.

8. CLOSED SESSION

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

Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Government Code § 54956.9(a)

Name of Case: Stanislaus Consolidated Fire Protection District v. City of Riverbank and DOES 1-20

Stanislaus County Superior Court Case No. CV-19-004402

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

Item 8.3: **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.

Under Negotiation: Price, terms of payment, or both

Item 8.4 **PUBLIC EMPLOYMENT**

Pursuant to Government Code Section 54957(b)

Title: City Manager

Mayor/Chair O'Brien 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 8:08 p.m.

9. REPORT FROM CLOSED SESSION

Mayor/Chair O'Brien reconvened the meetings at 9:03 p.m.

Item 9.1: Report from Closed Session on Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:** Stanislaus Consolidated Fire Protection District v. City of Riverbank and DOES 1-20

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

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

Mayor O'Brien reported that the Council has authorized the City Manager to enter into a Tolling Agreement with Schneider Electric.

Item 9.3: Report from Closed Session on Item 8.3: **CONFERENCE WITH REAL PROPERTY NEGOTIATIONS** – Aemetis, Inc.

Mayor/Chair O'Brien reported that direction was provided to Staff.

Item 9.4: Report from Closed Session on Item 8.4: **PUBLIC EMPLOYMENT** – City Manager

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

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 9:03 p.m.

ATTEST: *(Adopted 1/28/2020)*

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor / Chair

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	January 28, 2020
Subject:	Approval of the January 14, 2020, 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 January 14, 2020, regular City Council and the Local Redevelopment Authority Board meetings have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. January 14, 2020, 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, JANUARY 14, 2020**

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

CALL TO ORDER

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

FLAG SALUTE

Mayor/Chair Richard D. O'Brien

INVOCATION

Reverend Charles Neal, Riverbank Ministerial Association

ROLL CALL

Present:

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

City Attorney Nubia Goldstein was present in the absence of City Attorney Tom Hallinan.

AGENDA CHANGES: Mayor/Chair Richard D. O'Brien – *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.

No one declared a conflict.

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.

*Vicky Holt, Riverbank Library Manager, provided an update of library activities.
David Taylor commented on homeless financial aid and Council's support on the project.*

3. CONSENT CALENDAR

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

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

Item 3.B: A **Resolution [No. 2020-001]** Authorizing the City Manager to Execute a Grade Crossing Construction and Maintenance Agreement between the City of Riverbank and BNSF Railway Company.

Item 3.C: Acceptance of the Claus Road Overlay Project Completed by DDS Company Doing Business As Knife River Construction and Authorization to File a Notice of Completion.

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

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

AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

4. UNFINISHED BUSINESS There were no items to consider.

5. PUBLIC HEARINGS

[The public hearing notice for Item 5.1 was published in the Riverbank News on 01/01/2020.]

Item 5.1: First Reading and Introduction of a Proposed Ordinance [No. 2020-001] Amending Title XV: Land Usage, Chapter 153: Zoning of the Riverbank Municipal Code by Repealing Section 153.280: Intent and Purpose Through Section 153.285: Specific Requirements for Certain Zones in Their Entirety and Substituting Them with New Sections

153.280 Through 153.285 – It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval, which will initiate the second reading by title only at the January 28, 2020, regular City Council meeting to consider its adoption.

Planning and Building Manager Donna Kenney presented the staff report.

Mayor O'Brien opened the public hearing at 6:14 p.m.; no one spoke, the hearing was closed.

ACTION: *By motion moved and seconded (Barber-Martinez / Campbell / passed 5-0) to approve the first reading and introduction of proposed Ordinance [No. 2019-001] to initiate a second reading by title and consider its adoption on January 28, 2020, as presented. Motion carried by unanimous City Council roll call vote.*
AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

6. NEW BUSINESS

Item 6.1: **A Resolution [No. 2020-002] Approving the Appointments of Joan Stewart, Mallorie Fenrich, Natasha Basso, and Alternate Ben Reuben to the Planning Commission Effective January 2020; and Administer the Oath of Office to Said Appointees Including Recent Appointee Steve Link Fulfilling the Unexpired Term of Former Commissioner Robert Ball** - It is recommended that the City Council consider Mayor O'Brien's applicant recommendations to fill the three (3) expired Planning Commissioner seats, and the expired Alternate Planning Commissioner seat, and thereafter have the Oath of Office administered and Certificate of Appointments presented.

City Manager Sean Scully presented the staff report. Mayor O'Brien reported on the applications received, the interviews conducted, and his recommendations.

ACTION: *By motion moved and seconded (Campbell / Uribe / passed 5-0) to adopt Resolution No. 2020-002 to approve the Appointments of Joan Stewart, Mallorie Fenrich, Natasha Basso, and Alternate Ben Reuben to the Planning Commission Effective January 2020 as presented.*
Motion carried by unanimous City Council roll call vote.
AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

The Commissioners introduced themselves and spoke of their interest to serve. All Commissioners, including Planning Commissioner Steve Link, were administered the Oath of Office by Mayor O'Brien, and presented with their Certificates of Appointment.

Item 6.2: **Workshop: Urban Growth Boundaries – Riverbank – Modesto** – It is recommended that the City Council consider the information provided in the workshop regarding the recent updates on Modesto's Urban Limit line and consider direction for Riverbank moving forward.

City Manager Sean Scully presented the staff report and reported that written comments were received by Mr. Dennis Jackman via email. Public works Director Michael Riddell spoke in response to Mr. Jackman's claims made in his comments.

City Council and Staff discussed the item. Each Member expressed the buffer they would like to see.

Public comments: Planning and Building Manager Donna Kenney stated that the City did not have to purchase a buffer area; it could be done by agreements. Mr. Jerry Raoul, Riverbank, spoke in regards to Conservatorship.

City Manager Sean Scully stated he would prepare a letter for Council to speak with the City of Modesto.

Item 6.3: **Annual Consideration of City Council Appointments to Intergovernmental Boards and Committees and Appointments to Internal City Committees for the Year 2020** – It is recommended that the City Council:

- 1) Review the appointment lists; and
- 2) Volunteer or nominate a member of the Council to serve as the representative; and
- 3) By roll call vote, ratify the appointments for the year 2020.

City Manager Sean Scully presented the staff report. The City Council considered and made the following changes:

BOARD / COMMITTEE	COUNCIL REPRESENTATIVE (2020 - Appointments)
<u>League of California Cities Central Valley Division Executive Committee</u>	Councilmember Cal Campbell (Primary) Mayor Richard D. O'Brien (Alternate) Vice Mayor Luis Uribe
<u>LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE VOTING DELEGATE(S)</u>	Primary and Alternate to be determined in June.
<u>NORTH COUNTY CORRIDOR TRANSPORTATION EXPRESSWAY AUTHORITY BOARD</u>	Mayor Richard D. O'Brien (Primary) Councilmember Darlene Barber-Martinez (Alternate)

BOARD / COMMITTEE	COUNCIL REPRESENTATIVE (2020 - Appointments)
<u>SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT SPECIAL CITY SELECTION COMMITTEE</u>	Councilmember Darlene Barber-Martinez (Primary) Vice Mayor Luis Uribe (Alternate)
<u>STANCOG – POLICY BOARD</u>	Mayor Richard D. O'Brien (Primary) Councilmember Cal Campbell (Alternate)
<u>STANISLAUS OFFICE OF EMERGENCY SERVICES DISASTER COUNCIL</u>	Councilmember Darlene Barber-Martinez (Primary) Vice Mayor Luis Uribe (Alternate) (The appointed Councilmember serves a 2-year term; ending 12/2020.)
<u>(NEW) STANISLAUS HOMELESS ALLIANCE BOARD (RESOLUTION No. 2019-032)</u>	Vice Mayor Luis Uribe(primary) City Manager (per bylaws serves as the alternate)
<u>LOWER STANISLAUS RIVER TRAIL IMPROVEMENT PLAN COMMITTEE (RESOLUTION No. 2013-069)</u>	No representative would be assigned until further notice. Councilmember Cal Campbell was the last representative appointed
<u>STANISLAUS COUNTY WORKFORCE DEVELOPMENT BOARD (FORMERLY THE STANISLAUS BUSINESS ALLIANCE BOARD THAT ENDED 6/2016)</u>	There is currently no vacancies on this Board. The current Government seat 2-year term will expire 06/30/2020. There is no alternate designation to this Board. . (This is not Opportunity Stanislaus.) <i>This Item will be brought back early June.</i>

CITY/LRA COMMITTEES	COUNCIL/LRA LIAISON (2020 – Appointments)
<u>BUDGET ADVISORY COMMITTEE (BAC)</u>	Councilmember Cindy Fosi (Primary) Vice Mayor Luis Uribe (Alternate)
<u>FRIENDS OF JACOB MYERS PARK (JMP)</u> (A non-profit organization)	Councilmember Cal Campbell (Primary) Councilmember Cindy Fosi (Co-Primary) Councilmember Darlene Barber-Martinez (Alternate)

ACTION: *By motion moved and seconded (Barber-Martinez / Uribe / passed 5-0) to ratify the appointments as declared.
Motion carried by unanimous City Council roll call vote.*

AYES: *Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien*

NAYS: *None / ABSENT: None / ABSTAINED: None*

Item 6.4: **Nomination and Appointment of the Vice Mayor to Serve for the Year 2020** – It is recommended that the Mayor nominate a Councilmember to serve as Vice Mayor for the year 2020, and by roll call vote, City Council approve the appointment for a one-year term.

City Manager Sean Scully presented the staff report.

Mayor O'Brien nominated Councilmember Luis Uribe.

Councilmember Uribe expressed his appreciation of the nomination.

ACTION: *By motion moved and seconded (O'Brien / Campbell / passed 5-0) approve the appointment of Councilmember Luis Uribe as Vice Mayor for the year 2020.*

Motion carried by unanimous City Council roll call vote.

AYES: *Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien*

NAYS: *None / ABSENT: None / ABSTAINED: None*

7 **COMMENTS/REPORTS**

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

Item 7.1: Staff

- *City Manager Sean Scully announced that the next agenda would be substantial with a number of public hearings, and options of the Wine and Cheese Festival, and announced that staff was looking into funding to place lighted crosswalk signs on Roselle for shoppers of the Dollar General.*
- *Assistant City manager/Director of Finance Marisela Garcia announced that the City was offering Aqua Hawk Consumption Usage Training on January. 23rd 6:00 to 8:00 pm to help people understand the new consumption billing.*

Item 7.2: Council/Authority Member

- *Council/Authority Member Fosi appreciated Staff working on the crosswalk for patrons of Dollar General, and commented on the need to report people for illegal dumping of their trash.*
- *Council/Authority Member Campbell spoke in regards to the importance of being registered to vote and getting out to vote.*
- *Council/Authority Member Barber-Martinez reported that she will be attending a League of California Cities on the Community Policy Committee, and read a quote by Martin Luther King Jr. in recognition of the upcoming Holiday.*
- *Vice Mayor/Chair Uribe announced the 2020 Census coming up in March, the Concilio is having a Census training in Ceres, and he is attempting to have them conduct a training in Riverbank, and he will be attending the League of California Cities Revenue and Taxation Committee.*

Item 7.3: Mayor/Chair

Mayor/Chair O'Brien: 1) requested to have the update of the Municipal code [conducted by the City's Law Firm Churchwell White, LLP] as soon as possible. City Attorney Nubia Goldstein stated it will be discussed as part of the strategic planning and a time line to conduct a workshop and adoption would be provided, 2) reported on StanCOG's transit service study, and working towards consolidating all the Transit Authorities, 3) announced he would like to work on a grant for electric vehicles, and a grant for homelessness, and 4) announced that he would be traveling to Washington D.C. to meet with the Deputy Secretary of the Army to discuss the Army Ammunition Plant property transfer.

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: Emetie Aemetis, Inc.
Under Negotiation: Price, terms of payment, or both

Item 8.2: PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Government Code Section 54957
Title: City Manager

Mayor/Chair O'Brien 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 7:07 p.m.

9. REPORT FROM CLOSED SESSION

Mayor/Chair O'Brien reconvened the meetings at 8:06 p.m.

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

Mayor/Chair O'Brien reported that direction was provided to Staff.

Item 9.2: Report from Closed Session on Item 8.2: PUBLIC EMPLOYEE PERFORMANCE EVALUATION – City Manager

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

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 8:06 p.m.

ATTEST: *(Adopted 1/28/2020)*

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor / Chair

DRAFT

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 1: CONSENT CALENDAR

Meeting Date:	January 28, 2020
Subject:	Out of State Travel Request for Michael Riddell, Public Works Director, to attend the CWEA Annual Conference in Reno, Nevada
From:	Sean Scully, City Manager
Submitted by:	Gabriela Hernandez, Administrative Assistant-Confidential

RECOMMENDATION

It is recommended that the City Council approve the out-of-state travel request for Michael Riddell, Public Works Director, to attend the California Water Environment Association (CWEA) 2020 Annual Conference at Reno-Sparks Convention Center, in Reno, Nevada on March 31 – April 3, 2020.

SUMMARY

The California Water Environment Association (CWEA) is a California nonprofit public benefit corporation. CWEA is dedicated to the educational development of its members, who are wastewater professionals. CWEA conducts training, disseminates information, produces training manuals, and tests for competency. CWEA has been California's leader in wastewater training and certification since 1927. Every year, CWEA offers hundreds of educational events locally, regionally, and state-wide, training thousands of wastewater professionals annually. CWEA certifies wastewater professionals on six specialties, with up to four grade levels each: Collection System Maintenance, Wastewater Treatment Plant Maintenance, Laboratory Analysis, Bio solids Land Application Management, Environmental Compliance Inspection, and Industrial Treatment Plant Operations.

FINANCIAL IMPACT

The approximate costs associated with the CWEA Conference including, hotel accommodations, per diem and conference registration:

- Registration Fee: \$825.00
- Hotel Accommodations at the Atlantis Resort:
 - o \$134.00 per night plus 14.5% tax (4 nights) = \$613.68
- Per Diem Meals: \$258.00

ATTACHMENT

None.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.D

SECTION 3: CONSENT CALENDAR

Meeting Date:	January 28, 2020
Subject/ Title:	Award Bid for the Parking and Trail Improvements at Jacob Myers Park Project to Ross F. Carroll, Inc. and Authorize Execution of Future Change Orders
From:	Sean Scully, City Manager
Submitted by:	Kathleen Cleek, Development Services Administration Manager Laura Graybill, Project Coordinator

RECOMMENDATION

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

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

SUMMARY

On November 8, 2016 the Stanislaus County voters approved a ½ cent sales tax measure (Measure L) to fund local and regional transportation projects and programs. The tax is expected to generate approximately \$39 million dollars a year over a 25-year period for Stanislaus County.

On August 27, 2019 The Riverbank City Council approved and adopted the revised 2019 City of Riverbank Expenditure Plan Project List for Measure L Funds. This project was listed under the Bike and Pedestrian Improvements. Bike and Pedestrian Improvements can include connectivity between communities, local schools, trails and recreation facilities. The project will create a walking trail that will connect the current Scott McRichie trail (by the camp grounds) to the main parking lot at the Jacob Meyers Park entrance. This needed improvement will allow pedestrians to walk nearly the entirety of Jacob Meyers Park while at the same time keeping pedestrians generally off of the areas that are for vehicles.

The bid opening was held on Thursday, January 16, 2020 to consider the bids for the Parking and Trail Improvements at Jacob Myers Park Project. The following bids were received:

Ross F. Carroll, Inc.	\$154,813.00
McFadden Construction, Inc.	\$186,458.75
Sinclair General Engineering Construction, Inc.	\$192,750.75
George Reed, Inc.	\$198,801.00

Work on the project includes, but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary to construct all demolition, grading, subbase placement, asphalt concrete paving, striping and all other work shown on the plans for the above-mentioned project.

The engineer's estimate for the project totaled \$153,946.00 for the construction for the biking and trail improvements. The lowest responsible bidder came in slightly higher at \$154,813.00.

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

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

FINANCIAL IMPACT

Funding has been programmed for this project with Measure L Funds.

ATTACHMENT

- 1) Site Map



RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.E

SECTION 3: CONSENT CALENDAR

Meeting Date: January 28, 2020

Subject: **Resolution** Authorizing the Submittal of an Application to the California State Department of Housing and Community Development for Funding under the CalHome Program; the Execution of a Standard Agreement, and if Selected for such Funding, Execution of any Amendments Thereto; and any Related Documents Necessary to Participate in the CalHome Program

From: Sean Scully, City Manager

Submitted by: Marisela H. Garcia, Assistant City Manager

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution authorizing the submittal of an application to the California State Department of Housing and Community Development for funding under the CalHome Program; the execution of a Standard Agreement, if selected for such funding, and any amendments thereto; and any related documents necessary to participate in the CalHome Program.

SUMMARY

In November 2019, the State Department of Housing and Community Development (HCD) released a Notice of Funding Availability to announce the availability of approximately \$57 million in state CalHome Program funds from the Affordable Housing Bond Act Trust Fund of 2018 to fund Local Public Agencies or Nonprofit Corporations for eligible activities within the CalHome Program.

The Housing Division is requesting authorization to submit an application for funding for the City's First Time Homebuyer and Housing Rehabilitation Program in the amount of \$1,000,000.

BACKGROUND

The City of Riverbank Housing Division has managed the First Time Homebuyer and Housing Rehabilitation program for over 30 years. One of its primary sources of funding are grant funds from the State of California.

In 2018, the Affordable Housing Bond Act Trust Fund established a funding source for continued efforts to provide affordable housing for households that are considered low-income. The State CalHome Program is allowing local jurisdictions to apply for funding for the following various programs:

- **First-Time Homebuyer Mortgage Assistance** (including the purchase of a home within Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU))
- **Owner-Occupied Rehabilitation Assistance** (including reconstruction and Rehabilitation of manufactured homes not on a permanent foundation, and construction, repair, reconstruction, or Rehabilitation of ADUs or JADUs)
- **Technical Assistance for Self-Help Housing Projects**
- **Technical Assistance for Shared Housing Programs**
- **ADU/JADU Assistance** (including construction, repair, reconstruction, or Rehabilitation of ADUs or JADUs)
- **Homeownership Project Development Loans** (including Predevelopment Costs and carrying costs during construction related to ADUs and JADUs)

One of the criteria to apply for various programs is that the City must demonstrate that it has successfully managed those programs for a minimum of two years. Based on this criteria, the Housing Division is requesting authorization to submit an application for the following two programs:

- First-Time Homebuyer Mortgage Assistance
- Owner-Occupied Rehabilitation Assistance

The minimum application amount for each program is \$500,000. Therefore, if authorized, the Housing Division will submit an application for \$500,000 for First Time Homebuyer and \$500,000 for Owner-Occupied Rehabilitation Assistance for a total of \$1,000,000, a portion of which may be used for administration of the programs.

STRATEGIC PLAN

This request will assist in meeting the City's Goal to Ensure Financial Stability.

FINANCIAL IMPACT

Financial impact is limited to Housing Division Staff Time to prepare the application for submittal.

ATTACHMENT

1. Resolution

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME PROGRAM; THE EXECUTION OF A STANDARD AGREEMENT, AND IF SELECTED FOR SUCH FUNDING, EXECUTION OF ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE CALHOME PROGRAM

WHEREAS, The City of Riverbank, a political subdivision of the State of California, wishes to apply for and receive an allocation of funds through the CalHome Program; and

WHEREAS, The California Department of Housing and Community Development (hereinafter referred to as "HCD") has issued a Notice of Funding Availability ("NOFA") on November 27, 2019 and amended on December 23, 2019 for the CalHome Program established by Chapter 84, Statutes of 2000 (SB 1656 Alarcon), and codified in Chapter 6 (commencing with Section 50650) of Part 2 of Division 31 of the Health and Safety Code (the "statute"). Pursuant to the statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature to the CalHome program, subject to the terms and conditions of the statute and the CalHome Program Regulations adopted by HCD in April 2004; and

WHEREAS, The City of Riverbank wishes to submit an application to obtain from HCD an allocation of CalHome funds in the amount of \$1,000,000 for the City's First Time Homebuyer and Owner Occupied Rehabilitation Program.

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

1. shall submit to HCD an application to participate in the CalHome Program in response to the NOFA issued on November 27, 2019 (and Amended on December 23, 2019) which will request a funding allocation for the following activities:
 - a. First Time Homebuyer Program (Mortgage Assistance Program) and Program Administration: \$500,000
 - b. Owner Occupied Rehabilitation Program and Program Administration: \$500,000
 - c. Projects to be located in the City of Riverbank.

2. If the application for funding is approved, the City of Riverbank hereby agrees to use the CalHome funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program regulations cited above. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application are enforceable through the Standard Agreement. City of Riverbank acknowledges and agrees that it may be required to execute any and all other instruments necessary or required by HCD for participation in the CalHome Program.
3. The City of Riverbank authorizes the City Manager or Assistant City Manager to execute in the name of the City of Riverbank, the application, the Standard Agreement, and any subsequent amendments or modifications thereto, as well as any other documents required by HCD for participation in the CalHome Program, and any amendments thereto.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th day of January, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of _____ :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 4.1

SECTION 4: UNFINISHED BUSINESS

Meeting Date: January 28, 2020

Subject: Second Reading by Title Only and Adoption of Proposed **Ordinance No. 2020-001** Amending Title XV: Land Usage, Chapter 153: Zoning of the Riverbank Municipal Code by Repealing in its Entirety Section 153.280: Intent and Purpose Through Section 153.285: Specific Requirements for Certain Zones Under Subsection: Signs and Substituting Them with New Sections 153.280 Through 153.285

From: Sean Scully, City Manager

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

RECOMMENDATION

It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2020-001, and consider its adoption by roll call vote.

INTRODUCTION

A Public Hearing was conducted at the regular City Council meeting on January 14, 2020, to receive public opinions or evidence for or against the proposed Ordinance. The City Council approved the first reading and introduction of said ordinance (now titled Ordinance No. 2020-001), which moved it to the January 28, 2020, regular City Council meeting for its second reading by title only and consideration for adoption.

SUMMARY

The City is interested in using electronic signs to provide the community with event information, advertise local businesses, and to provide information such as street closures and evacuation routes during an emergency. The project consists of proposed amendments to Title XV: Land Usage, Signs, Section 153.280 through Section 153.285, concerning city electronic signs. Amendments include setbacks and height restrictions as well as size, lighting, and design standards for city electronic signs (Attachment 2). Staff has added definitions for Electronic Signs as well as Monument Signs, has removed now defunct R-4 zone sign standards, and has added the CX-1 zone to the sign ordinance.

BACKGROUND AND ANALYSIS

The Riverbank Municipal Code (“RMC”) provides regulations for residential, commercial, and industrial signage separate from the Downtown Specific Plan (“DTSP”) which regulates the downtown area of the City. The City can regulate the number, type, and location of signs a business can have but it cannot regulate a sign’s content. The sections proposed to be amended at this time for electronic signs include:

- In Section §153.281, a definition has been added to define “Electronic Signage.”
- A definition has been added to Section 153.281 to define “Monument Signs.” City Code permits monument signs but there is currently no definition for them. Included in the definition are required setbacks and an electronic reader board component for churches, schools, banks, municipal buildings, and similar uses. Section 153.285 (B)(1)(c) offers the same information under the commercial and industrial zoning districts.
- In Section 153.284 (A) Height Limitation, is an exception for City Electronic Signs which are located in commercial or industrial zones. The exception allows the City’s sign to be constructed to fifty (50) feet and therefore not be visually blocked by private signage or trees, if necessary. Section 153.284 (B)(1)(B)(3) offers similar height information for City electronic signs.
- Also in Section 153.284 under (C)(6) Projections, is an exemption allowing City electronic signs to project over City rights-of-way.
- In Section 153.285 (A)(1)(k) is an exemption to allow city electronic signs offsite advertising. This section also regulates the locations permitted to have City electronic signs, the number of sign faces, the size of sign faces, the length of messages, the brightness of the signs, and a requirement for a plug to use with emergency generators. Section 153.285 (B)(1)(i) contains similar information.
- Also in Section 153.285 at (B)(1)(a)(1) is new information concerning electronic signs and shopping centers. It sets a maximum size of 100 sf per sign and allows the shopping center to advertise its name and special events on site. No off site advertising would be permitted.

In addition to amending the Sign Ordinance for City electronic signs, staff took the opportunity to make other minor changes for clean-up and clarification purposes. For example:

- The definition for Temporary Sign has been modified in Section 153.281 to include newer forms of temporary signs, such as “human sign spinner” and “freestanding flags”.
- In Section 153.285, staff removed all language pertaining to the R-4 Zoning District sign standards. The City does not currently have an R-4 zoning district.

- Staff added in the “CX-1 zone” to the list of commercial and industrial zones in Section 153.285 (B). There are currently no sign regulations for the CX-1 zoning district.

Please note that the Code Sections provided for review have had the sign drawings reduced in size for brevity in this report.

GENERAL PLAN

The proposed Zoning Code amendments comply with General Plan Measure SAFE-4 in that “the City will work with emergency responders serving the City to support the purchase and maintenance of proper emergency communication systems and equipment, and other necessary tools dealing with emergencies.” City electronic signs will have the ability to plug into a mobile emergency generator to keep our population and drivers passing through the City informed of emergency events and evacuation information.

ENVIRONMENTAL DETERMINATION

The amendment to the City of Riverbank Municipal Code is exempt from environmental review because it is not a project within the meaning of Section 15378 of the State CEQA Guidelines.

FISCAL IMPACT

Unknown.

STRATEGIC GOALS

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three (3) years. The approval of an amendment to establish city electronic sign standards is not a stated strategic goal but is consistent with the General Plan goal to “To be recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment.”

PUBLIC NOTICE

The City Council hearing notice was published in the Riverbank News and posted at City Hall North, South, and Community Center on January 2, 2020.

ATTACHMENTS

1. Proposed Ordinance 2020-001
2. Draft Ordinance 2020-XXX redlined

CITY OF RIVERBANK

ORDINANCE NO. 2020-001

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AMENDING TITLE XV: LAND USAGE, CHAPTER 153 ZONING OF
THE RIVERBANK MUNICIPAL CODE BY REPEALING IN THEIR ENTIRETY
SECTIONS 153.280: INTENT AND PURPOSE THROUGH SECTION 153.285:
SPECIFIC REQUIREMENTS FOR CERTAIN ZONES UNDER SUBSECTION:
SIGNS AND SUBSTITUTING THEM WITH NEW SECTIONS 153.280
THROUGH 153.285**

WHEREAS, the Planning Commission held a public hearing on December 17, 2019, to consider an amendment to the City of Riverbank Municipal Sign Code; and

WHEREAS, on December 4, 2019, notice of the Planning Commission public hearing was published in the Riverbank News in compliance with California Government Code Section 65090, and posted in public places throughout the City; and

WHEREAS, on December 17, 2019 the Planning Commission with a vote of 5-0 recommended that the City Council the proposed amendment; and

WHEREAS, the proposed amendment complies with the General Plan in that the “City will work with emergency responders serving the City to support the purchase and maintenance of proper emergency communication systems and equipment, and other necessary tools dealing with emergencies (Measure SAFE-4)”; and

WHEREAS, the amendment to the City of Riverbank Municipal Code is exempt from environmental review because it is not a project within the meaning of Section 15378 of the State CEQA Guidelines; and

WHEREAS, The Riverbank Planning Commission made the following finding:

1. Approving permitted locations and design standards for City electronic signs is consistent with the goals, policies, programs, and uses of the General Plan.

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

SECTION 1: Amend Title XV: Land Usage, Chapter 153: Zoning of the Riverbank Municipal Code by repealing Sections 153.280 through 153.285 in their entirety and replacing them with new sections, which shall read as follows:

TITLE XV: LAND USAGE

CHAPTER 153: ZONING

SIGNS

Section

- 153.280 Intent and purpose
- 153.281 Definitions
- 153.282 Administration
- 153.283 Nonconforming signs
- 153.284 General requirements
- 153.285 Specific requirements for certain zones

§ 153.280 INTENT AND PURPOSE.

It is the intent of this sign ordinance regulation to preserve and enhance the aesthetic, traffic safety and environmental values of our communities and growing business/industrial districts, while at the same time providing for channels of communication to the public. It also is the city's intent to regulate on the basis of characteristic and proportion of signage. The city finds as to commercial signage that it is in the interest of both aesthetics and traffic safety that sign information be kept to a minimum. The use of subordinate information in commercial signage which presents as a traffic hazard will not be allowed. Non-commercial signage, which rights are constitutionally broader, is permitted unless expressly prohibited within this chapter.

(67 Code, § 10-19-1) (Ord. 2000-03, passed 4-24-00)

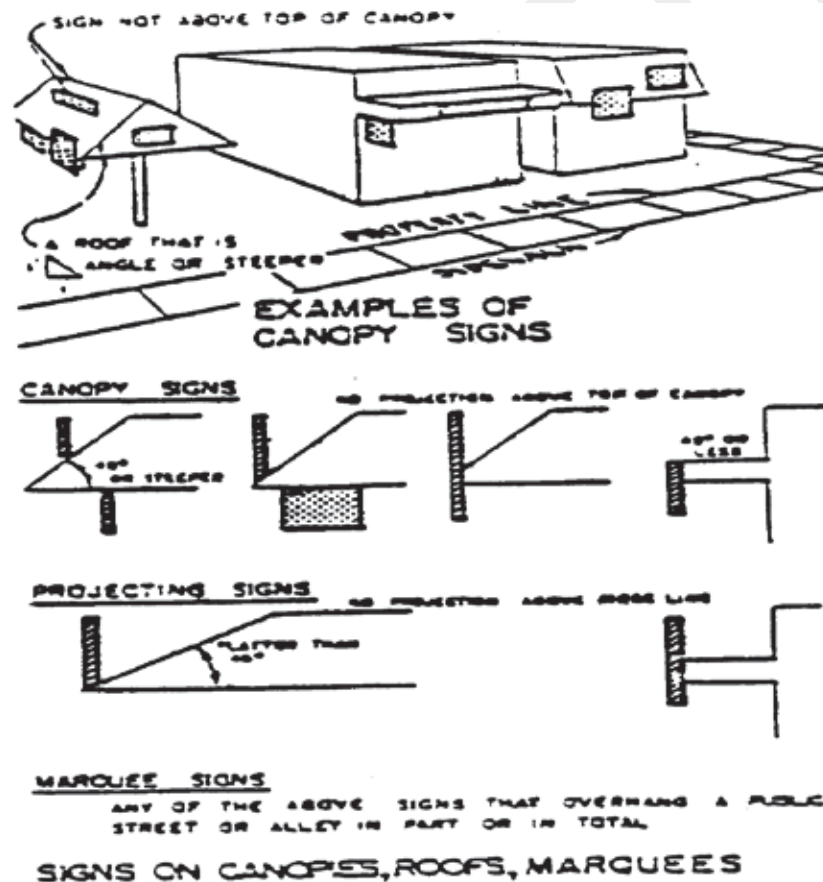
§ 153.281 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BENCH SIGN. A bus bench located outdoors with advertising matter thereon.

BULLETIN BOARD. A sign used to announce a coming event or attraction or used to convey a specific message related to the building or use of the property on which the bulletin board is located. In all zones, bulletin boards which are displayed so as to be viewed from a public street, parking lot, walkway or mall shall be subject to the sign regulation of the zone in which the building or property is located.

CANOPY. A roof of a building or a fixed overhead shelter used as a roof, which may or may not be attached to a building and which does not encroach into nor overhang a public street or alley right-of-way.



CANOPY SIGN. A sign attached to or hung from a canopy but not projecting from the face of the canopy.

CONSTRUCTION SIGN. A sign with the names of architects, engineers, contractors, subcontractors and financing agencies of buildings and structures being constructed upon the premises on which the sign is located.

CORPORATE FLAG. A flag identifying a business or firm.

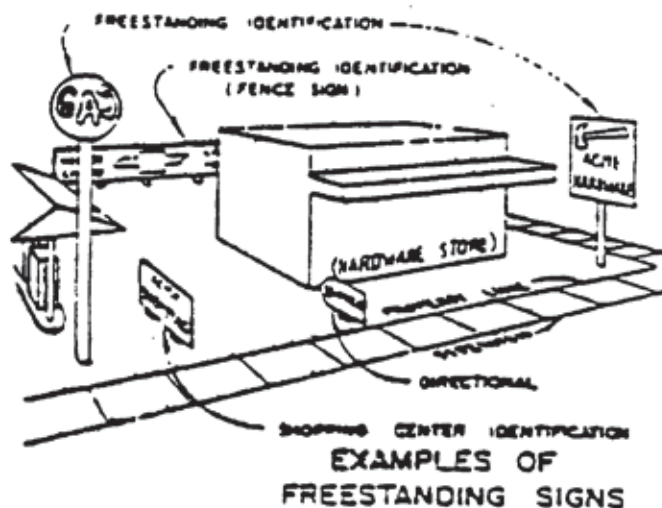
DIRECTIONAL SIGN. One of two types of signs. An exterior directional sign shall mean a sign oriented to a street and used to direct and control pedestrian or vehicular traffic and located on the same lot or premises as the use which it is intended to serve. An interior directional sign shall mean a directional, warning or information sign not bearing any advertising message readable from any street right-of-way. It shall be located on the same lot or premises as the use which it is intended to serve.

ELECTRONIC SIGNAGE. Also known as electronic signs, displays, message signs, and reader boards, may use technologies such as LCD, LED, projection, e-paper or similar to display digital images or text. May be located on private or public property as a monument sign for churches, schools, and banks or as a monument or wall sign for limited commercial and industrial locations. City electronic signs may include decorative pole (freestanding) signs which will be reviewed by the City Council on a case by case basis.

Future Technologies. There may be alternate, preferred, or superior technology available in the future to illuminate electronic signs. These alternate technologies may be incorporated into existing legally permitted electronic signs in the future without additional permission from the City so long as no exterior change to the digital display area will occur and an electrical permit is obtained if necessary.

ERECT. To build, construct, attach, hang, place, suspend, paint or affix.

FREESTANDING SIGN. A sign detached from any building or structure, and the supports of which are permanently affixed on the ground.

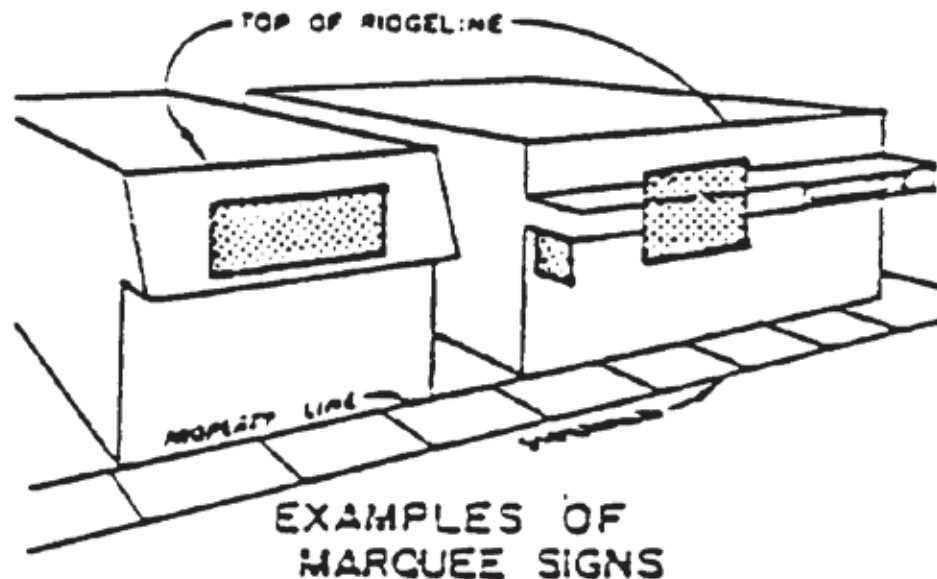


HEIGHT. The vertical distance from the highest point used in measuring the area of a sign to the top of the curb of the street at a point which is closest to the highest point of the sign.

IDENTIFICATION SIGN. Any sign which is used to identify or advertise the occupancy of a building, lot or premises or the merchandise or activity available at the building, lot or premises where the sign is located.

LIGHTED SIGN. Any sign which is illuminated either directly or indirectly by artificial light.

MARQUEE. A fixed overhead shelter used as a roof, which may or may not be attached to a building, and which projects into or overhangs a public street or alley right-of-way.

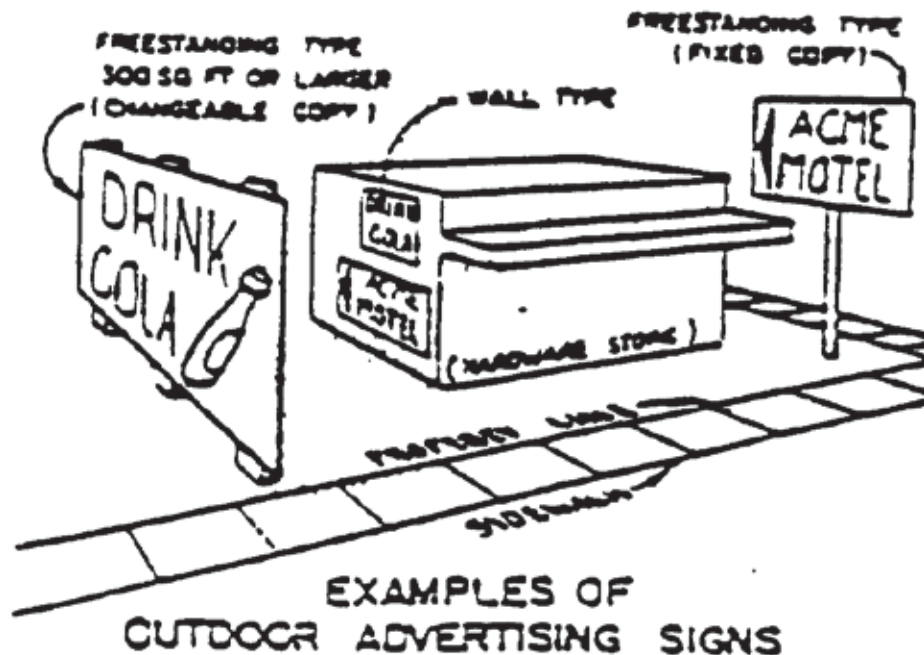


MONUMENT SIGN. A low profile freestanding sign, with its base resting on the ground and incorporating the design and building materials complementary to the architectural theme of the building(s) on the same property. Monument signs are required to have a minimum twelve (12) foot setback from all property lines and may not exceed eight (8) feet in height (including base) and fifty (50) square feet in total area per side. It may have an electronic reader board component if the monument is for a church, school, or bank or it is located in a commercial or industrial zone and there are no other electronic monument signs within one thousand (1,000) feet of the parcel.

NON-COMMERCIAL. In each instance and under the same conditions to which this chapter permits any sign, a sign containing an ideological, political or other non-commercial message shall be permitted.

OPEN HOUSE DIRECTIONAL SIGN. An arrow or other directional symbol and real estate office name.

OUTDOOR ADVERTISING SIGN (BILLBOARDS). A sign of the outdoor advertising business, which advertises products, accommodations, services or activities not provided on the premises on which it is located. Also known as a **BILLBOARD**. These signs are prohibited under this chapter. This definition does not pertain to non-commercial messages.



PERMANENT SIGN. Every sign except **TEMPORARY SIGNS** as defined herein.

POLE SIGN. A sign which is not attached to a building but which has its own separate support system and shall include a freestanding sign.

POLITICAL SIGN. Any impermanent sign or advertising device or display, with or without letters, words, numbers or figures thereon, which is designed to advertise a candidate for political office, a political party or a measure scheduled for an election.

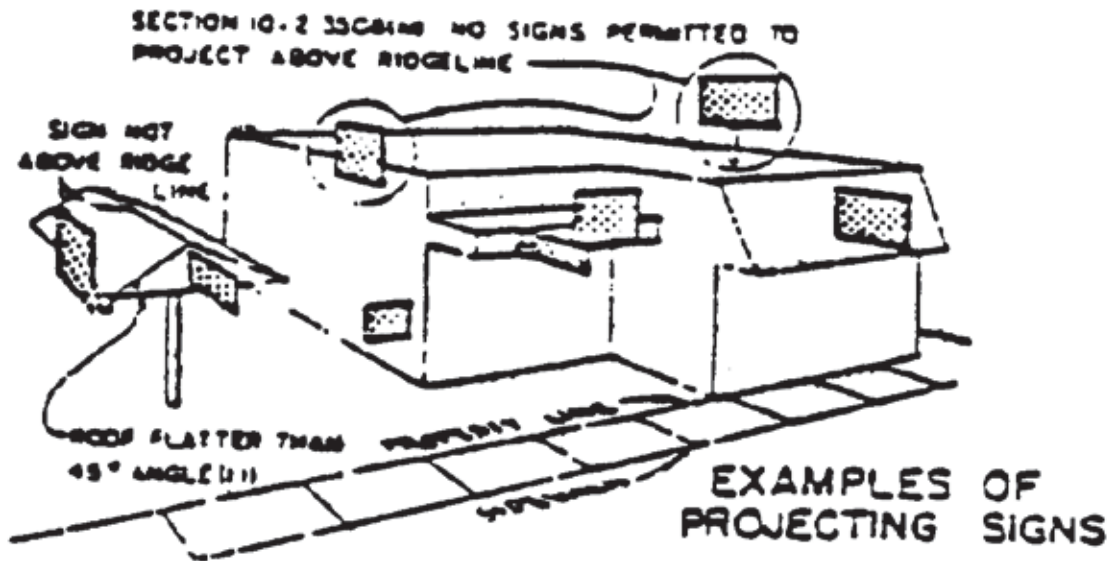
PRINCIPAL FRONTAGE. That wall of a building or structure which has frontage on a public street, highway, parking lot, walkway or mall and which is designed as the principal frontage of the building or structure.

PROJECTING SIGN. Any of the following:

- (1) Any sign attached to and projecting from the face of a wall, canopy or

marquee.

(2) Any sign mounted on a canopy roof or building roof that has a slope flatter than a 45 degree angle.



RIDGELINE. The peak of the roof, the top of a parapet, or the top of the wall of a building.

SIGN. Any structure, device, letter, figure, character, poster, picture, trademark or reading matter which is used or designed to announce, declare, demonstrate, display or otherwise identify or advertise, or attract the attention of the public. However, a sign shall not include the following:

- (1) Official notices authorized by a court, public body or public officer.
- (2) Directional, warning or informational signs authorized by federal, state or municipal authority or public utility.
- (3) A properly displayed official flag of a government, school, religious group, or nonprofit organization.
- (4) A memorial plaque, tablet or cornerstone indicating the name of a building and date of construction, when cut or carved into any masonry surface or when made of bronze or other incombustible material and made an integral part of the building or structure, not to exceed four square feet in area.

(5) Signs within a building which cannot be seen from outside the building.

SIGN AREA. The area of the sign surface computed by calculating the area of

the circle, square, triangle, rectangle or combination of such geometric designs necessary to enclose such sign surface. Where a sign has two or more faces (sign surfaces), the area of all faces shall be included in determining the sign area, except where two such faces are placed back to back and are at no point more than one foot from one another, the sign area shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area. Necessary supports or uprights on which a sign is placed shall not be included in the sign area, provided that they are not used to attract attention to the subject matter included in the sign area.



SIGN SURFACE. The surface of the sign upon, against or through which the message is displayed or illustrated.

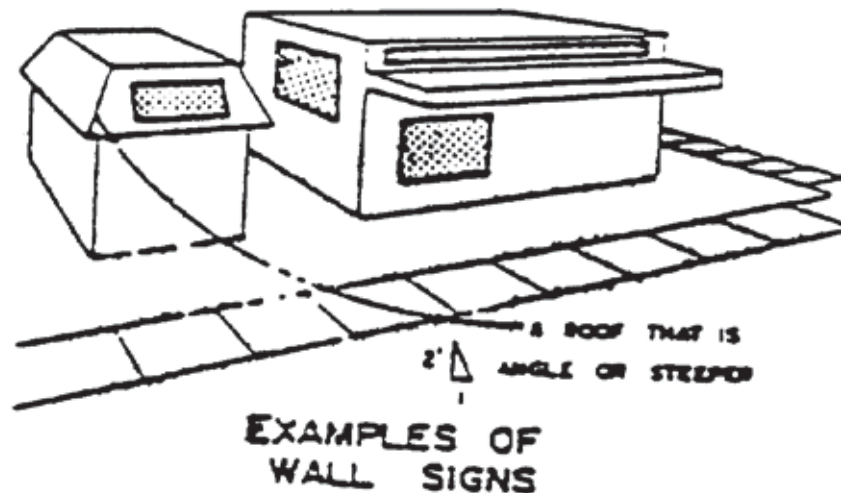
SUBDIVISION SIGN. A sign indicating the name of a recorded subdivision, the name of the contractor or subdivider, the name of the owner or agent, and/or giving information regarding directions, price and/or terms.

SUBDIVISION DIRECTIONAL SIGN. A sign indicating the name of a recorded subdivision and information regarding location. The name of the contractor or subdivider, the name of the owner or agent and/or information regarding price and/or terms may also be noted.

TEMPORARY SIGN. Any sign, banner, pennant, freestanding flag, valance, balloon, streamer, placard, "A"-frame, sandwich board, human sign spinner, inflatable air dancers, or similar impermanent sign or advertising device or display, with or without letters, words, numbers, or figures thereon, with or without frames, which directs, promotes service or price, or which is otherwise designed to attract attention for a short period of time only unless otherwise specifically mentioned in this chapter.

WALL. Any wall or element of a wall or any number or group of members which defines the exterior boundaries or courts of a building or structure and which has a slope steeper than one horizontal to two vertical, with the horizontal plane.

WALL SIGN. Any sign painted on, attached to or erected against the wall of a building or structure with the exposed face of the sign in a place approximately parallel to the plane of the wall and which does not project beyond the top or ends of the wall. **WALL SIGN** shall also mean any sign permanently displayed on the inside or outside of a window.



WINDOW SIGN. Any sign temporarily displayed on the inside of a window or temporarily painted on a window and facing a street, highway, parking lot, walkway or mall.

ZONE. One of the various classes of area into which the city has been divided by this chapter.

(67 Code, § 10-19-2) (Am. Ord. 2000-03, passed 4-24-00)

§ 153.282 ADMINISTRATION.

(A) *Permit required.* It shall be unlawful for any person to erect, alter, change, copy or relocate within the city any sign as defined herein without first obtaining a permit from the City Manager (or his designated representative) and making payment of the required fee therefor, except that the following listed signs are not required to have permits or pay permit fees, but shall meet all other requirements of this chapter:(1) Construction sign.

- (2) For sale or rent sign not exceeding eight square feet in area.
- (3) Garage sale sign.
- (4) Unlighted interior directional, warning or information system when less than 12 square feet in area.
- (5) Nameplate, two square feet maximum size.
- (6) Open house directional sign.
- (7) Political signs permitted by § 153.285.
- (8) Signs for fireworks stands, pumpkin sales, Christmas tree sale lots.
- (9) Subdivision directional signs.
- (10) Corporate flag when its height does not exceed the roof line.
- (11) Bench sign.
- (12) Signs which identify the architects, engineers, contractors, or builders associated with construction work on the premises during the time period such work is being conducted.
- (13) Advertising signs on the perimeter fencing of athletic fields. Such signs shall be on the interior of the fence only, shall have the advertising facing the interior of the field, shall not exceed the height of the fence and shall not be subject to any other restrictions of this chapter.

(B) *Application for permit.* Application for the sign permits shall be made upon forms provided by the City Manager (or his designated representative) and shall contain or have attached thereto such information as may be required by the City Manager (or his designated representative) to ensure compliance with the provisions of this code. The application shall be accompanied by a fee in an amount set from time to time by resolution of the City Council.

(C) *Permit issued if application is in order.* It shall be the duty of the City Manager (or his designated representative) to issue the sign permits if the application is complete, the sign complies with the provisions of this code and the fee has been paid.

(D) *Signs falling within definition of one or more type signs.* Whenever any sign, as defined in this chapter, falls entirely within the definitions of one or more type signs, it shall be subject to the provisions of the most restrictive category.

(E) *Permit issued in error.* If a sign permit is issued in error by the City Manager (or his designated representative) and the sign does not comply with all of the requirements of this chapter and all other laws and ordinances of the city, the sign permit shall be null and void, and no rights or privileges shall be conferred upon the permittee by the permit.

(F) *Compliance with chapter, nuisance, abatement.* The City Council hereby determines that the public peace, safety, morals, health and welfare require that all signs which shall hereafter be constructed, erected or painted in violation of the provisions of this chapter shall be and they are hereby declared public nuisances to be removed and abated in the manner provided herein.

(G) *Identification.* Every sign hereafter erected, altered or relocated shall have recorded thereon in a conspicuous place in order to be readily visible, the date of erection, alteration or relocation, the permit number, voltage of any electrical apparatus used in connection therewith and the name of the person, firm or company doing the work. The information shall not exceed 16 square inches in area.

(H) *Maintenance of signs.* The owner of any sign as defined and regulated by this chapter, including supporting structures, shall keep the same in a presentable condition at all times. All painted signs and all supporting structures of any sign shall be repainted to keep them in good condition whenever such action is requested in writing by the City Manager (or his designated representative).

(I) *Unlawful signs.* If the City Manager (or his designated representative) shall find that any sign which has been constructed or erected or is being maintained in violation of the provisions hereof, written notice shall be given of such conditions to the permittee or in the event no valid permit exists, to the owner thereof. If the permittee or the owner thereof, as the case may be, fails to remove or alter the sign so as to comply with the standards herein set forth, within 30 days after such notice, such signs may be removed or altered to comply when so directed by the City Manager and such cost shall be at the expense of the permittee or the owner of the property upon which the sign is located.

(1) Any sign found to be unsafe and an immediate peril to persons or property may be removed summarily and without notice when so directed by the City Manager. The cost of such removal shall be assessed against the owner of the sign removed.

(2) Any sign erected upon public property in violation of the provisions hereof may be removed or destroyed when so directed by the City Manager.

(3) The cost of removal or alteration of any sign and any expense incident thereto which by the terms of this section shall be paid by a permittee, sign owner,

property owner or any other person shall become a debt owing the city. The city may initiate civil action in its own name for collection of the debt.
(67 Code, § 10-19-3)

§ 153.283 NONCONFORMING SIGNS.

(A) For the purpose of this section a **NONCONFORMING SIGN** is any sign which does not conform with the provisions of this chapter but was lawfully erected and which was lawfully in existence and in use on May 1, 1986.

(B) A nonconforming sign shall not be replaced, altered, reconstructed, relocated or expanded in any manner unless it is made to conform with all the provisions of this chapter, except as follows:

(1) Other nonconforming signs on the same property need not be made to conform as a result.

(2) Change in copy shall be permitted if no structural changes in the sign are necessary except that no change in copy shall be permitted for nonconforming painted wall signs.

(3) Ordinary maintenance and minor repairs which will not increase the normal life of the sign and which are required for safety purposes shall be permitted. Structural alterations to a nonconforming sign are prohibited unless they are made to conform to all requirements of the city code.

(C) If the use identified by a nonconforming sign is abandoned for a period of 90 days, the sign shall be removed unless it is made to conform to the provisions of this chapter. If such sign is not made to conform or if it is not removed within 120 days from the time the use is abandoned, it shall thereafter be unlawful. **ABANDONED**, as used in this division, shall mean cessation of operation or change of use. **ABANDONED** shall not mean an ownership change or a name change as long as there is not cessation of the operation for longer than 90 days and the use is not changed.
(67 Code, § 10-19-4)

§ 153.284 GENERAL REQUIREMENTS.

(A) *Height limitation.* The maximum height of any sign shall be as stated herein, but in no case shall a sign exceed 40 feet in height. An exception is City electronic signs which may be up to 50 feet in height in commercial and industrial zoning districts.

(B) *Rotating, moving, flashing, changing or blinking signs.* No sign shall have or consist of any moving, rotating or otherwise animated part or any flashing,

blinking, fluctuating or otherwise animated light. The provisions of this division shall not be applied so as to prohibit the following types of signs:

(1) A sign showing time separately and which changes no more often than once every ten seconds or a conventional clock face.

(2) A sign showing temperature separately and which changes only when the temperature rises or falls one degree or more.

(3) A sign showing time and temperature alternately and which changes no more often than once every ten seconds.

(4) An on-premises barber pole of a length not to exceed 30 inches of traditional design which shall be permitted to revolve during the time that a barber shop is open for business. The sign shall not exceed ten feet in height.

(C) *Projections.* All signs, if otherwise authorized, are permitted to project into required front, side and rear yard. The permitted projecting of an authorized sign into any street or alley right-of-way is as follows:

(1) Freestanding sign: No projection.

(2) Wall sign: Up to 14 inches in thickness.

(3) Marquee sign: No closer than two feet from the face of the curb.

(4) Projecting sign: Up to six feet into any street right-of-way and up to four feet into any alley right-of-way, but not closer than two feet from the face of the curb.

(5) Bus bench sign: Entirely within street right-of-way.

(6) City Electronic Sign: No restrictions.

(D) *Vertical and horizontal clearance.* No sign shall be less than eight feet above a public or private sidewalk or 16 feet above ground level in areas open to vehicular traffic except wall signs not exceeding three inches in thickness.

(1) Signs shall not be erected within the triangle created by the lines connecting:

(a) The point of intersection of front and side property lines extended into the intersection of two streets or other public right of way abutting the property lines; and

(b) The points on such front and side property lines 40 feet distant from the point of intersection, when the erection of other privately owned buildings and structures is prohibited therein.

(2) No permit for any sign shall be issued and no sign shall be constructed or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the laws of the state or rules and regulations duly promulgated by agencies thereof.

(E) *Obstructions to doors, windows or fire escapes.* No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, fire escape or exit way.

(F) *Construction standards.* All signs, including all parts, portions, units, and material comprising the same together with the frames, backgrounds, supports and anchorage therefor shall be manufactured, fabricated, assembled, constructed and erected in accordance with applicable Building, Electrical and Fire Prevention and Sign Codes of the city.

(G) *Illuminated signs.* Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

(H) *Signs not to constitute vehicular traffic hazard.* No sign as regulated in this chapter shall be erected at the intersection of any street, or at any railroad grade crossing, or at any driveway in such a manner as to obstruct free and clear vision of operations of motor vehicles or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP," "DANGER," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead or confuse traffic.

(I) *Temporary signs for special events.* Temporary signs, in excess of the maximum permissible sign area, may be erected as participation in a public parade, public event or public celebration for a period not to exceed 30 days, provided, however, that the erection of such signs shall be approved by the City Manager as to location, safety and period of display. Temporary cloth signs and rigid signs shall be allowed as regulated in this division and as described in chapter 14 of the Uniform Sign Code except that rigid signs shall be limited to a sign area of 32 square feet and may be displayed for no longer than 30 days.

(J) *Bench signs.* It shall be unlawful for any person to erect, install or maintain any bench sign, except on public property in a location approved by the City Manager. Such benches shall only be placed as necessary to serve existing public transit needs and shall require an encroachment permit.

(K) *Wall signs, additional standards.* No wall sign shall exceed 14 inches in thickness; no display or messages shall be permitted on the edges of wall signs except the sign company's identification as required by § 153.282(G) of this code. (Ord. 86-06, passed 4-14-86)

(L) *Ridgeline limitation.* A wall, canopy, marquee, or projecting sign shall not project above the ridge line of the building on which the sign is mounted. (Ord. 90-01, passed 1-22-90)

(M) *Building outlining.* Outlining of a building or its roof by means of permanent lighting by exposed neon tubing, exposing incandescent lighting or other artificial lighting, or an equivalent effect, is prohibited. Outlining means delineation, with a row or band of lights of the edges of a roof or wall surface. This provision does not prohibit floodlighting or generally illuminating buildings and their roofs for temporary Christmas displays.

(N) *No signs on street trees, utility poles or structures in street right-of-way.* No signs shall be attached to any street tree, or any poles such as utility poles, street signals, street lights, street name signs or traffic warning signs, or on any bus shelter. (67 Code, § 10-19-5)

§ 153.285 SPECIFIC REQUIREMENTS FOR CERTAIN ZONES.

(A) *Specific requirements of type, area and height of signs in the R-1, R-2, and R-3 zones.* It shall be unlawful for any person to erect, construct or maintain on any lot or parcel any sign of a type having an area and/or height in violation of the following specific requirements:

(1) In the R-1 and R-2 zones, the following on-site signs are permitted except as otherwise stated:

(a) One unlighted for sale or rent sign per street frontage, not exceeding eight square feet in area and six feet in height.

(b) Three unlighted open house directional signs, each not exceeding three square feet in area and three feet in height, which shall be permitted during daylight hours only, for each house or group of houses offered for sale by the same realtor at the same general location, provided that they do not bear any advertising message other than the real estate office name, and that such signs

are located wholly on private property with permission of the property owner on whose property they are located.

(c) One wall-mounted name plate not exceeding two square feet in area.

(d) For nonresidential uses permitted by conditional use permit, additional signing as follows:

1. One bulletin board or identification sign not exceeding 25 square feet in area and six feet in height.

2. Canopy and wall identification signs limited to one-half square foot in combined sign area for each lineal foot of any wall and not exceeding 40 feet in height. Canopy and wall identification signs may have external illumination only; no internal illumination shall be permitted.

(e) For mobile home parks permitted by conditional use permit, there may be in addition one identification sign limited to 12 square feet in area and not exceeding six feet in height located at the main entrance to the park.

(f) One construction sign not exceeding 20 square feet in area and six feet in height, provided that such sign shall be removed not later than 30 days after construction is completed.

(g) One on-site subdivision sign not exceeding 100 square feet in area and ten feet in height for each recorded subdivision, provided that such sign shall be removed not later than two years from the recording date of the subdivision, except as follows:

1. Where building permits have been taken out for more than one-half but less than 75% of the lots in such subdivision at the end of the two-year period, such sign may remain for an additional one year period or until building permits have been issued on all lots, whichever occurs first.

2. Where building permits have been taken out for one-half or less of the lots in such subdivision at the end of the two-year period, such sign may remain for an additional two-year period or until building permits have been issued on all the lots, whichever occurs first.

(h) Unlighted subdivision directional signs not exceeding 16 square feet in area and six feet in height for each recorded subdivision as follows:

1. When the boundaries of any recorded subdivision or any part thereof abut an arterial, as identified in the general plan, one subdivision

directional sign shall be permitted, which sign may be located on any vacant lot or parcel which is owned by the subdivision owner.

2. When the boundaries of any recorded subdivision, or any part thereof, do not abut an arterial as identified in the general plan, two subdivision directional signs shall be permitted, which signs may be located as follows:

a. One such sign may be located on property not owned by the subdivision owner with the permission of the property owner on whose property it is to be located.

b. One or both signs may be located only on property owned by the subdivision owner.

3. Such signs shall be removed not later than two years from the recording date of the subdivision, except as follows:

a. Where building permits have been taken out for more than one-half but less than 75% of the lots in such subdivision at the end of the two-year period, such signs may remain for an additional one year period or until building permits have been issued on all of the lots, whichever occurs first.

b. Where building permits have been taken out for one-half or less of the lots in such subdivision at the end of the two-year period, such signs may remain for an additional two-year period or until building permits have been issued on all of the lots, whichever occurs first.

(i) Political signs, which may be erected, maintained and displayed as follows:

1. Political signs placed in a residential zone district with a dwelling shall not exceed eight square feet, not to exceed in any dimension four feet, and such improved lot with a dwelling shall not be limited to the number of political signs but shall be limited as to the total cumulative area not to exceed 32 square feet.

2. Any one political sign shall not exceed 32 square feet on vacant residential parcels. There shall be no restrictions as to the number of political signs posted on vacant residential property.

3. Political signs shall be removed within 15 days after the date of the election.

4. Under no circumstance shall political signs interfere with driver expectations for sight distances on any particular street as determined by the

Community Development Director.

(j) Window signs are not permitted unless they meet all other requirements listed in this section, including the limitation on sign area.

(k) Except for City electronic signs, outdoor advertising signs are not permitted. City electronic signs are permitted on public or private property, owned or leased, with a 100 foot minimum setback from residential uses. In residential zones, they may consist of, at most, two digital display areas with an interior angle of 90 degrees or less. The maximum height of a city electronic sign shall be 40 feet, the maximum area of each digital display area is 10 feet by 20 feet, and the signs shall display static messages only. Each message on the screen must be displayed for a minimum of 8 seconds. Each digital display area shall have a light sensing device that will adjust the brightness of the sign as ambient light conditions change throughout the day. The ability to power the sign by mobile generator during power outages is required for public safety purposes.

(l) Two unlighted garage sale signs not exceeding three square feet each in area may be displayed as follows:

1. The signs may be displayed only during such times as the garage sale being advertised is actually being held or conducted.

2. The signs may only be erected and displayed on private property with the consent of the owner thereof. They may not be erected or displayed on street trees, utility poles or elsewhere in public rights-of-way.

(m) Interior directional, warning and information signs not exceeding six square feet in area and six feet in height.

(n) For sale or rent signs between eight and 32 square feet in area subject to securing a use permit. Approval of the permit shall be based on the relationship between the size of the sign and the size of the property.

(2) In the R-3 zone, the following on-site signs are permitted:

- (a) Any signs permitted in the R-1 and R-2 zones, including City electronic signs.

- (b) One multiple-family housing project sign per street frontage, each sign not exceeding 12 square feet in area and six feet in height.

(B) *Specific requirements for type, area and height of signs in the C-1, C-2, C-M, CX-1, M-1, M-2, and PD zones.* It shall be unlawful for any person to erect, construct or maintain on any lot or parcel any sign of a type having an area

and/or height in violation of the following specific requirements:

(1) In the C-1 zone, C-2 zone, C-M zone, and CX-1 zone the following on-site signs are permitted, except as otherwise stated:

(a) Subject to approval of the City Manager (or his designated representative), a shopping center, as herein defined, shall be entitled to erect one freestanding shopping center identification sign, hereinafter referred to as a shopping center identification sign for each street upon which the shopping center fronts, subject to the following provisions:

1. Each shopping center sign shall not exceed 100 square feet in area. One electronic shopping center identification sign may be approved for each street upon which the shopping center fronts if the sign is included as part of the 100 square foot total sign area allowance. Said sign may only advertise the shopping center name and its tenant names and/or special events. Advertising specific products or off site business locations is prohibited.

2. The identification on each shopping center sign shall be limited to the shopping center name with a listing of uses or businesses within the center optional. The lettering for the listing of such uses shall be of a size not greater than one-half the size of the lettering of the shopping center name on such sign.

3. After erection of a shopping center sign or signs authorized herein, at a shopping center, no additional freestanding or projection identification sign shall be erected at such shopping center for any use or occupancy therein.

4. In granting an application for a shopping center sign, the City Manager (or his designated representative) shall determine whether the applicant is within such shopping center, after consideration of the following, factors:

a. A shopping center is usually comprised of a cluster of retail uses at one location held out to the public as a distinct shopping area and having at least one retail use with a minimum area for that use of 20,000 square feet, and having a minimum of five other retail uses on the same or adjacent sites.

b. A shopping center is not normally traversed by any public street.

c. The existence of any common advertising program for such center, or any uses or occupancies conducted therein, and the number of uses or occupancies conducted therein which participate in such program.

(b) Canopy, marquee and wall identification signs, provided:

1. The signs shall be limited to the portion of a building wherein the use or occupancy is conducted.

2. The maximum total area for all the signs shall be limited as follows:

a. For the principal frontage of the building as designated by the applicant:

<i>Maximum Total Area for All Canopy</i>	
<i>Building Frontage</i>	<i>Marquee/Wall Identification Signs</i>
First 50 feet	4 square feet per lineal foot of building frontage; plus
Next 50 feet	2 square feet per lineal foot of building frontage; plus
Over 100 feet	1 square feet per lineal foot of building frontage

b. For each other frontage of the building:

<i>Maximum Total Area for All Canopy</i>	
<i>Building Frontage</i>	<i>Marquee/Wall Identification Signs</i>
First 50 feet	4 square feet per lineal foot of building frontage; plus
Next 50 feet	2 square feet per lineal foot of building frontage; plus
Over 100 feet	0.5 square feet per lineal foot of building frontage

3. The signs shall not exceed 40 feet in height nor project above a ridgeline more than ten feet. City electronic signs may not exceed 50 feet in height in commercial zones.

4. That signs hung from a canopy shall not be less than eight feet above a private sidewalk or 16 feet above ground level in areas open to vehicular traffic.

5. That marquee signs shall be parallel with the building upon which they are mounted and parallel with the public street or alley into which they project or overhang.

(Ord. 86-06, passed 4-14-86)

(c) For any freestanding use or occupancy, one monument-type freestanding identification sign not to exceed eight feet in height, including any base, nor more than 100 square feet in area, may be approved subject to securing the approval of the City Manager (or his designated representative). The monument sign may include an electronic reader board component if the

monument is for a church, school, or bank or it is located in a commercial or industrial zone and there are no other electronic reader boards within one thousand (1,000) feet of the parcel. The approval will be dependent upon the following two findings being shown:

1. That the use or occupancy is a freestanding use. For the purpose of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.

2. The total sign area of the freestanding sign as well as all canopy, marquee and wall signs shall not exceed the sign area allowed in division (B)(1)(b) above.

(Ord. 90-01, passed 1-22-90)

(d) Directional signs located wholly on private property on the premises to which they pertain as follows:

1. One exterior directional sign per use per street frontage of the site not exceeding six square feet in area and three feet in height, and provided business identification shall not exceed one-half of the area on a given face sign.

2. Any number of interior direction signs, each not exceeding six square feet in area and six feet in height.

3. Two maximum interior directional signs for a drive-in restaurant or other eating place with drive-through facilities, each sign not to exceed 30 square feet in area and eight feet in height.

(e) One for sale or rent sign, not exceeding 64 square feet in area and ten feet in height.

(f) One construction sign, not exceeding 64 square feet in area and ten feet in height, provided such sign is removed not later than 30 days after construction is completed.

(g) One marquee sign, not exceeding six square feet in area on any one side or 12 square feet maximum total area. The sign may be hung from a marquee, providing such sign shall not be less than eight feet above a public sidewalk.

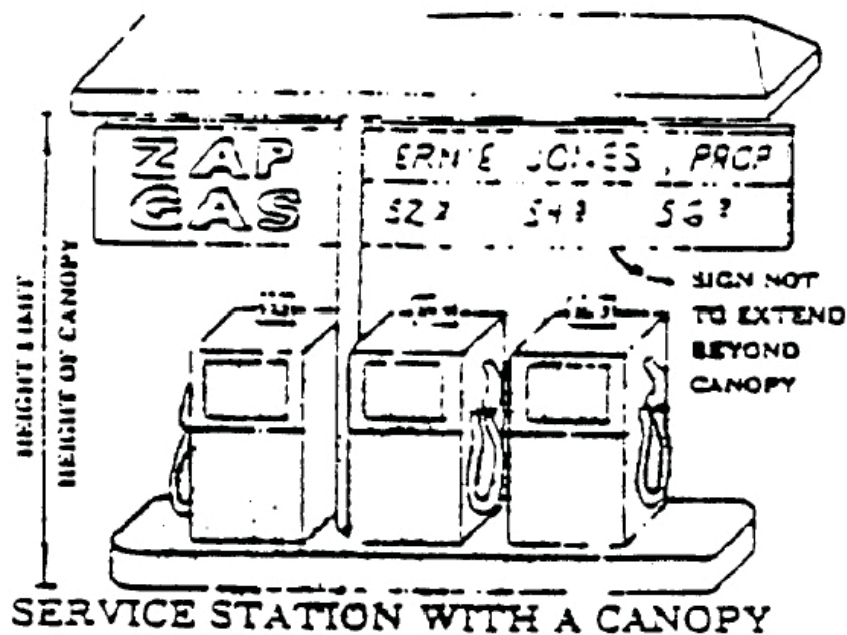
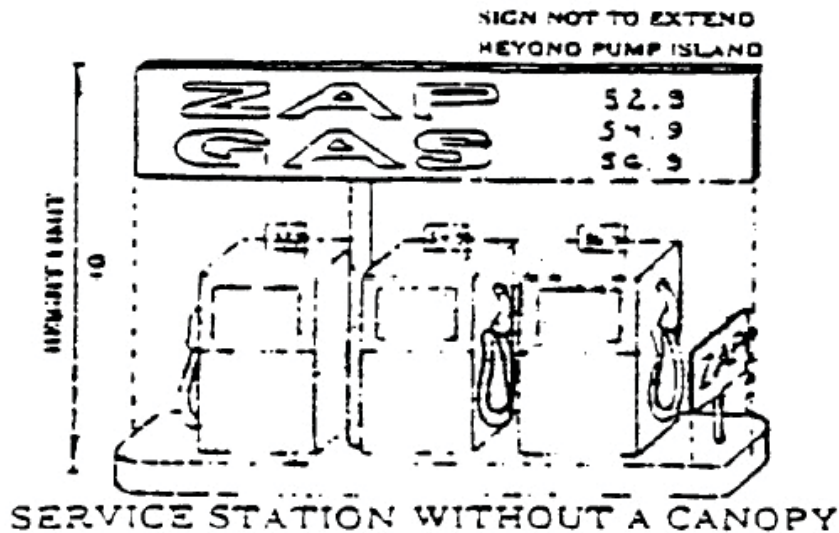
(h) Any one political sign shall not exceed 32 square feet and there shall be no restrictions that limit the number of political signs on improved or unimproved commercial or industrial parcels. Political signs shall be removed within 15 days after the date of the election.

(i) Except for City electronic signs, outdoor advertising signs are not permitted. City electronic signs are permitted on public or private property in any zoning district, owned or leased, with a 100 foot minimum setback from residential uses. In commercial zones, they may consist of at most, three digital display areas with an interior angle of 60 degrees or less. Two digital display area signs may have an interior angle of 90 degrees or less. The maximum height shall be 50 feet, the maximum area of each digital display area is 14 feet by 48 feet, and the signs shall display static messages only. Each message on the screen must be displayed for a minimum of 8 seconds. Each digital display area shall have a light sensing device that will adjust the brightness of the sign as ambient light conditions change throughout the day. The ability to power the sign by mobile generator during power outages is required for public safety purposes.

(j) Window signs are permitted, provided that the total sign area of the window signs as well as any other canopy, marquee, wall or freestanding signs shall not exceed the sign area allowed in division (B)(1)(b) above. A “no fee” permit will be required to ensure compliance with the sign area requirements. For businesses which continually utilize window signs (such as, for weekly specials), only one permit needs to be issued which will allow for signs to change, providing the approved sign area is not exceeded.
(Ord. 86-06, passed 4-14-86)

(k) One monument-type freestanding identification sign not to exceed eight feet in height, including any base, nor more than 100 square feet in area shall be permitted to identify a use without any structure, such as a parking lot. For uses such as Christmas tree sale lots, pumpkin sale lots and firework stands, one temporary freestanding identification sign shall be permitted, not exceeding 32 square feet in area and 12 feet in height.
(Ord. 90-01, passed 1-22-90)

(l) Signs on service station pump islands, canopy uprights and nonmovable structures on the pump islands, which shall be permitted if the combined area of the signs and all other wall and canopy signs does not exceed the total sign area permitted under division (B)(1)(b) above for the building on the site and do not project beyond the canopy roof or raised pump island. The signs shall not exceed ten feet in height if there is no canopy. For self-service stations with small attendant booths less than ten feet on any side, a maximum total wall and canopy sign area of 160 square feet is permitted.



(m) One corporate flag per use or occupancy, not exceeding 24 square feet in area; dimensions relative to each other shall not exceed a ratio of two to one (2:1). Such flags shall be flown from a flagstaff or flagpole.

(n) For sale or rent signs between eight and 32 square feet in area subject to securing a use permit. Approval of the permit shall be based on the relationship between the size of the sign and the size of the property.

(o) Pennants shall not be displayed for more than 60 days.

(2) In the M-1 zone and M-2 zone, the following on-site signs are permitted, except as otherwise stated:

(a) Any sign allowed in the C-1, C-2, C-M, and CX-1 zones, subject to the same restrictions as in those zones.

(b) One of the following signs for each use or occupancy:

1. Projecting identification sign not exceeding 72 square feet in area and 40 feet in height; if any portion projects into or overhangs a public street or alley right-of-way, the sign shall not exceed 48 square feet in area; or

2. Marquee identification sign at right angles to a street not exceeding 48 square feet in area and 40 feet in height. A second such marquee identification sign is permitted if the two signs are single faced, are parallel, and are on opposite ends of a marquee.

(3) For PD (planned development) zones, the following on-site signs are permitted: Sign limitation shall be made a condition of each PD zone, and approval shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the PD zone.

(Ord. 86-06, passed 4-14-86; Am. Ord. 2001-07, passed 7-23-01; Am. Ord. 2009-002, passed 6-22-09) ('67 Code, § 10-19-7)

SECTION 2: SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this chapter, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage January 14, 2020, provided it is published pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a regular meeting of the City Council of the City of Riverbank on January 14, 2020. Said ordinance was given a second reading by title only and adopted.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on the 28th day of January, 2020; motioned by Councilmember _____, seconded by Councilmember _____; moved said ordinance by a City Council _____ vote of _____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan
City Attorney

SIGNS

§ 153.280 INTENT AND PURPOSE.

It is the intent of this sign ordinance regulation to preserve and enhance the aesthetic, traffic safety and environmental values of our communities and growing business/industrial districts, while at the same time providing for channels of communication to the public. It also is the city's intent to regulate on the basis of characteristic and proportion of signage. The city finds as to commercial signage that it is in the interest of both aesthetics and traffic safety that sign information be kept to a minimum. The use of subordinate information in commercial signage which presents as a traffic hazard will not be allowed. Non-commercial signage, which rights are constitutionally broader, is permitted unless expressly prohibited within this chapter.
(`67 Code, § 10-19-1) (Ord. 2000-03, passed 4-24-00)

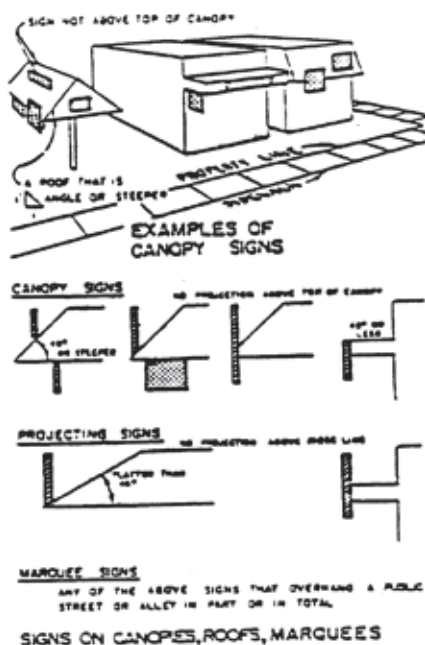
§ 153.281 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BENCH SIGN. A bus bench located outdoors with advertising matter thereon.

BULLETIN BOARD. A sign used to announce a coming event or attraction or used to convey a specific message related to the building or use of the property on which the bulletin board is located. In all zones, bulletin boards which are displayed so as to be viewed from a public street, parking lot, walkway or mall shall be subject to the sign regulation of the zone in which the building or property is located.

CANOPY. A roof of a building or a fixed overhead shelter used as a roof, which may or may not be attached to a building and which does not encroach into nor overhang a public street or alley right-of-way.



CANOPY SIGN. A sign attached to or hung from a canopy but not projecting from the face of

the canopy.

CONSTRUCTION SIGN. A sign with the names of architects, engineers, contractors, subcontractors and financing agencies of buildings and structures being constructed upon the premises on which the sign is located.

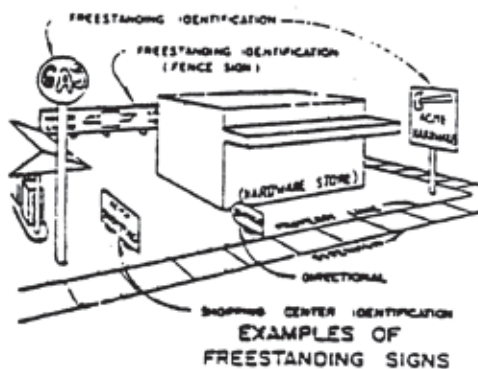
CORPORATE FLAG. A flag identifying a business or firm.

DIRECTIONAL SIGN. One of two types of signs. An exterior directional sign shall mean a sign oriented to a street and used to direct and control pedestrian or vehicular traffic and located on the same lot or premises as the use which it is intended to serve. An interior directional sign shall mean a directional, warning or information sign not bearing any advertising message readable from any street right-of-way. It shall be located on the same lot or premises as the use which it is intended to serve.

ELECTRONIC SIGNAGE. Also known as electronic signs or electronic displays, may use technologies such as LCD, LED, projection, e-paper or similar to display digital images or text. May be located on private or public property as a wall, projecting, or monument sign. City electronic sign standards are determined by the City Council on a case by case basis in public hearing.

ERECT. To build, construct, attach, hang, place, suspend, paint or affix.

FREESTANDING SIGN. A sign detached from any building or structure, and the supports of which are permanently affixed on the ground.

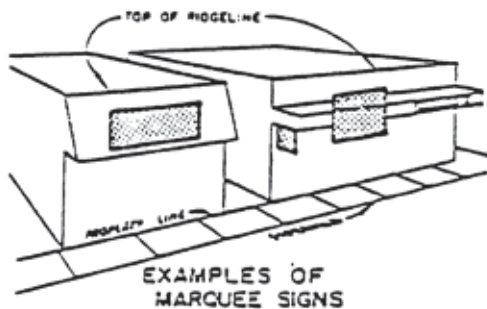


HEIGHT. The vertical distance from the highest point used in measuring the area of a sign to the top of the curb of the street at a point which is closest to the highest point of the sign.

IDENTIFICATION SIGN. Any sign which is used to identify or advertise the occupancy of a building, lot or premises or the merchandise or activity available at the building, lot or premises where the sign is located.

LIGHTED SIGN. Any sign which is illuminated either directly or indirectly by artificial light.

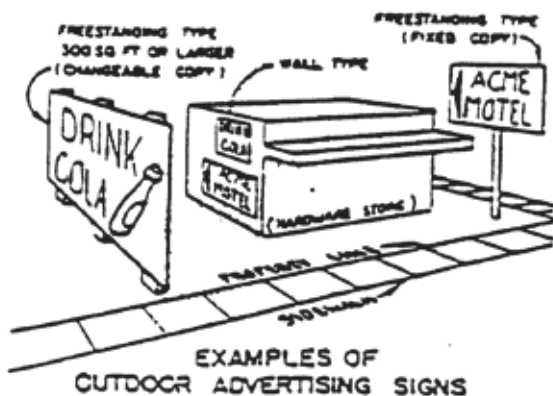
MARQUEE. A fixed overhead shelter used as a roof, which may or may not be attached to a building, and which projects into or overhangs a public street or alley right-of-way.



NON-COMMERCIAL. In each instance and under the same conditions to which this chapter permits any sign, a sign containing an ideological, political or other non-commercial message shall be permitted.

OPEN HOUSE DIRECTIONAL SIGN. An arrow or other directional symbol and real estate office name.

OUTDOOR ADVERTISING SIGN (BILLBOARDS). A sign of the outdoor advertising business, which advertises products, accommodations, services or activities not provided on the premises on which it is located. Also known as a **BILLBOARD**. These signs are prohibited under this chapter. This definition does not pertain to non-commercial messages.



PERMANENT SIGN. Every sign except **TEMPORARY SIGNS** as defined herein.

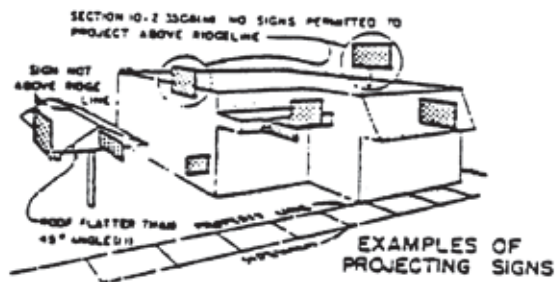
POLE SIGN. A sign which is not attached to a building but which has its own separate support system and shall include a freestanding sign.

POLITICAL SIGN. Any impermanent sign or advertising device or display, with or without letters, words, numbers or figures thereon, which is designed to advertise a candidate for political office, a political party or a measure scheduled for an election.

PRINCIPAL FRONTAGE. That wall of a building or structure which has frontage on a public street, highway, parking lot, walkway or mall and which is designed as the principal frontage of the building or structure.

PROJECTING SIGN. Any of the following:

- (1) Any sign attached to and projecting from the face of a wall, canopy or marquee.
- (2) Any sign mounted on a canopy roof or building roof that has a slope flatter than a 45 degree angle.

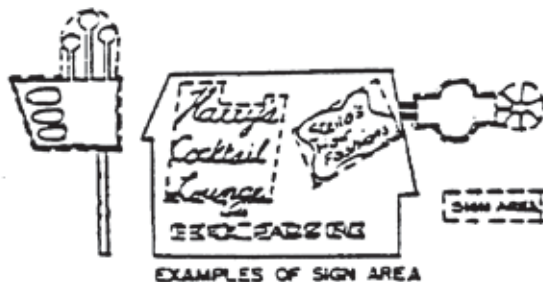


RIDGELINE. The peak of the roof, the top of a parapet, or the top of the wall of a building.

SIGN. Any structure, device, letter, figure, character, poster, picture, trademark or reading matter which is used or designed to announce, declare, demonstrate, display or otherwise identify or advertise, or attract the attention of the public. However, a sign shall not include the following:

- (1) Official notices authorized by a court, public body or public officer.
- (2) Directional, warning or informational signs authorized by federal, state or municipal authority or public utility.
- (3) A properly displayed official flag of a government, school, religious group, or nonprofit organization.
- (4) A memorial plaque, tablet or cornerstone indicating the name of a building and date of construction, when cut or carved into any masonry surface or when made of bronze or other incombustible material and made an integral part of the building or structure, not to exceed four square feet in area.
- (5) Signs within a building which cannot be seen from outside the building.

SIGN AREA. The area of the sign surface computed by calculating the area of the circle, square, triangle, rectangle or combination of such geometric designs necessary to enclose such sign surface. Where a sign has two or more faces (sign surfaces), the area of all faces shall be included in determining the sign area, except where two such faces are placed back to back and are at no point more than one foot from one another, the sign area shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area. Necessary supports or uprights on which a sign is placed shall not be included in the sign area, provided that they are not used to attract attention to the subject matter included in the sign area.



SIGN SURFACE. The surface of the sign upon, against or through which the message is displayed or illustrated.

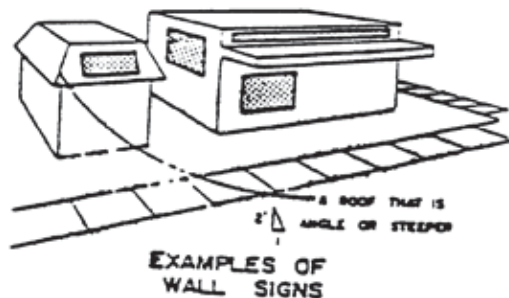
SUBDIVISION SIGN. A sign indicating the name of a recorded subdivision, the name of the contractor or subdivider, the name of the owner or agent, and/or giving information regarding directions, price and/or terms.

SUBDIVISION DIRECTIONAL SIGN. A sign indicating the name of a recorded subdivision and information regarding location. The name of the contractor or subdivider, the name of the owner or agent and/or information regarding price and/or terms may also be noted.

TEMPORARY SIGN. Any sign, banner, pennant, valance, balloon, streamer, placard, "A"-frame, sandwich board or similar impermanent sign or advertising device or display, with or without letters, words, numbers, or figures thereon, with or without frames, which directs, promotes service or price, or which is otherwise designed to attract attention for a short period of time only unless otherwise specifically mentioned in this chapter.

WALL. Any wall or element of a wall or any number or group of members which defines the exterior boundaries or courts of a building or structure and which has a slope steeper than one horizontal to two vertical, with the horizontal plane.

WALL SIGN. Any sign painted on, attached to or erected against the wall of a building or structure with the exposed face of the sign in a place approximately parallel to the place of the wall and which does not project beyond the top or ends of the wall. **WALL SIGN** shall also mean any sign permanently displayed on the inside or outside of a window.



WINDOW SIGN. Any sign temporarily displayed on the inside of a window or temporarily painted on a window and facing a street, highway, parking lot, walkway or mall.

ZONE. One of the various classes of area into which the city has been divided by this chapter. ('67 Code, § 10-19-2) (Am. Ord. 2000-03, passed 4-24-00)

§ 153.282 ADMINISTRATION.

(A) *Permit required.* It shall be unlawful for any person to erect, alter, change, copy or relocate within the city any sign as defined herein without first obtaining a permit from the City Manager (or his designated representative) and making payment of the required fee therefor, except that the following listed signs are not required to have permits or pay permit fees, but shall meet all other requirements of this chapter:

- (1) Construction sign.
- (2) For sale or rent sign not exceeding eight square feet in area.
- (3) Garage sale sign.

(4) Unlighted interior directional, warning or information system when less than 12 square feet in area.

(5) Nameplate, two square feet maximum size.

(6) Open house directional sign.

(7) Political signs permitted by § 153.285.

(8) Signs for fireworks stands, pumpkin sales, Christmas tree sale lots.

(9) Subdivision directional signs.

(10) Corporate flag when its height does not exceed the roof line.

(11) Bench sign.

(12) Signs which identify the architects, engineers, contractors, or builders associated with construction work on the premises during the time period such work is being conducted.

(13) Advertising signs on the perimeter fencing of athletic fields. Such signs shall be on the interior of the fence only, shall have the advertising facing the interior of the field, shall not exceed the height of the fence and shall not be subject to any other restrictions of this chapter.

(B) *Application for permit.* Application for the sign permits shall be made upon forms provided by the City Manager (or his designated representative) and shall contain or have attached thereto such information as may be required by the City Manager (or his designated representative) to ensure compliance with the provisions of this code. The application shall be accompanied by a fee in an amount set from time to time by resolution of the City Council.

(C) *Permit issued if application is in order.* It shall be the duty of the City Manager (or his designated representative) to issue the sign permits if the application is complete, the sign complies with the provisions of this code and the fee has been paid.

(D) *Signs falling within definition of one or more type signs.* Whenever any sign, as defined in this chapter, falls entirely within the definitions of one or more type signs, it shall be subject to the provisions of the most restrictive category.

(E) *Permit issued in error.* If a sign permit is issued in error by the City Manager (or his designated representative) and the sign does not comply with all of the requirements of this chapter and all other laws and ordinances of the city, the sign permit shall be null and void, and no rights or privileges shall be conferred upon the permittee by the permit.

(F) *Compliance with chapter, nuisance, abatement.* The City Council hereby determines that the public peace, safety, morals, health and welfare require that all signs which shall hereafter be constructed, erected or painted in violation of the provisions of this chapter shall be and they are hereby declared public nuisances to be removed and abated in the manner provided herein.

(G) *Identification.* Every sign hereafter erected, altered or relocated shall have recorded thereon in a conspicuous place in order to be readily visible, the date of erection, alteration or relocation, the permit number, voltage of any electrical apparatus used in connection therewith and the name of the person, firm or company doing the work. The information shall not exceed 16 square inches in area.

(H) *Maintenance of signs.* The owner of any sign as defined and regulated by this chapter, including supporting structures, shall keep the same in a presentable condition at all times. All painted signs and all supporting structures of any sign shall be repainted to keep them in good condition whenever such action is requested in writing by the City Manager (or his designated representative).

(I) *Unlawful signs.* If the City Manager (or his designated representative) shall find that any sign which has been constructed or erected or is being maintained in violation of the provisions hereof, written notice shall be given of such conditions to the permittee or in the event no valid permit exists, to the owner thereof. If the permittee or the owner thereof, as the case may be, fails to remove or alter the sign so as to comply with the standards herein set forth, within 30 days after such notice, such signs may be removed or altered to comply when so directed by the City Manager and such cost shall be at the expense of the permittee or the owner of the property upon which the sign is located.

(1) Any sign found to be unsafe and an immediate peril to persons or property may be removed summarily and without notice when so directed by the City Manager. The cost of such removal shall be assessed against the owner of the sign removed.

(2) Any sign erected upon public property in violation of the provisions hereof may be removed or destroyed when so directed by the City Manager.

(3) The cost of removal or alteration of any sign and any expense incident thereto which by the terms of this section shall be paid by a permittee, sign owner, property owner or any other person, shall become a debt owing the city. The city may initiate civil action in its own name for collection of the debt.

(`67 Code, § 10-19-3)

§ 153.283 NONCONFORMING SIGNS.

(A) For the purpose of this section a **NONCONFORMING SIGN** is any sign which does not conform with the provisions of this chapter but was lawfully erected and which was lawfully in existence and in use on May 1, 1986.

(B) A nonconforming sign shall not be replaced, altered, reconstructed, relocated or expanded in any manner unless it is made to conform with all the provisions of this chapter, except as follows:

(1) Other nonconforming signs on the same property need not be made to conform as a result.

(2) Change in copy shall be permitted if no structural changes in the sign are necessary except that no change in copy shall be permitted for nonconforming painted wall signs.

(3) Ordinary maintenance and minor repairs which will not increase the normal life of the sign and which are required for safety purposes shall be permitted. Structural alterations to a nonconforming sign are prohibited unless they are made to conform to all requirements of the city code.

(C) If the use identified by a nonconforming sign is abandoned for a period of 90 days, the sign shall be removed unless it is made to conform to the provisions of this chapter. If such sign is not made to conform or if it is not removed within 120 days from the time the use is abandoned, it shall thereafter be unlawful. **ABANDONED**, as used in this division, shall mean cessation of operation or change of use. **ABANDONED** shall not mean an ownership change or a name change as long as there is not cessation of the operation for longer than 90 days and the use is not changed.

§ 153.284 GENERAL REQUIREMENTS.

(A) *Height limitation.* The maximum height of any sign shall be as stated herein, but in no case shall a sign exceed 40 feet in height. City electronic signs are exempt from height restrictions.

(B) *Rotating, moving, flashing, changing or blinking signs.* No sign shall have or consist of any moving, rotating or otherwise animated part or any flashing, blinking, fluctuating or otherwise animated light. The provisions of this division shall not be applied so as to prohibit the following types of signs:

(1) A sign showing time separately and which changes no more often than once every ten seconds or a conventional clock face.

(2) A sign showing temperature separately and which changes only when the temperature rises or falls one degree or more.

(3) A sign showing time and temperature alternately and which changes no more often than once every ten seconds.

(4) An on-premises barber pole of a length not to exceed 30 inches of traditional design which shall be permitted to revolve during the time that a barber shop is open for business. The sign shall not exceed ten feet in height.

(C) *Projections.* All signs, if otherwise authorized, are permitted to project into required front, side and rear yard. The permitted projecting of an authorized sign into any street or alley right-of-way is as follows:

(1) Freestanding sign: No projection.

(2) Wall sign: Up to 14 inches in thickness.

(3) Marquee sign: No closer than two feet from the face of the curb.

(4) Projecting sign: Up to six feet into any street right-of-way and up to four feet into any alley right-of-way, but not closer than two feet from the face of the curb.

(5) Bus bench sign: Entirely within street right-of-way.

(6) City Electronic Sign: No restrictions.

(D) *Vertical and horizontal clearance.* No sign shall be less than eight feet above a public or private sidewalk or 16 feet above ground level in areas open to vehicular traffic except wall signs not exceeding three inches in thickness.

(1) Signs shall not be erected within the triangle created by the lines connecting:

(a) The point of intersection of front and side property lines extended into the intersection of two streets or other public right of way abutting the property lines; and

(b) The points on such front and side property lines 40 feet distant from the point of intersection, when the erection of other privately owned buildings and structures is prohibited therein.

(2) No permit for any sign shall be issued and no sign shall be constructed or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the laws of the state or rules and regulations duly promulgated by agencies thereof.

(E) *Obstructions to doors, windows or fire escapes.* No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, fire escape or exit way.

(F) *Construction standards.* All signs, including all parts, portions, units, and material comprising the same together with the frames, backgrounds, supports and anchorage therefor shall be manufactured, fabricated, assembled, constructed and erected in accordance with applicable Building, Electrical and Fire Prevention and Sign Codes of the city.

(G) *Illuminated signs.* Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

(H) *Signs not to constitute vehicular traffic hazard.* No sign as regulated in this chapter shall be erected at the intersection of any street, or at any railroad grade crossing, or at any driveway in such a manner as to obstruct free and clear vision of operations of motor vehicles or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP," "DANGER," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead or confuse traffic.

(I) *Temporary signs for special events.* Temporary signs, in excess of the maximum permissible sign area, may be erected as participation in a public parade, public event or public celebration for a period not to exceed 30 days, provided, however, that the erection of such signs shall be approved by the City Manager as to location, safety and period of display. Temporary cloth signs and rigid signs shall be allowed as regulated in this division and as described in chapter 14 of the Uniform Sign Code except that rigid signs shall be limited to a sign area of 32 square feet and may be displayed for no longer than 30 days.

(J) *Bench signs.* It shall be unlawful for any person to erect, install or maintain any bench sign, except on public property in a location approved by the City Manager. Such benches shall only be placed as necessary to serve existing public transit needs and shall require an encroachment permit.

(K) *Wall signs, additional standards.* No wall sign shall exceed 14 inches in thickness; no display or messages shall be permitted on the edges of wall signs except the sign company's identification as required by § 153.282(G) of this code.

(Ord. 86-06, passed 4-14-86)

(L) *Ridgeline limitation.* A wall, canopy, marquee, or projecting sign shall not project above the ridge line of the building on which the sign is mounted.

(Ord. 90-01, passed 1-22-90)

(M) *Building outlining.* Outlining of a building or its roof by means of permanent lighting by exposed neon tubing, exposing incandescent lighting or other artificial lighting, or an equivalent

effect, is prohibited. Outlining means delineation, with a row or band of lights of the edges of a roof or wall surface. This provision does not prohibit floodlighting or generally illuminating buildings and their roofs for temporary Christmas displays.

(N) *No signs on street trees, utility poles or structures in street right-of-way.* No signs shall be attached to any street tree, or any poles such as utility poles, street signals, street lights, street name signs or traffic warning signs, or on any bus shelter.
(`67 Code, § 10-19-5)

§ 153.285 SPECIFIC REQUIREMENTS FOR CERTAIN ZONES.

(A) *Specific requirements of type, area and height of signs in the R-1, R-2, R-3 and R-4 zones.* It shall be unlawful for any person to erect, construct or maintain on any lot or parcel any sign of a type having an area and/or height in violation of the following specific requirements:

(1) In the R-1 and R-2 zones, the following on-site signs are permitted except as otherwise stated:

(a) One unlighted for sale or rent sign per street frontage, not exceeding eight square feet in area and six feet in height.

(b) Three unlighted open house directional signs, each not exceeding three square feet in area and three feet in height, which shall be permitted during daylight hours only, for each house or group of houses offered for sale by the same realtor at the same general location, provided that they do not bear any advertising message other than the real estate office name, and that such signs are located wholly on private property with permission of the property owner on whose property they are located.

(c) One wall-mounted name plate not exceeding two square feet in area.

(d) For nonresidential uses permitted by conditional use permit, additional signing as follows:

1. One bulletin board or identification sign not exceeding 25 square feet in area and six feet in height.

2. Canopy and wall identification signs limited to one-half square foot in combined sign area for each lineal foot of any wall and not exceeding 40 feet in height. Canopy and wall identification signs may have external illumination only; no internal illumination shall be permitted.

(e) For mobile home parks permitted by conditional use permit, there may be in addition one identification sign limited to 12 square feet in area and not exceeding six feet in height located at the main entrance to the park.

(f) One construction sign not exceeding 20 square feet in area and six feet in height, provided that such sign shall be removed not later than 30 days after construction is completed.

(g) One on-site subdivision sign not exceeding 100 square feet in area and ten feet in height for each recorded subdivision, provided that such sign shall be removed not later than two years from the recording date of the subdivision, except as follows:

1. Where building permits have been taken out for more than one-half but less than 75% of the lots in such subdivision at the end of the two-year period, such sign may remain for an additional one year period or until building permits have been issued on all lots, whichever occurs

first.

2. Where building permits have been taken out for one-half or less of the lots in such subdivision at the end of the two-year period, such sign may remain for an additional two-year period or until building permits have been issued on all the lots, whichever occurs first.

(h) Unlighted subdivision directional signs not exceeding 16 square feet in area and six feet in height for each recorded subdivision as follows:

1. When the boundaries of any recorded subdivision or any part thereof abut an arterial, as identified in the general plan, one subdivision directional sign shall be permitted, which sign may be located on any vacant lot or parcel which is owned by the subdivision owner.

2. When the boundaries of any recorded subdivision, or any part thereof, do not abut an arterial as identified in the general plan, two subdivision directional signs shall be permitted, which signs may be located as follows:

a. One such sign may be located on property not owned by the subdivision owner with the permission of the property owner on whose property it is to be located.

b. One or both signs may be located only on property owned by the subdivision owner.

3. Such signs shall be removed not later than two years from the recording date of the subdivision, except as follows:

a. Where building permits have been taken out for more than one-half but less than 75% of the lots in such subdivision at the end of the two-year period, such signs may remain for an additional one year period or until building permits have been issued on all of the lots, whichever occurs first.

b. Where building permits have been taken out for one-half or less of the lots in such subdivision at the end of the two-year period, such signs may remain for an additional two-year period or until building permits have been issued on all of the lots, whichever occurs first.

(i) Political signs, which may be erected, maintained and displayed as follows:

1. Political signs placed in a residential zone district with a dwelling shall not exceed eight square feet, not to exceed in any dimension four feet, and such improved lot with a dwelling shall not be limited to the number of political signs but shall be limited as to the total cumulative area not to exceed 32 square feet.

2. Any one political sign shall not exceed 32 square feet on vacant residential parcels. There shall be no restrictions as to the number of political signs posted on vacant residential property.

3. Political signs shall be removed within 15 days after the date of the election.

4. Under no circumstance shall political signs interfere with driver expectations for sight distances on any particular street as determined by the Community Development Director.

(j) Window signs are not permitted unless they meet all other requirements listed in this section, including the limitation on sign area.

(k) Outdoor advertising signs are not permitted.

(l) Two unlighted garage sale signs not exceeding three square feet each in area may be displayed as follows:

1. The signs may be displayed only during such times as the garage sale being advertised is actually being held or conducted.

2. The signs may only be erected and displayed on private property with the consent of the owner thereof. They may not be erected or displayed on street trees, utility poles or elsewhere in public rights-of-way.

(m) Interior directional, warning and information signs not exceeding six square feet in area and six feet in height.

(n) For sale or rent signs between eight and 32 square feet in area subject to securing a use permit. Approval of the permit shall be based on the relationship between the size of the sign and the size of the property.

(2) In the R-3 zone, the following on-site signs are permitted:

(a) Any signs permitted in the R-1 and R-2 zones.

(b) One multiple-family housing project sign per street frontage, each sign not exceeding 12 square feet in area and six feet in height.

(3) In the R-4 zone, the following on-site signs are permitted:

(a) For any uses permitted in the R-2 zone, except those permitted by conditional use permit, any signs permitted in the R-2 zone except in § 153.285(A)(1)(d).

(b) For all other uses in the R-4 zone, the following signs are permitted:

1. Any signs permitted in the R-2 zone, except § 10-19-6(A)4.

2. For each site, one identification sign per street frontage not exceeding 16 square feet and eight feet in height.

3. Canopy and wall identification signs limited to one-half square foot in combined sign area for each lineal foot of any wall, and not exceeding 35 feet in height. Canopy and wall identification signs may have external illumination only; no internal illumination shall be permitted.

4. One corporate flag per use or occupancy, not exceeding 24 square feet in area, dimensions relative to each other shall not exceed a ratio of two to one (2:1). Such flag shall be flown only from a flagstaff or flagpole.

(B) *Specific requirements for type, area and height of signs in the C-1, C-2, C-M, M-1, M-2, and PD zones.* It shall be unlawful for any person to erect, construct or maintain on any lot or parcel any sign of a type having an area and/or height in violation of the following specific requirements:

(1) In the C-1 zone, C-2 zone, and C-M zone, the following on-site signs are permitted, except as otherwise stated:

(a) Subject to approval of the City Manager (or his designated representative), a shopping center, as herein defined, shall be entitled to erect one freestanding shopping center identification

sign, hereinafter referred to as a shopping center identification sign for each street upon which the shopping center fronts, subject to the following provisions:

1. Each shopping center sign shall not exceed 100 square feet in area.
2. The identification on each shopping center sign shall be limited to the shopping center name with a listing of uses or businesses within the center optional. The lettering for the listing of such uses shall be of a size not greater than one-half the size of the lettering of the shopping center name on such sign.
3. After erection of a shopping center sign or signs authorized herein, at a shopping center, no additional freestanding or projection identification sign shall be erected at such shopping center for any use or occupancy therein.
4. In granting an application for a shopping center sign, the City Manager (or his designated representative) shall determine whether the applicant is within such shopping center, after consideration of the following, factors:
 - a. A shopping center is usually comprised of a cluster of retail uses at one location held out to the public as a distinct shopping area and having at least one retail use with a minimum area for that use of 20,000 square feet, and having a minimum of five other retail uses on the same or adjacent sites.
 - b. A shopping center is not normally traversed by any public street.
 - c. The existence of any common advertising program for such center, or any uses or occupancies conducted therein, and the number of uses or occupancies conducted therein which participate in such program.

(b) Canopy, marquee and wall identification signs, provided:

1. The signs shall be limited to the portion of a building wherein the use or occupancy is conducted.
2. The maximum total area for all the signs shall be limited as follows:

a. For the principal frontage of the building as designated by the applicant:

<i>Maximum Total Area for All Canopy</i>	
<i>Building Frontage</i>	<i>Marquee/Wall Identification Signs</i>
First 50 feet	4 square feet per lineal foot of building frontage; plus
Next 50 feet	2 square feet per lineal foot of building frontage; plus
Over 100 feet	1 square feet per lineal foot of building frontage

b. For each other frontage of the building:

<i>Maximum Total Area for All Canopy</i>	
<i>Building Frontage</i>	<i>Marquee/Wall Identification Signs</i>
First 50 feet	4 square feet per lineal foot of building frontage; plus
Next 50 feet	2 square feet per lineal foot of building frontage; plus
Over 100 feet	0.5 square feet per lineal foot of building frontage

3. The signs shall not exceed 40 feet in height nor project above a ridgeline more than ten feet.

4. That signs hung from a canopy shall not be less than eight feet above a private sidewalk or 16 feet above ground level in areas open to vehicular traffic.

5. That marquee signs shall be parallel with the building upon which they are mounted and parallel with the public street or alley into which they project or overhang.
(Ord. 86-06, passed 4-14-86)

(c) For any freestanding use or occupancy, one monument-type freestanding identification sign not to exceed eight feet in height, including any base, nor more than 100 square feet in area, may be approved subject to securing approval of the City Manager (or his designated representative). The approval will be dependent upon the following two findings being shown:

1. That the use or occupancy is a freestanding use. For the purpose of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.

2. The total sign area of the freestanding sign as well as all canopy, marquee and wall signs shall not exceed the sign area allowed in division (B)(1)(b) above.
(Ord. 90-01, passed 1-22-90)

(d) Directional signs located wholly on private property on the premises to which they pertain as follows:

1. One exterior directional sign per use per street frontage of the site not exceeding six square feet in area and three feet in height, and provided business identification shall not exceed one-half of the area on a given face sign.

2. Any number of interior direction signs, each not exceeding six square feet in area and six feet in height.

3. Two maximum interior directional signs for a drive-in restaurant or other eating place with drive-through facilities, each sign not to exceed 30 square feet in area and eight feet in height.

(e) One for sale or rent sign, not exceeding 64 square feet in area and ten feet in height.

(f) One construction sign, not exceeding 64 square feet in area and ten feet in height, provided such sign is removed not later than 30 days after construction is completed.

(g) One marquee sign, not exceeding six square feet in area on any one side or 12 square feet maximum total area. The sign may be hung from a marquee, providing such sign shall not be less than eight feet above a public sidewalk.

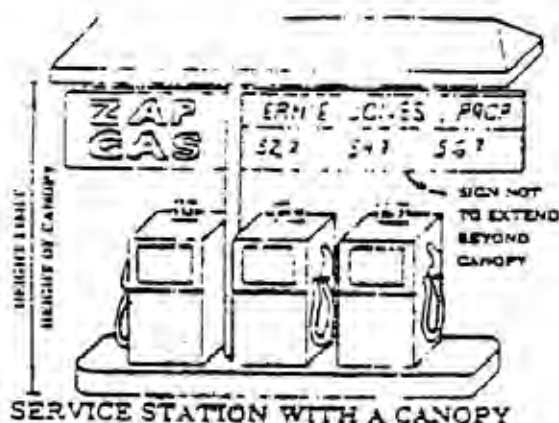
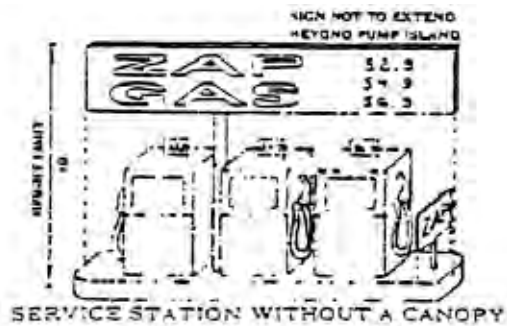
(h) Any one political sign shall not exceed 32 square feet and there shall be no restrictions that limit the number of political signs on improved or unimproved commercial or industrial parcels. Political signs shall be removed within 15 days after the date of the election.

(i) Outdoor advertising signs are not permitted except for City electronic signs. Specific standards for City electronic signs, whether on public or private property shall be determined on a case by case basis and at the discretion of the City Council in a public hearing.

(j) Window signs are permitted, provided that the total sign area of the window signs as well as any other canopy, marquee, wall or freestanding signs shall not exceed the sign area allowed in division (B)(1)(b) above. A "no fee" permit will be required to ensure compliance with the sign area requirements. For businesses which continually utilize window signs (such as, for weekly specials), only one permit needs to be issued which will allow for signs to change, providing the approved sign area is not exceeded.
(Ord. 86-06, passed 4-14-86)

(k) One monument-type freestanding identification sign not to exceed eight feet in height, including any base, nor more than 100 square feet in area shall be permitted to identify a use without any structure, such as a parking lot. For uses such as Christmas tree sale lots, pumpkin sale lots and firework stands, one freestanding identification sign shall be permitted, not exceeding 32 square feet in area and 12 feet in height.
(Ord. 90-01, passed 1-22-90)

(l) Signs on service station pump islands, canopy uprights and nonmovable structures on the pump islands, which shall be permitted if the combined area of the signs and all other wall and canopy signs does not exceed the total sign area permitted under division (B)(1)(b) above for the building on the site and do not project beyond the canopy roof or raised pump island. The signs shall not exceed ten feet in height if there is no canopy. For self-service stations with small attendant booths less than ten feet on any side, a maximum total wall and canopy sign area of 160 square feet is permitted.



(m) One corporate flag per use or occupancy, not exceeding 24 square feet in area; dimensions relative to each other shall not exceed a ratio of two to one (2:1). Such flags shall be flown from a flagstaff or flagpole.

(n) For sale or rent signs between eight and 32 square feet in area subject to securing a use permit. Approval of the permit shall be based on the relationship between the size of the sign and

the size of the property.

(o) Pennants shall not be displayed for more than 60 days.

(2) In the M-1 zone and M-2 zone, the following on-site signs are permitted, except as otherwise stated:

(a) Any sign allowed in the C-1, C-2, and C-M zones, subject to the same restrictions as in those zones.

(b) One of the following signs for each use or occupancy:

1. Projecting identification sign not exceeding 72 square feet in area and 40 feet in height; if any portion projects into or overhangs a public street or alley right-of-way, the sign shall not exceed 48 square feet in area; or

2. Marquee identification sign at right angles to a street not exceeding 48 square feet in area and 40 feet in height. A second such marquee identification sign is permitted if the two signs are single faced, are parallel, and are on opposite ends of a marquee.

(3) For PD (planned development) zones, the following on-site signs are permitted: Sign limitation shall be made a condition of each PD zone, and approval shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the PD zone.

(Ord. 86-06, passed 4-14-86; Am. Ord. 2001-07, passed 7-23-01; Am. Ord. 2009-002, passed 6-22-09) ('67 Code, § 10-19-7)

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date: January 28, 2020

Subject: First Reading and Introduction by Title Only of a Proposed **Ordinance** Approving a Development Agreement by and Between the City of Riverbank and Elevations Plus, LLC, a California Corporation Doing Business as Elevations

From: Sean Scully, City Manager

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

RECOMMENDATION

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval, which will initiate the second reading by title only at the ~~January 28, 2020~~, February 11, 2020, regular City Council meeting to consider its adoption. At their regular meeting on December 17, 2019, the Planning Commission unanimously voted 5-0 and adopted PC Resolution 2019-022 recommending that the City Council approve Development Agreement 03-2017, and by a vote of 5-0 adopted PC Resolution 2019-023 approving Conditional Use Permit 06-2017.

SUMMARY

Toby J. VonAlvensleben ("The Applicant"), representing Elevations Plus, LLC ("The Owner") is requesting a Development Agreement and Conditional Use Permit to allow for a commercial cannabis dispensary to be located at 3301 Atchison Street.

The project area is located at the northeast corner of Atchison Street (Highway 108) and Third Street, across from the Del Rio Theater property. The project site is an existing 2,520 square feet building built in 1961 and formerly used as tow lot offices. The property size is 15,245 sf and measures approximately one hundred twenty-five (125) feet by one hundred and twenty-five (125) feet. The project site has an existing general plan land use designation of Mixed Use (MU) and is zoned Highway Corridor (HC) in the Downtown Specific Plan. The project site is surrounded by a mix of uses, including commercial uses, residential uses, redeveloping properties, a church, a car wash, and nearby fire and police stations.

The Planning Commission at their regular meeting of December 17, 2019 with a vote of 5-0 recommended that the City Council approve Development Agreement 03-2017 with Resolution 2019-022. They also approved with a vote of 5-0 Conditional Use Permit 06-2017 with Resolution 2019-023.

BACKGROUND

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

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

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

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

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

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

ANALYSIS

Toby J. VonAlvensleben is proposing to establish a cannabis dispensary called Elevations, to be located at 3301 Atchison Street. The proposed project site is zoned Downtown Core (DC), and therefore is in conformance with Ordinance 2017-007, listed

above. The proposed project site is also not within 600 feet of any school, licensed day care facility, or youth center.

The Applicant is proposing to conduct a commercial cannabis dispensary with delivery service in the existing 2,520 square foot building that was built in 1961. The Applicant received Architecture and Site Plan Review approval for a retail shell on April 17, 2018 and has been recently working on the structure. The business plans to be open from 10:00am to 8:00pm Monday through Friday, Saturday 9:00am to 8:00pm, Sunday 11:00am to 6:00pm, and will employ approximately 15 employees. The business will feature a waiting room, security office, manager and employee offices, sales area, clone storage room, and other storage. The existing chain link fence will be removed and the parking lot and landscaping will be upgraded.

Development Agreement -

Elevations Plus, LLC. seeks to enter into a development agreement (Attachment 2 and Exhibit C) with the City for the purpose of operating a commercial cannabis dispensary called Elevations. Elevations Plus, LLC owns and proposes to operate Elevations at that certain real property located at 3301 Atchison Street in the City of Riverbank, Assessor's Parcel Number 132-004-045.

The major elements of the development agreement are summarized below:

- The term of the agreement is three (3) years.
- Elevations proposes the operation of a medicinal and adult use cannabis dispensary business.
- Elevations plans to operate within approximately two thousand five hundred and twenty (2,520) square feet of space for the dispensary.
- The project would provide Elevations with substantial private benefits that will place burdens upon City infrastructure, services, and neighborhoods. Elevations seeks to offset these impacts through a monthly payment classified as a "Public Benefit" amount. The Public Benefit is designed and intended to offset or mitigate any potential impacts of the project on the community.
- Elevations will pay to the City a Public Benefit of:
 - o \$10,000 or five percent (5%) of gross receipts from operations, whichever is greater, each month for the first six (6) months following the issuance of a Conditional Use Permit;
 - o \$15,000 or five percent (5%) of gross receipts from operations, whichever is higher, for months seven (7) through twelve (12) following the issuance of a Conditional Use Permit; and
 - o \$18,000 or five percent (5%) of gross receipts from operations, whichever is higher, for each month thereafter through the end of the term of the development agreement.

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

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

The Project has been found to be consistent with the General Plan policies listed below:

- *Policy LAND-4.2: The City will encourage the revitalization of existing commercial areas through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement processes, catalyst projects, public-private partnerships, and other means.*
- *Policy ED-7.3: The City will pursue locally-oriented commercial uses that are currently underserved in Riverbank, and expand upon the existing base of local-serving retail and service establishments as population increases create additional market demand.*
- o *Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole. A security plan has been submitted which will ensure that Elevations's activities will not be detrimental to the health, safety, and general welfare of residents within the neighborhood and within the City.*
- o *Will not adversely affect the orderly development of property or the preservation of property values. Since Elevations is redeveloping an existing vacant building in a neighborhood of mostly commercial structures, it can be seen with certainty that the project will not adversely affect the orderly development of the property or the preservation of property values. In fact, the redevelopment of this property could help spur redevelopment on neighboring properties on Atchison Street.*
- o *Is consistent with the provisions of Government Code sections 65864 through 65869.5. The project is consistent with the provisions of Government Code sections 65864 through 65869.5 in that a Development Agreement will provide assurance to the applicant that upon approval of the project, the applicant may proceed with the project under existing codes and policies and that the project is not located in an area with a local coastal program.*
- o *Contains a legal description of the property. The Development Agreement contains Exhibit A, a legal description of the property.*

The Planning Commission at their regular meeting of December 17, 2019 with a vote of 5-0 recommended that the City Council approve Development Agreement 03-2017 with Resolution 2019-022 (Attachment 3).

Conditional Use Permit

A Conditional Use Permit must be obtained pursuant to the Development Agreement. Planning Commission Resolution No. 2019-022 contains fourteen (14) conditions with which the business must comply. Besides compliance with all regulations and code requirements of both the City and the State, conditions include hours of construction for the proposed tenant improvements, exterior lighting conditions, and a hold harmless section. The Planning Commission at their regular meeting of December 17, 2019 with a vote of 5-0 approved Conditional Use Permit 06-2017 with Resolution 2019-023 (Attachment 3).

PLANNING COMMISSION

On December 17, 2019, the Planning Commission held a duly noticed public hearing to consider the proposed Project. Four (4) Planning Commissioners and one (1) Alternate Commissioner were present at this meeting, including Chairmen Dinan, Commissioner Hughes, Commissioner Stewart, Commissioner Fenrich, and Alternate Commissioner Steve Link.

On December 16, 2019, the City received a phone call from resident Evelyn Halbert, who also spoke at the meeting in opposition of the Project. She wanted to know what a “clone” and a “clone room” were. Planning staff explained that a clone is a small branch off a mother plant which is rooted and kept alive in an individual container until sale to a customer. A clone room is similar to the garden center at Walmart or Target only secured. It is an area where flats of small clones are cared for with light and water until they are purchased by customers for their permitted indoor gardens. Ms. Halbert holds the belief that clones grow in the clone room where they are being stored, therefore the applicant should also be required to obtain a cultivation permit from the City. City staff holds the same position as the State of California – a clone room (storage room) is not a cultivation operation.

ENVIRONMENTAL DETERMINATION

The Elevations project is categorically exempt from the provisions of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15301, applicable to existing facilities involving no expansion of the facility.

FISCAL IMPACT

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

STRATEGIC GOALS

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

PUBLIC NOTICE

Pursuant to Government Code sections 65867, 65090, and 6509 the City published notice of the hearing in the Riverbank News on January 15, 2020, and posted notices at City Hall North and South, and at the Community Center. The City mailed notices of the hearing on January 10, 2020, to property owners within 300 feet of the project location.

RECOMMENDATION

Staff recommends approval of the Development Agreement based upon the following findings:

1. The proposed project is consistent with the Riverbank Municipal Code.
2. The proposed project is exempt from CEQA as CEQA only applies to projects that have the potential to harm the environment, and,
3. The proposed project is consistent with the 2005-2025 General Plan.

ATTACHMENTS

1. Draft Ordinance 2020-XXX to adopt the Development Agreement
2. Draft Development Agreement (Exhibits A-B and D-G included)
Exhibit C to Attachment 2 – Grant Deed
3. Planning Commission Resolution 2019-022 (DA recommendation)
4. Planning Commission Resolution 2019-023 (CUP approval)
Exhibit A – Site and Floor Plans

**CITY OF RIVERBANK
ORDINANCE NO. 2020-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF
RIVERBANK AND ELEVATIONS PLUS, LLC, A CALIFORNIA CORPORATION
DOING BUSINESS AS ELEVATIONS.**

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

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

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

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

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

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

WHEREAS, Elevations Plus, LLC ("Elevations"), a California corporation doing business as Elevations, submitted an application to the City for consideration of a development agreement to operate a cannabis dispensary business (the "Project"); and

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

WHEREAS, Elevations owns that certain real property located at 3301 Atchison Street in the City of Riverbank, Assessor's Parcel Number 132-004-045 on which Elevations intends to develop the Project; and

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

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

WHEREAS, the Planning Commission held a duly noticed public hearing on December 17, 2019, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, on January 14, 2020, and January 28, 2020, the City Council held duly noticed public hearings to consider the Development Agreement; and

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

1. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank.
2. In accordance with Government Code section 65864 *et seq.*, the City Council finds that the Development Agreement:
 - a. Is consistent with the objectives, policies, general land uses, and programs specified in the Riverbank General Plan and any applicable specific plan; and
 - b. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole; and

- c. Will not adversely affect the orderly development of property or the preservation of property values; and
- d. Is consistent with the provisions of Government Code sections 65864 through 65869.5; and
- e. Contains a legal description of the property.

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

SECTION 1. The City Council of the City of Riverbank approves a Development Agreement by and between Elevations Plus, LLC, a California corporation doing business as Elevations, and the City of Riverbank for the development of the Project, and instructs the City Manager to execute the Development Agreement subject to final, technical revisions as required and approved by the City Attorney.

SECTION 2. The City shall review the Development Agreement for compliance with its terms and conditions not less than once every twelve (12) months from the effective date of the Development Agreement; or as otherwise required pursuant to the terms of the Development Agreement.

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

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

SECTION 5. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Riverbank hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 6. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, and publication of the Ordinance shall occur in a

newspaper of general circulation at least fifteen (15) days prior to its effective date, or a summary of the Ordinance published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the 28th day of January 2020; motioned by Councilmember _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan
City Attorney

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

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

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

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____ 2020, by and between the **CITY OF RIVERBANK**, a California municipal corporation ("City"), and **ELEVATIONS PLUS, LLC**, a California limited liability company ("Developer"). City and Developer may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

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

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

- D. Developer proposes to improve, develop, and use real property to operate a Cannabis Dispensary, as defined in Section 2.3 of this Agreement, in strict accordance with California Cannabis Laws, as defined in Section 1.4(k) 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 owns that certain real property located at 3301 Atchison St, Riverbank, CA 95367 in the City of Riverbank, County of Stanislaus, State of California, Assessor's Parcel Number 132-004-045 of which Developer intends to improve approximately 15,625 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 purchased the Site for the purpose of operating the Project. A copy of the deed for the Site 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 _____, 20__, the Planning Commission, in a duly noticed and conducted public hearing, considered Developer's application for this Agreement.
- O. On _____, 20__, the Planning Commission recommended the City Council adopt Ordinance No. 20__-__, which would allow Developer to operate the Project at the Site.
- P. On _____, 20__, 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. 20__-__.
- 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) “Commercial Cannabis Delivery” or “Commercial Cannabis Deliveries” means the commercial transfer of Cannabis or Cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform.

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

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

(z) “Developer” means Elevations Plus, LLC, a California limited liability company . Developer also has the meaning set forth in Section 6.1.

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

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

(cc) “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.

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

(ee) "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.

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

(gg) "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.

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

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

(jj) "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.

- (kk) “Mortgage” has the meaning set forth in Article 7.
- (ll) “Non-Performance Penalty” has the meaning set forth in Section 4.3.
- (mm) “Notice of Non-Performance Penalty” has meaning set forth in Section 4.3.
- (nn) “Notice of Termination” has the meaning set forth in Section 9.1.
- (oo) “Planning Commission” means the City of Riverbank Planning Commission as established by Riverbank Municipal Code section 32.35.
- (pp) “Processing Costs” has the meaning set forth in Section 1.11.
- (qq) “Project” has the meaning set forth in Recital D.
- (rr) “Project Litigation” has the meaning set forth in Section 10.7.
- (ss) “Public Benefit” has the meaning set forth in Section 4.2.
- (tt) “Public Benefit Amount” has the meaning set forth in Section 4.2.
- (uu) “Site” has the meaning set forth in Recital G.
- (vv) “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.
- (ww) “State Cannabis Regulations” means the regulations promulgated by the State Licensing Authorities pursuant to the California Cannabis Laws.
- (xx) “State Taxing Authority” has the meaning set forth in Section 4.2.
- (yy) “Subsequent City Approvals” has the meaning set forth in Section 3.1.
- (zz) “Term” has the meaning set forth in Section 1.7.
- (aaa) “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.

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 Thirty Thousand Dollars (\$30,000) 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 retains the right to conduct Commercial Cannabis Deliveries as authorized by the state under a Type 10 license. In the event Developer elects to conduct Commercial Cannabis Delivery services, Developer shall first submit an updated security plan to City to include security provisions for delivery sales. Once Developer commences Commercial Cannabis Deliveries, Developer shall account for revenue generated from delivery sales and apply this revenue towards the overall Gross Receipts From Operations as required by Section 4.2 of the Development Agreement. Developer may only deliver within City

limits. Developer is responsible for any permitting required to conduct Commercial Cannabis Deliveries in any areas outside of City.

Developer shall be permitted to use the Site consistent with the Authorized License for the Term of this Agreement, during the time Developer is applying for the Authorized License with the applicable State Licensing Authority and extending indefinitely thereafter until such time as Developer, and/or its successor in interest, determines to wind up the business of Developer. 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 are 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.	\$10,000 or 5% 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.	\$15,000 or 5% 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.	\$20,000 or 5% 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 fails 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 waives all claims for damages against City for breach of this Agreement. Developer further acknowledges 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 waives 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 acknowledges 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 waives 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, 3rd Floor

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

If to Developer:

Elevations Plus, LLC
2308 Yosemite Ave.
Escalon, CA, 95320
Attention: Toby VonAlvensleben

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: _____, 20__

CITY OF RIVERBANK, CA
a California Municipal Corporation

By: _____
Sean Scully
City Manager

Attest:

By: _____
Annabelle Aguilar
City Clerk

Approved to as Form

By: _____
Tom Hallinan
City Attorney

“DEVELOPER”

Date: _____, 20__

ELEVATIONS PLUS, LLC
a California Limited liability company

By: _____
Toby VonAlvensleben
Its: __ Member

ELEVATIONS PLUS, LLC
a California Limited liability company

By: _____
Tiffany VonAlvensleben
Its: __ Member

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

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

Witness my hand and official seal.

(Signature)

(Seal)

California All-Purpose Acknowledgment

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

State of California)
)
County of _____)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

Exhibit A

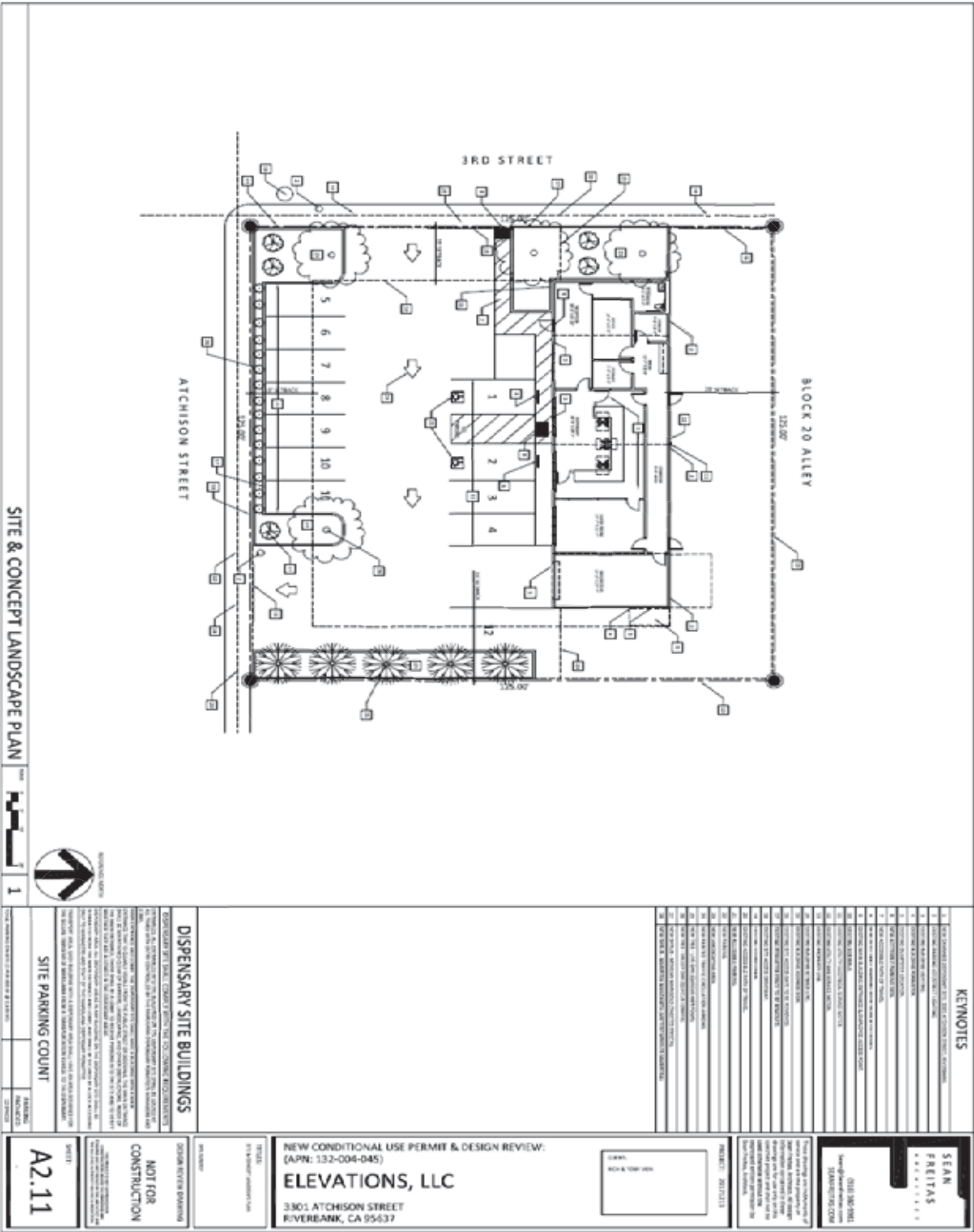
Legal Description

For APN/Parcel ID(s): 132-004-045

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 1, 2, 3, 4 and 5 in Block 20 of "Revised Map of the Town of Riverbank", as per map filed October 11, 1910 in Volume 5 of Maps, at Page 16, Stanislaus County Records.

Exhibit B



{CW087945.2}

Exhibit C
PROPERTY DEED

Exhibit D

Notice of Non-Performance Penalty

DATE: _____, 20__

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

Elevations Plus, LLC, a California limited liability company
2308 Yosemite Ave.
Escalon, CA, 9532

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 _____, 20__, City recorded a development agreement between City and _____ ("Developer"), dated _____, 20__ (the "Development Agreement"), relating to the development and operation of a cannabis _____.
- 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 ELEVATIONS PLUS, LLC, a California limited liability company (“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 purchased that certain real property located in the City, identified as Stanislaus County Assessor’s Parcel Number 132-004-045-000 (the “Property”), shown on **Exhibit A** attached hereto (“Property Description”).

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

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

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

AGREEMENT

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

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

Section 2. Applicant’s Indemnification Obligations.

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

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

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

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

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

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

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

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

Section 3. 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.

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

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

With copy to

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

and

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

If to Applicant:

Elevations Plus, LLC
2308 Yosemite Ave.
Escalon, CA, 95320
Attention: Toby VonAlvensleben

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

Elevations Plus, LLC, a California limited liability company

By: _____

Name: Toby VonAlvensleben

Its: _____ Member

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

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 Elevations Plus, LLC ("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 Elevations Plus, LLC, a California limited liability company ("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 Elevations Plus, LLC a California limited liability company relating to the improvement, development, and use of real property to operate a cannabis business (the "Development Agreement")", originally recorded upon Stanislaus County Assessor's Parcel Number _____ (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:

_____,
a California limited liability company dba

Its: _____

AGREED TO AND ACCEPTED:

CITY OF RIVERBANK,
a California municipal corporation

City Manager

ASSIGNEE

_____,
a California _____

By: _____

9
RECORDING REQUESTED BY:
Chicago Title Company

When Recorded Mail Document
and Tax Statement To:
Cascade Cleaning Services LLC, a California
Limited Liability Company
2308 Yosemite Avenue
Escalon, CA 95320

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2017-0081769-00

Acct 403-Mail Documents

Friday, NOV 03, 2017 12:20:42

Ttl Pd \$310.50 Rcpt # 0004044114

JMS/R3/1-3

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Escrow Order No.: FSST-5351702305

Property Address: 3301 Atchison Street,
Riverbank, CA 95367
APN/Parcel ID(s): 132-004-045-000

GRANT DEED

The undersigned grantor(s) declare(s)

- ☐ This transfer is exempt from the documentary transfer tax.
☒ The documentary transfer tax is \$280.50 and is computed on:
☒ the full value of the interest or property conveyed.
☐ the full value less the liens or encumbrances remaining thereon at the time of sale.
The property is located in ☒ the City of Riverbank.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Lenore Setliff, a married woman as her sole and separate property

hereby GRANT(S) to

Cascade Cleaning Services LLC, a California Limited Liability Company

the following described real property in the City of Riverbank, County of Stanislaus, State of California:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

MAIL TAX STATEMENTS AS DIRECTED ABOVE

GRANT DEED

(continued)

APN/Parcel ID(s): 132-004-045-000

Dated: October 31, 2017

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.


Lenore Setliff

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

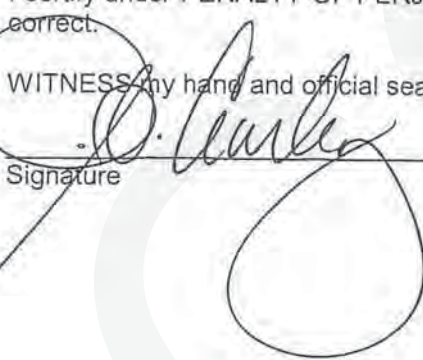
County of San Joaquin

On 11-1-2017 before me, S. Cearley, Notary Public,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.


Signature

(Seal)



EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 132-004-045-000

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 1, 2, 3, 4 AND 5 IN BLOCK 20 OF REVISED MAP OF THE TOWN OF RIVERBANK AS PER MAP FILED OCTOBER 11, 1910 IN VOLUME 5 OF MAPS, PAGE 16, STANISLAUS COUNTY.

**CITY OF RIVERBANK
RESOLUTION NO. 2019-022**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK,
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE
APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF
RIVERBANK AND ELEVATIONS PLUS, LLC DOING BUSINESS AS ELEVATIONS**

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

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

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

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 *et seq.*, which authorizes the City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application; and

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

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

WHEREAS, Elevations Plus, LLC, doing business as "Elevations", submitted an application to the City for consideration of a development agreement to operate a cannabis dispensary business (the "Project"); and

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

WHEREAS, Elevations has purchased that certain real property located at 3301 Atchison Street in the City of Riverbank, Assessor's Parcel Number 132-004-045 on which they intend to develop the Project; and

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

WHEREAS, the Planning Commission held a duly noticed public hearing on December 17, 2019, to consider the Development Agreement and make recommendations to the City Council; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE NO. 2020-XXX, APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF RIVERBANK AND ELEVATIONS PLUS, LLC, DOING BUSINESS AS ELEVATIONS, ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED HEREIN BY THIS REFERENCE.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 17th day of December, 2019; motioned by Commissioner Fenrich, seconded by Commissioner Hughes, and upon roll call was carried by the following Planning Commission vote of 5 - 0 :

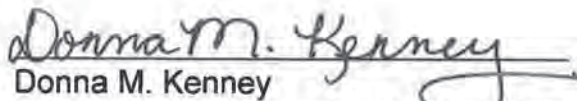
AYES: Commissioners: Dinan, Stewart, Hughes, Fenrich and Link

NAYS: None

ABSENT: None

ABSTAIN: None

Attest:


Donna M. Kenney
Secretary to the Planning Commission

Approved:


John Dinan
Chairperson

EXHIBIT A

CITY OF RIVERBANK ORDINANCE NO. 2020-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF RIVERBANK AND ELEVATIONS PLUS, LLC, A CALIFORNIA CORPORATION DOING BUSINESS AS ELEVATIONS.

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

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

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

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

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

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

WHEREAS, Elevations Plus, LLC ("Elevations"), a California corporation doing business as Elevations, submitted an application to the City for consideration of a development agreement to operate a cannabis dispensary business (the "Project"); and

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

WHEREAS, Elevations owns that certain real property located at 3301 Atchison Street in the City of Riverbank, Assessor's Parcel Number 132-004-045 on which Elevations intends to develop the Project; and

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

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

WHEREAS, the Planning Commission held a duly noticed public hearing on December 17, 2019, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, on _____, 2020, and _____, 2020, the City Council held duly noticed public hearings to consider the Development Agreement; and

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

1. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank.
2. In accordance with Government Code section 65864 *et seq.*, the City Council finds that the Development Agreement:
 - a. Is consistent with the objectives, policies, general land uses, and programs specified in the Riverbank General Plan and any applicable specific plan; and
 - b. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole; and

- c. Will not adversely affect the orderly development of property or the preservation of property values; and
- d. Is consistent with the provisions of Government Code sections 65864 through 65869.5; and
- e. Contains a legal description of the property.

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

SECTION 1. The City Council of the City of Riverbank approves a Development Agreement by and between Elevations Plus, LLC, a California corporation doing business as Elevations, and the City of Riverbank for the development of the Project, and instructs the City Manager to execute the Development Agreement subject to final, technical revisions as required and approved by the City Attorney.

SECTION 2. The City shall review the Development Agreement for compliance with its terms and conditions not less than once every twelve (12) months from the effective date of the Development Agreement; or as otherwise required pursuant to the terms of the Development Agreement.

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

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

SECTION 5. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Riverbank hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 6. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, and publication of the Ordinance shall occur in a

newspaper of general circulation at least fifteen (15) days prior to its effective date, or a summary of the Ordinance published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the ____ day of _____ 2020; motioned by Councilmember _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

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

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

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

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____ 2020, by and between the **CITY OF RIVERBANK**, a California municipal corporation ("City"), and **ELEVATIONS PLUS, LLC**, a California limited liability company ("Developer"). City and Developer may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

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

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

- D. Developer proposes to improve, develop, and use real property to operate a Cannabis Dispensary, as defined in Section 2.3 of this Agreement, in strict accordance with California Cannabis Laws, as defined in Section 1.4(k) 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 owns that certain real property located at 3301 Atchison St, Riverbank, CA 95367 in the City of Riverbank, County of Stanislaus, State of California, Assessor's Parcel Number 132-004-045 of which Developer intends to improve approximately 15,625 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 purchased the Site for the purpose of operating the Project. A copy of the deed for the Site 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 _____, 20__, the Planning Commission, in a duly noticed and conducted public hearing, considered Developer's application for this Agreement.
- O. On _____, 20__, the Planning Commission recommended the City Council adopt Ordinance No. 20__-__, which would allow Developer to operate the Project at the Site.
- P. On _____, 20__, 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. 20__-__.
- 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) "Commercial Cannabis Delivery" or "Commercial Cannabis Deliveries" means the commercial transfer of Cannabis or Cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.

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

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

(z) "Developer" means Elevations Plus, LLC, a California limited liability company. Developer also has the meaning set forth in Section 6.1.

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

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

(cc) "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.

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

(ee) "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.

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

(gg) "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.

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

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

(jj) "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.

- (kk) "Mortgage" has the meaning set forth in Article 7.
- (ll) "Non-Performance Penalty" has the meaning set forth in Section 4.3.
- (mm) "Notice of Non-Performance Penalty" has meaning set forth in Section 4.3.
- (nn) "Notice of Termination" has the meaning set forth in Section 9.1.
- (oo) "Planning Commission" means the City of Riverbank Planning Commission as established by Riverbank Municipal Code section 32.35.
- (pp) "Processing Costs" has the meaning set forth in Section 1.11.
- (qq) "Project" has the meaning set forth in Recital D.
- (rr) "Project Litigation" has the meaning set forth in Section 10.7.
- (ss) "Public Benefit" has the meaning set forth in Section 4.2.
- (tt) "Public Benefit Amount" has the meaning set forth in Section 4.2.
- (uu) "Site" has the meaning set forth in Recital G.
- (vv) "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.
- (ww) "State Cannabis Regulations" means the regulations promulgated by the State Licensing Authorities pursuant to the California Cannabis Laws.
- (xx) "State Taxing Authority" has the meaning set forth in Section 4.2.
- (yy) "Subsequent City Approvals" has the meaning set forth in Section 3.1.
- (zz) "Term" has the meaning set forth in Section 1.7.
- (aaa) "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.

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 Thirty Thousand Dollars (\$30,000) 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 retains the right to conduct Commercial Cannabis Deliveries as authorized by the state under a Type 10 license. In the event Developer elects to conduct Commercial Cannabis Delivery services, Developer shall first submit an updated security plan to City to include security provisions for delivery sales. Once Developer commences Commercial Cannabis Deliveries, Developer shall account for revenue generated from delivery sales and apply this revenue towards the overall Gross Receipts From Operations as required by Section 4.2 of the Development Agreement. Developer may only deliver within City

limits. Developer is responsible for any permitting required to conduct Commercial Cannabis Deliveries in any areas outside of City.

Developer shall be permitted to use the Site consistent with the Authorized License for the Term of this Agreement, during the time Developer is applying for the Authorized License with the applicable State Licensing Authority and extending indefinitely thereafter until such time as Developer, and/or its successor in interest, determines to wind up the business of Developer. 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 are 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.	\$10,000 or 5% 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.	\$15,000 or 5% 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.	\$20,000 or 5% 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 fails 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 waives all claims for damages against City for breach of this Agreement. Developer further acknowledges 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 waives 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 acknowledges 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 waives 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, 3rd Floor

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

If to Developer:

Elevations Plus, LLC
2308 Yosemite Ave.
Escalon, CA, 95320
Attention: Toby VonAlvensleben

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: _____, 20__

CITY OF RIVERBANK, CA
a California Municipal Corporation

By: _____
Sean Scully
City Manager

Attest:

By: _____
Annabelle Aguilar
City Clerk

Approved to as Form

By: _____
Tom Hallinan
City Attorney

"DEVELOPER"

Date: _____, 20__

ELEVATIONS PLUS, LLC
a California Limited liability company

By: _____
Toby VonAlvensleben
Its: __Member

ELEVATIONS PLUS, LLC
a California Limited liability company

By: _____
Tiffany VonAlvensleben
Its: __Member

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

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

Witness my hand and official seal.

(Signature)

(Seal)

California All-Purpose Acknowledgment

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

State of California)
)
County of _____)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

Exhibit A

Legal Description

For APN/Parcel ID(s): 132-004-045

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 1, 2, 3, 4 and 5 in Block 20 of "Revised Map of the Town of Riverbank", as per map filed October 11, 1910 in Volume 5 of Maps, at Page 16, Stanislaus County Records.

Exhibit B

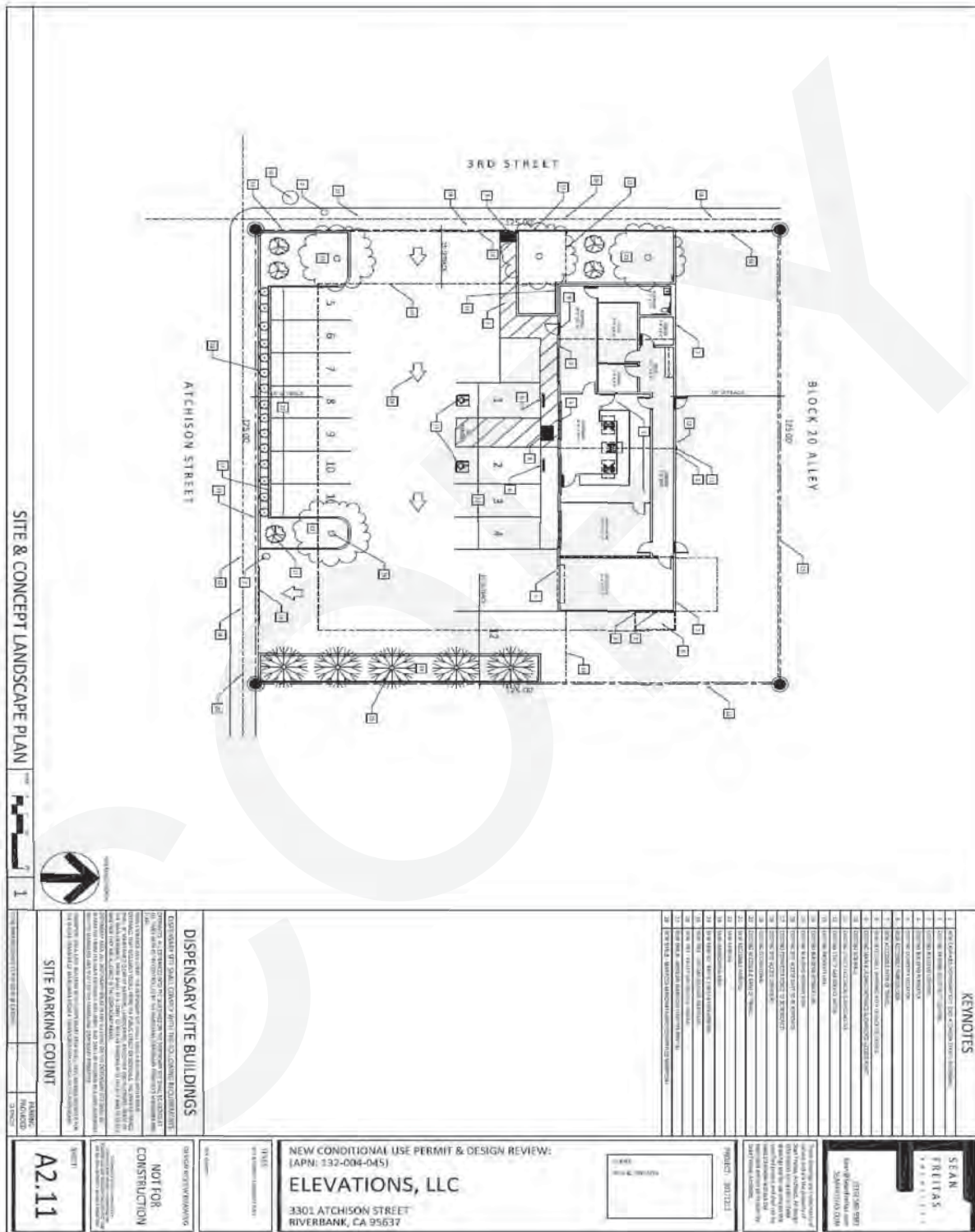


Exhibit C
PROPERTY DEED

{CW087945.2}

DEVELOPMENT AGREEMENT
CITY OF RIVERBANK
& ELEVATIONS PLUS, LLC
Page 34 of 49

Exhibit D

Notice of Non-Performance Penalty

DATE: _____, 20__

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

Elevations Plus, LLC, a California limited liability company
2308 Yosemite Ave.
Escalon, CA, 9532

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 _____, 20__, City recorded a development agreement between City and _____ ("Developer"), dated _____, 20__ (the "Development Agreement"), relating to the development and operation of a cannabis _____.
- 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 ELEVATIONS PLUS, LLC, a California limited liability company (“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 purchased that certain real property located in the City, identified as Stanislaus County Assessor’s Parcel Number 132-004-045-000 (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-appellable judicial or administrative action.

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

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

Section 3. 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.

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

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

With copy to

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

and

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

If to Applicant:

Elevations Plus, LLC
2308 Yosemite Ave.
Escalon, CA, 95320
Attention: Toby VonAlvensleben

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

Elevations Plus, LLC, a California limited liability company

By: _____

Name: Toby VonAlvensleben

Its: _____ Member

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

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 Elevations Plus, LLC ("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 Elevations Plus, LLC, a California limited liability company ("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 Elevations Plus, LLC a California limited liability company relating to the improvement, development, and use of real property to operate a cannabis business (the "Development Agreement")", originally recorded upon Stanislaus County Assessor's Parcel Number _____ (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:

a California limited liability company dba

Its: _____

AGREED TO AND ACCEPTED:

CITY OF RIVERBANK,
a California municipal corporation

City Manager

ASSIGNEE

a California _____

By: _____

9
RECORDING REQUESTED BY:
Chicago Title Company

When Recorded Mail Document
and Tax Statement To:
Cascade Cleaning Services LLC, a California
Limited Liability Company
2308 Yosemite Avenue
Escalon, CA 95320

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2017-0081769-00

Acct 403-Mail Documents

Friday, NOV 03, 2017 12:20:42

Ttl Pd \$310.50 Rcpt # 0004044114

JMS/R3/1-3

Escrow Order No.: FSST-5351702305

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Property Address: 3301 Atchison Street,
Riverbank, CA 95367
APN/Parcel ID(s): 132-004-045-000

GRANT DEED

The undersigned grantor(s) declare(s)

- ☐ This transfer is exempt from the documentary transfer tax.
☒ The documentary transfer tax is \$280.50 and is computed on:
☒ the full value of the interest or property conveyed.
☐ the full value less the liens or encumbrances remaining thereon at the time of sale.
The property is located in ☒ the City of Riverbank.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Lenore Setliff, a married woman as her sole and separate property

hereby GRANT(S) to

Cascade Cleaning Services LLC, a California Limited Liability Company

the following described real property in the City of Riverbank, County of Stanislaus, State of California:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

MAIL TAX STATEMENTS AS DIRECTED ABOVE

GRANT DEED

(continued)

APN/Parcel ID(s): 132-004-045-000

Dated: October 31, 2017

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.


Lenore Setliff

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

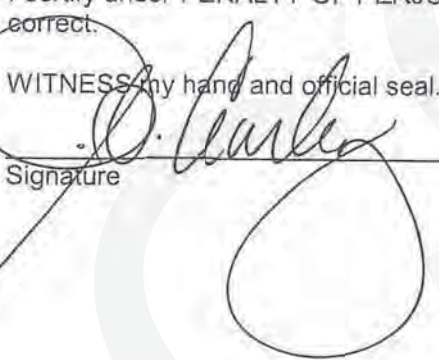
County of San Joaquin

On 11-1-2017 before me, S. Cearley, Notary Public,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.


Signature

(Seal)



EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 132-004-045-000

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 1, 2, 3, 4 AND 5 IN BLOCK 20 OF REVISED MAP OF THE TOWN OF RIVERBANK AS PER MAP FILED OCTOBER 11, 1910 IN VOLUME 5 OF MAPS, PAGE 16, STANISLAUS COUNTY.

**City of Riverbank
Planning Commission
Resolution No. 2019-023**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK
APPROVING THE REQUEST OF ELEVATIONS PLUS, LLC FOR A CONDITIONAL
USE PERMIT TO OPERATE A CANNABIS DISPENSARY, ELEVATIONS WITHIN
THE DOWNTOWN CORE (DC) ZONING DISTRICT LOCATED AT
3301 ATCHISON, APN: 132-004-045**

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

WHEREAS, the project proponent is Elevations Plus, LLC ("Elevations"); and

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

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

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

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

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

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

WHEREAS, the request of Elevations for the Conditional Use Permit is hereby granted and approved, subject to the following conditions:

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

- 2) The applicant shall secure and comply with all applicable state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- 3) The applicant shall comply with all regulations and code requirements of the Community Development Director, City Engineer, Building Official, Stanislaus Consolidated Fire Protection District, the Police Chief, State of California, and any other agencies requiring review of the project. If required, these agencies shall be supplied copies of any parcel map, site plans, public improvement plans, building plans (including tenant improvement plans), or any other requested documents.
- 4) All conditions of approval for this project shall be printed by the project developer on all building permit plan check sets (including tenant improvements) submitted for review and approval. These conditions of approval shall be on, at all times, all construction plans kept on the project site. It is the responsibility of the developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Community Development Director must be received before any changes are constituted in site design, building design, building colors or materials, landscaping, etc.
- 5) Site plan shall be in substantial conformance to the existing site plan as submitted. Any proposed changes to the exterior of the building or site shall be reviewed by the Community Development Director, who will determine if additional Architecture and Site Plan Review is required. If required, plans shall be prepared, wet signed and sealed by a civil engineer, land surveyor, or architect registered in the State of California and licensed to prepare site and/or building plans.
- 6) Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, if the site receives numerous Health and/or Safety violations, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents or presentations to staff, Planning Commission or City Council, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to be violated.
- 7) All business partners and employees shall obtain State background checks before operations may commence.
- 8) Tenant improvement work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the applicant a copy of this signed resolution and an approved building permit.

- 9) The hours of construction, including equipment warm-up, shall be limited to 7:00 a.m. to 6:30 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on weekends and legal holidays.
- 10) All new construction, including tenant improvements, requires building permits in accordance with all applicable building and fire codes.
- 11) The applicant shall defend, indemnify and hold harmless the City of Riverbank, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, or any aspect of the City's consideration of applicant's project. The applicant recognizes and agrees that applicant's voluntary commitment to meet the obligations described in this condition is an integral factor in the City's approval of this project. The intent of this condition is to require the applicant to bear the cost of any and all litigation instituted to overturn or in any way modify the City's approval of this project. Such costs include without limitation, any award of attorney's fees and costs to a prevailing plaintiff or petitioner.
- 12) This approval may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the approval or add/modify conditions of approval.
- 13) All new exterior light fixtures shall be shown on plans subject to staff review and approval. All lights attached to buildings shall provide a soft "wash" of light against the wall. All building and parking or yard lights shall conform to City Standards and shall compliment the site and building architecture.
- 14) The Project and Project applicant shall strictly comply with all administrative guidelines promulgated by the City for the operation of a cannabis dispensary, specifically including any administrative guidelines later adopted by the City, or as may be changed from time to time.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission that the requested Conditional Use Permit is approved subject to those conditions established by Resolution No. 2019-023 and attached Exhibit A.

Passed and adopted by the Planning Commission of the City of Riverbank at a regular meeting held on the 17th of December, 2019, motioned by Commissioner Hughes seconded by Commissioner Stewart and upon roll call was carried by the following vote 5- 0.

AYES: Commissioners: Dinan, Stewart, Hughes, Fenrich and Link

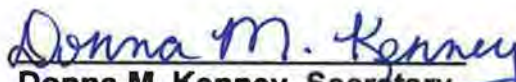
NOES: None

ABSENT: None

ABSTAIN: None

Attest:

Approved:


Donna M. Kenney, Secretary
Planning and Building Manager


John Dinan, Chairperson
Planning Commission

Exhibit: A – Site Plan & Floor Plan

NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC

3301 ATCHISON STREET
RIVERBANK, CA 95637

EXHIBIT A

CLIENT:
RICH & TOBY VON

PROJECT SHEET INDEX

SHEET	SHEET TITLES
A1.00	PROJECT COVER SHEET
A1.11	NEIGHBORHOOD CONTEXT MAP
A1.81	NEIGHBORHOOD PHOTOS
A2.11	SITE & CONCEPT LANDSCAPE PLAN
A3.10	DEMOLITION PLAN
A3.11	FLOOR PLAN
A3.12	SECURITY PLAN
A7.11	EXTERIOR ELEVATIONS

SEAN
FREITAS
ARCHITECT

(916) 580-9981
Sean@SeanFreitas.com
SEANFREITAS.COM

These drawings are instruments of service and are the property of Sean Freitas, Architect. All design information contained in these drawings are for use only on this specified project and shall not be used otherwise without the expressed written permission by Sean Freitas, Architect.

PROJECT: 20171213

CLIENT:
RICH & TOBY VON

NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC

3301 ATCHISON STREET
RIVERBANK, CA 95637

TITLES:
PROJECT COVER SHEET

DESIGN REVIEW DRAWING

NOT FOR
CONSTRUCTION

SHEET:
A1.00



VICINITY MAP



NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC

3301 ATCHISON STREET
RIVERBANK, CA 95637

CLIENT:
RICH & TOBY VON

REFERENCE NORTH



DISPENSARY SITE SECURITY

DISPENSARY SITE SHALL COMPLY WITH
THE FOLLOWING SECURITY REQUIREMENTS

A MARIJUANA DISPENSARY PERMITTEE SHALL COMPLY WITH THE SECURITY PLAN THAT IS APPROVED BY THE CITY MANAGER, WHICH PLAN MAY INCLUDE BUILDING SPECIFICATIONS, LIGHTING, ALARMS, AND STATE LICENSED SECURITY PERSONNEL.

EACH SECURITY PLAN APPROVED BY THE CITY MANAGER MUST INCLUDE THE FOLLOWING: 1. SECURITY SURVEILLANCE CAMERAS. SECURITY SURVEILLANCE CAMERAS AND A VIDEO RECORDING SYSTEM MUST BE INSTALLED TO MONITOR ALL DOORS INTO THE BUILDINGS ON THE DISPENSARY SITE, THE PARKING LOT, LOADING AREAS, AND ALL EXTERIOR SIDES OF THE PROPERTY ADJACENT TO THE PUBLIC RIGHTS OF WAY. THE CAMERAS AND RECORDING SYSTEM MUST BE OF ADEQUATE QUALITY, COLOR RESOLUTION, AND RESOLUTION TO ALLOW THE IDENTIFICATION OF ANY INDIVIDUALS PRESENT ON THE DISPENSARY SITE. THE RECORDING SYSTEM MUST BE CAPABLE OF EXPORTING THE RECORDED VIDEO IN STANDARD MPEG FORMATS TO ANOTHER COMMON MEDIUM SUCH AS A DVD OR USB DRIVE. 2. SECURITY VIDEO RECORDING AND RETENTION VIDEO FROM THE SECURITY SURVEILLANCE CAMERAS MUST BE RECORDING AT ALL TIMES 24 HOURS A DAY. SEVEN DAYS A WEEK AND THE RECORDING SHALL BE MAINTAINED FOR AT LEAST 30 DAYS. THE VIDEO RECORDINGS SHALL BE MADE AVAILABLE TO THE CITY UPON REQUEST. 3. ALARMS SYSTEM. PROFESSIONALLY AND CENTRALLY MONITORED FIRE, BURGLARY, AND PIRATE ALARMS SYSTEMS MUST BE INSTALLED AND MAINTAINED IN GOOD WORKING CONDITION. THE ALARM SYSTEM MUST INCLUDE A PRIVATE SECURITY COMPANY THAT IS REQUIRED TO RESPOND TO EVERY ALARM.

A MARIJUANA DISPENSARY PERMITTEE SHALL REPORT TO THE CITY POLICE DEPARTMENT ALL CRIMINAL ACTIVITY OCCURRING ON THE DISPENSARY SITE.

DISPENSARY PERMIT DISPLAY

DISPLAY OF MARIJUANA DISPENSARY PERMIT

THE MARIJUANA DISPENSARY PERMITTEE SHALL DISPLAY ITS CURRENT VALID MARIJUANA DISPENSARY PERMIT ISSUED IN ACCORDANCE WITH THIS ARTICLE INSIDE THE LOBBY OR WAITING AREA IN THE MAIN ENTRANCE TO THE DISPENSARY SITE. THE PERMIT SHALL BE DISPLAYED AT ALL TIMES IN A CONSPICUOUS PLACE SO THAT IT MAY BE READILY SEEN BY ALL PERSONS ENTERING THE DISPENSARY SITE.

DISPENSARY SIGN

DISPLAY OF MARIJUANA DISPENSARY SIGN

A MARIJUANA DISPENSARY PERMITTEE SHALL POST IN THE LOBBY OR THE DISPENSARY SITE, SIGNS THAT STATE THE FOLLOWING: 1. THIS SITE IS NOT OPEN TO THE PUBLIC. 2. METAL SALES OF ANY GOODS AND SERVICES IS PROHIBITED. 3. NO VEHICLES ARE PROHIBITED FROM ENTERING THIS SITE. 4. "SMOKING, INGESTING, OR CONSUMING MARIJUANA ON OR WITHIN 20 FEET OF THIS SITE IS PROHIBITED."

EACH SIGN DESCRIBED IN SUBSECTION A MUST BE AT LEAST 6 INCHES BY 12 INCHES IN SIZE AND MUST BE DISPLAYED AT ALL TIMES IN A CONSPICUOUS PLACE SO THAT IT MAY BE READILY SEEN BY ALL PERSONS ENTERING THE DISPENSARY SITE.

DISPENSARY ODOR CONTROL

DISPENSARY SITE SHALL COMPLY WITH
THE FOLLOWING ODOR CONTROL REQUIREMENTS

A MARIJUANA DISPENSARY PERMITTEE SHALL PREVENT ALL ODORS GENERATED FROM THE DISPENSARY AND STORAGE OF MARIJUANA FROM ESCAPING FROM THE BUILDINGS ON THE DISPENSARY SITE, SUCH THAT THE ODOR CANNOT BE DETECTED BY A REASONABLE PERSON OF NORMAL SENSITIVITY OUTSIDE THE BUILDINGS.

BUILDING ANALYSIS

	ALLOWABLE	ACTUAL
OCCUPANCY (GROUP) (CSC, CHAPTER 3)	M, B	M
CONSTRUCTION TYPE (CSC, TABLE 605)	TYPE VB	TYPE VB
NUMBER OF STORIES (CSC, TABLE 605)	ONE (1)	ONE (1)
NUMBER OF STORIES INCREASE FOR FIRE SPRINKLERS (CSC, SECTION 504.2)	ONE (1)	N/A
BUILDING HEIGHT (CSC, TABLE 605)	40' 0"	14'-4" 1/2"
BUILDING HEIGHT INCREASE	N/A	N/A
BUILDING HEIGHT INCREASE FOR FIRE SPRINKLERS (CSC, SECTION 504)	30' 0"	N/A
BUILDING AREA (CSC, TABLE 605 PER STORY)	3,000	2,830
BUILDING AREA INCREASE FOR FIRE SPRINKLERS (CSC, SECTION 504.2)	3,000	N/A
BUILDING AREA INCREASE FOR FRONTAGE (CSC, SECTION 504.2)	3,000	2,830
TOTAL BUILDING AREA PER STORY	30,000	2,830
BUILDING SETBACK (NORTH)	25'	15'
BUILDING SETBACK (EAST)	15'	15'
BUILDING SETBACK (SOUTH)	15'	2,830 SF
BUILDING SETBACK (WEST)	15'	15,345 SF
FIRE SPRINKLER SYSTEM	NO	NO
FIRE ALARM	YES	YES
YEAR BUILDING ORIGINALLY CONSTRUCTED:		1961
HIGH FIRE HAZARD SAFETY ZONE:		NO
SEISMIC SAFETY ZONE:		NO
EMERGENCY RESPONDER RADIO COVERAGE:		YES

APPLICABLE BUILDING CODES

TITLE 19, CALIFORNIA CODE OF REGULATIONS, PUBLIC SAFETY, SFA REGULATIONS
2016 CALIFORNIA ADMINISTRATIVE CODE, TITLE 24, PART 1
2016 CALIFORNIA BUILDING CODE (CBC), TITLE 24, PART 2
2016 CALIFORNIA ELECTRICAL CODE (CEC), TITLE 24, PART 3
2016 CALIFORNIA MECHANICAL CODE (CMC), TITLE 24, PART 4
2016 CALIFORNIA PLUMBING CODE (CPC), TITLE 24, PART 5
2016 CALIFORNIA ENERGY CODE, TITLE 24, PART 6
2016 CALIFORNIA FIRE CODE (CFC), TITLE 24, PART 7
2016 CALIFORNIA GREEN BUILDING STANDARDS CODE (GSBC), TITLE 24, PART 11
2016 CALIFORNIA REFERENCED STANDARDS, TITLE 24, PART 12
2016 CMC, CHAPTER 10 AND/OR CPC CHAPTER 45 INCLUDING:
1. 2016 NFPA 11, SPRINKLER SYSTEMS (CALIFORNIA ADOPTED)
2. 2016 NFPA 24, FIRE SERVICE MARKS (CALIFORNIA ADOPTED)
3. 2016 NFPA 75, FIRE ALARM CODE (CALIFORNIA ADOPTED)

BUILDING AREA ANALYSIS

UNCONDITIONED AREA	EXISTING AREA	NEW AREA	TOTAL AREA
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
TOTAL UNCONDITIONED AREA:	0 SF	0 SF	0 SF
CONDITIONED AREA	EXISTING AREA	NEW AREA	TOTAL AREA
(E) LEVEL 1 (THIS PROJECT)	2,830 SF	0 SF	2,830 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
	0 SF	0 SF	0 SF
TOTAL CONDITIONED AREA:	2,830 SF	0 SF	2,830 SF
TOTAL BUILDING AREA:	2,830 SF	0 SF	2,830 SF
TOTAL BUILDING COVERAGE:	2,830 SF	0 SF	2,830 SF
TOTAL SITE AREA:	15,345 SF	0 SF	15,345 SF
TOTAL SITE COVERAGE AREA:	18.53 %	0 %	18.53 %



VIEW-A

VIEW-B

VIEW-C

VIEW-D

VIEW-E

VIEW-F

VIEW-G

VIEW-H

VIEW-I

VIEW-J

VIEW-K

VIEW-L

SEAN FREITAS ARCHITECT

(916) 580-9981
Sean@SeanFreitas.com
SEANFREITAS.COM

These drawings are instruments of service and are the property of Sean Freitas, Architect. All design information contained in these drawings are for use only on this specified project and shall not be used otherwise without the expressed written permission by Sean Freitas, Architect.

PROJECT: 20171213

CLIENT: RIVERBANK TOWN VON

NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC

3301 ATCHISON STREET
RIVERBANK, CA 95637

TITLE: RIVERBANK TOWN VON

DATE: 03/20/2017

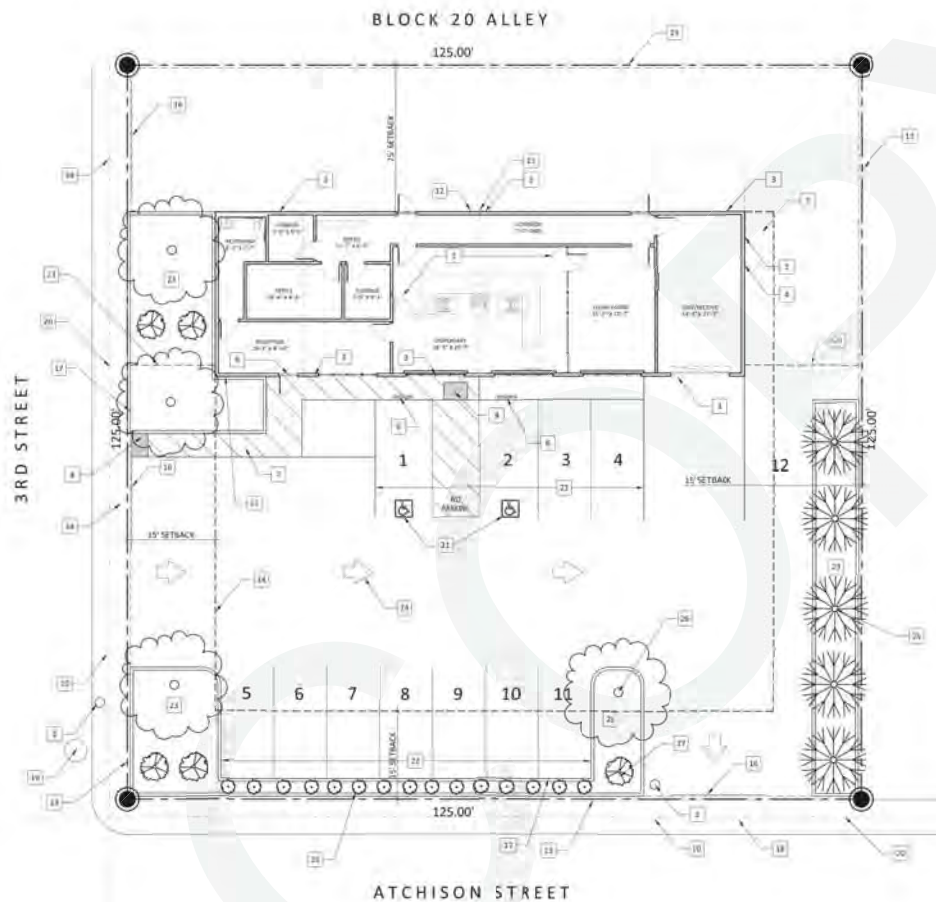
DESIGN REVIEW DRAWING

NOT FOR CONSTRUCTION

THIS PROJECT IS NOT APPROVED FOR CONSTRUCTION UNLESS THE DRAWINGS ARE SIGNED AND SEALED BY THE ARCHITECT AND THE BUILDING AUTHORITY HAVING JURISDICTION.

SHEET:

A1.31



KEYNOTES

- 1 NEW CANVAS DISPENSARY SITE, 1301 ATCHISON STREET, RIVERBANK
- 2 EXISTING PARKING LOT/STREET LIGHTING
- 3 EXISTING BUILDING LIGHTING
- 4 EXISTING BUILDING PERIMETER
- 5 EXISTING CLAMSTER LOCATION
- 6 NEW ACCESSIBLE PARKING SIGN
- 7 NEW ACCESSIBLE PATH OF TRAVEL
- 8 NEW DETECTABLE WARNING WITH TRUNCATED DOMES
- 9 EXISTING MAIN BUILDING ENTRANCE & EMPLOYEE ACCESS POINT
- 10 EXISTING SIDEWALK
- 11 EXISTING UTILITY ELECTRICAL SERVICE METER
- 12 EXISTING UTILITY GAS SERVICE METER
- 13 EXISTING PROPERTY LINE
- 14 EXISTING BUILDING SETBACK LINE
- 15 EXISTING BUILDING ADDRESS SIGN
- 16 EXISTING SITE ACCESS GATE TO BE REMOVED
- 17 EXISTING PERIMETER FENCE TO BE REMOVED
- 18 EXISTING SITE ACCESS DRIVEWAY
- 19 EXISTING STORM DRAIN
- 20 EXISTING ACCESSIBLE PATH OF TRAVEL
- 21 EXISTING ACCESSIBLE PARKING
- 22 NEW PARKING
- 23 NEW LANDSCAPING AREA
- 24 NEW PAINTED TRAFFIC CIRCULATION ARROWS
- 25 NEW TREE - LIVE OAK (QUERCUS AGROPHOL)
- 26 NEW TREE - VALLEY OAK (QUERCUS ILOBATA)
- 27 NEW SHRUB - MANICURA MANGONITA (FICUS VERTICILLATA)
- 28 NEW SHRUB - MANICURA MANGONITA (FICUS VERTICILLATA)

SEAN
FREITAS
ARCHITECT

(916) 580-9981
Sean@SeanFreitas.com
SEANFREITAS.COM

These drawings are instruments of service and are the property of Sean Freitas, Architect. All design information contained in these drawings are for use only on the specified project and shall not be used otherwise without the expressed written permission by Sean Freitas, Architect.

PROJECT: 20171213

CLIENT:
JOHN & LISA VAN

NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC

3301 ATCHISON STREET
RIVERBANK, CA 95637

TITLE:
SITE & CONCEPT LANDSCAPE PLAN

DESIGN REVIEW DRAWING

NOT FOR
CONSTRUCTION

SHEET:

A2.11

DISPENSARY SITE BUILDINGS

DISPENSARY SITE SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS.

ENTRANCES: ALL ENTRANCES INTO THE BUILDINGS ON THE DISPENSARY SITE SHALL BE LOCKED AT ALL TIMES WITH ENTRY CONTROLLED BY THE MARIJUANA DISPENSARY PERMITTEE'S MANAGER(S) AND STAFF.

MAIN ENTRANCE AND LOBBY: THE DISPENSARY SITE SHALL HAVE A BUILDING WITH A MAIN ENTRANCE THAT IS CLEARLY VISIBLE FROM THE PUBLIC STREET OR SIDEWALK. THE MAIN ENTRANCE SHALL BE MAINTAINED CLEAR OF BARRIERS, LANDSCAPING, AND OTHER OBSTRUCTIONS. INSIDE OF THE MAIN ENTRANCE, THERE SHALL BE A LIGHT TO RELIEVE PERSONS INTO THE SITE AND TO VERIFY WHETHER THEY ARE ALLOWED IN THE DISPENSARY AREAS.

DISPENSARY AREA: ALL DISPENSARY AREAS IN ANY BUILDING ON THE DISPENSARY SITE SHALL BE SEPARATED FROM THE MAIN ENTRANCE AND LOBBY, AND SHALL BE SECURED BY A LOCK ACCESSIBLE ONLY TO MANAGERS AND STAFF OF THE MARIJUANA DISPENSARY PERMITTEE.

TRANSPORT AREA: EACH BUILDING WITH A DISPENSARY AREA SHALL HAVE AN AREA DESIGNED FOR THE SECURE TRANSFER OF MARIJUANA FROM A TRANSPORTATION VEHICLE TO THE DISPENSARY.

SITE PARKING COUNT

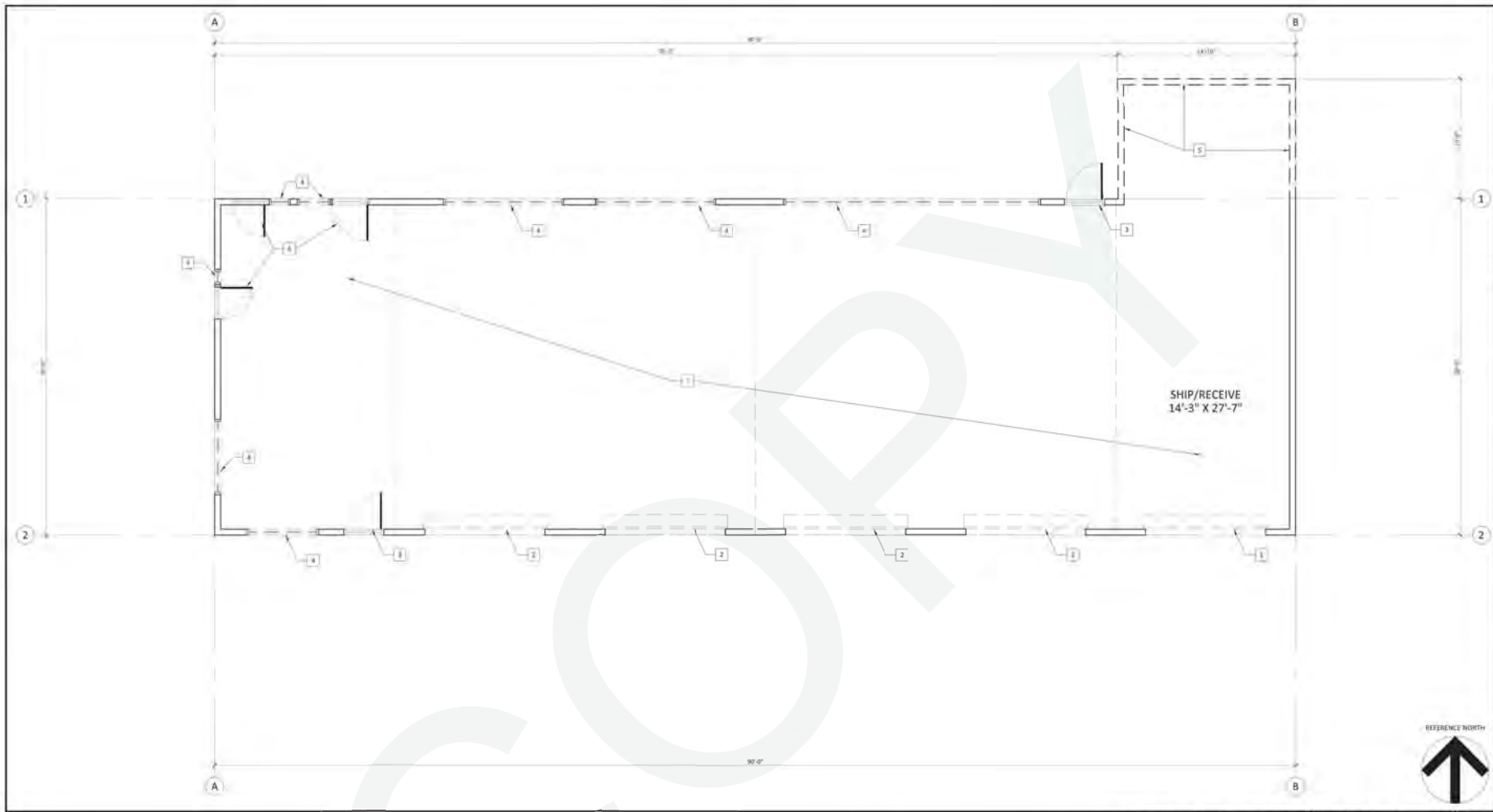
TOTAL PARKING (200' BY 10' BY 10' PER 100 SF @ 2,500 SF)

PARKING
PROVIDED
37 SPACES

SITE & CONCEPT LANDSCAPE PLAN

SCALE: 1" = 10' 0"

1



DEMOLITION PLAN

SCALE



1

KEYNOTES

1. EXISTING OVERHEAD DOOR TO BE REPLACED WITH NEW OVERHEAD DOOR.
2. EXISTING OVERHEAD DOOR TO BE REMOVED.
3. EXISTING DOOR TO BE REPLACED WITH NEW DOOR.
4. EXISTING WINDOW TO BE REMOVED.
5. EXISTING EXTERIOR WALL TO BE REMOVED.
6. EXISTING DOOR TO BE REMOVED.
7. ALL EXISTING EXTERIOR WALLS TO BE REMOVED.

SEAN
FREITAS
ARCHITECT

(916) 580-9981
Sean@SeanFreitas.com
SEANFREITAS.COM

These drawings are instruments of service and are the property of Sean Freitas, Architect. All design information contained in these drawings are for use only on the specified project and shall not be used otherwise without the approved written permission by Sean Freitas, Architect.

PROJECT: 20171213

CLIENT:
IRON & LUSH VIN

NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC

3301 ATCHISON STREET
RIVERBANK, CA 95637

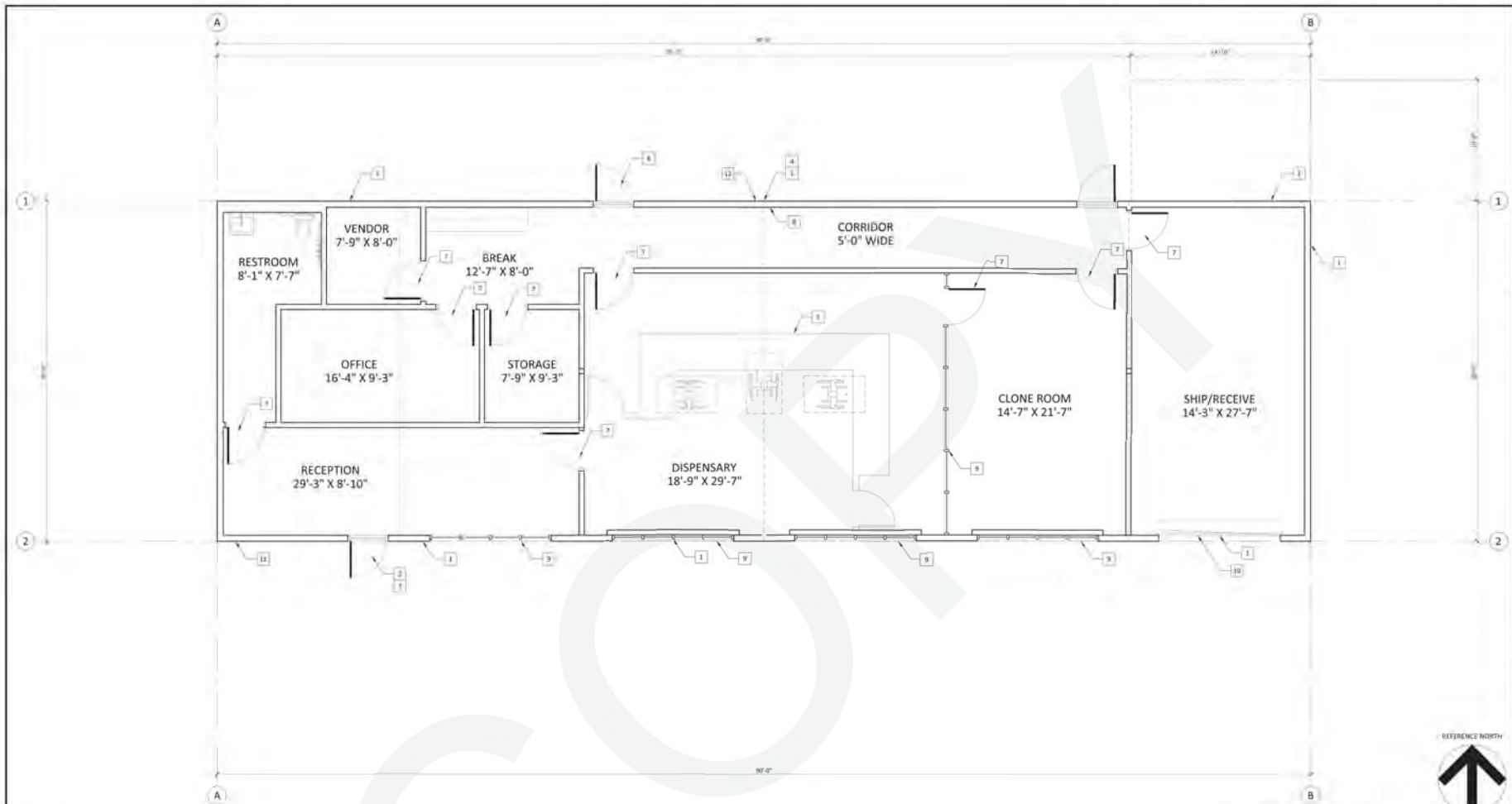
TITLE:
DEMOLITION PLAN

DESIGN REVIEW DRAWING

NOT FOR
CONSTRUCTION

SHEET:

A3.00



FLOOR PLAN

2

ROOM LEGEND

NO.	NAME	AREA	WIDTH	LENGTH	HEIGHT
R0001	RECEPTION AREA	240 SF	29'-4"	8'-0"	12'-0"
R0002	DISPENSARY	639 SF	18'-0"	29'-7"	12'-0"
R0003	CORRIDOR	225 SF	5'-0"	45'-0"	12'-0"
R0004	RESTROOM	101 SF	8'-1"	7'-2"	12'-0"
R0005	BREAK ROOM	101 SF	12'-7"	8'-0"	12'-0"
R0006	OFFICE	152 SF	16'-4"	9'-3"	12'-0"
R0007	CLONE ROOM	315 SF	14'-7"	21'-7"	12'-0"
R0008	SHIP/RECEIVE	388 SF	14'-3"	27'-7"	12'-0"
R0009	VENDOR	62 SF	7'-8"	8'-0"	12'-0"
R0010	STORAGE	72 SF	7'-8"	9'-3"	12'-0"

KEYNOTES

1	EXISTING EXTERIOR LIGHTING.
2	EXISTING LEVEL LANDING.
3	EXISTING MAIN BUILDING ENTRANCE & EMPLOYEE ACCESS POINT.
4	EXISTING UTILITY ELECTRICAL SERVICE METER.
5	NEW DISPENSARY SALES COUNTER.
6	NEW EXTERIOR VENDOR DOOR.
7	NEW EXTERIOR DOOR.
8	EXISTING ELECTRICAL SUBPANEL.
9	NEW ALUMINUM STOREFRONT FRAME & GLAZING.
10	EXISTING OVERHEAD DOOR TO BE REPLACED WITH NEW OVERHEAD DOOR.
11	EXISTING BUILDING ADDRESS LOCATION.
12	EXISTING UTILITY GAS SERVICE METER.

SEAN
FREITAS
ARCHITECT

(916) 580-9981
Seam@SeanFreitas.com
SEANFREITAS.COM

These drawings are instruments of service and are the property of Sean Freitas, Architect. All design information contained in these drawings are for use only on the specified project and shall not be used otherwise without the expressed written permission by Sean Freitas, Architect.

PROJECT: 20171213

CLIENT:
RIVERBANK

NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)
ELEVATIONS, LLC
3301 ATCHISON STREET
RIVERBANK, CA 95637

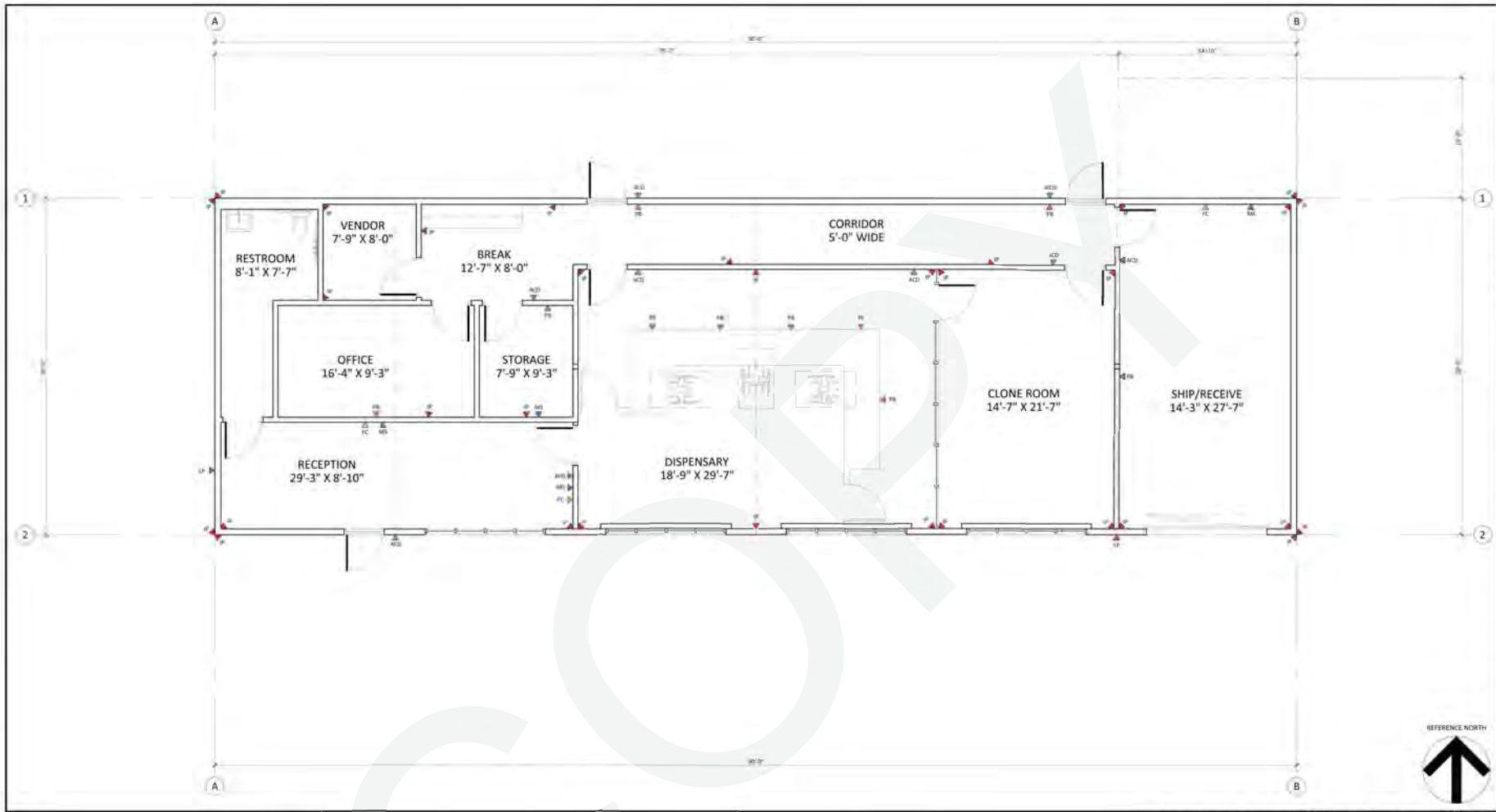
TITLE:
FLOOR PLAN

DESIGN REVIEW DRAWING

NOT FOR
CONSTRUCTION

SHEET:

A3.11



SECURITY PLAN

SCALE: 1" = 10'

2

KEYNOTES - SECURITY

CAMERAS SHALL BE DATA/ANALOG CAMERAS WITH A RESOLUTION OF NOT LESS THAN 720P (720P) MINIMUM FRAME RATE (FPS) 15 FRAMES PER SECOND (FPS).

- ◀ IP CAMERA - INTERNET PROTOCOL
- ◀ LP CAMERA - LICENSE PLATE
- ◀ FC CAMERA - FACIAL CAPTURE
- ◀ ACID SENSOR - ACCESS CONTROLLED
- ◀ MVS MOTION SENSING
- ◀ PB PANIC BUTTON

SEAN
FREITAS
ARCHITECT

(916) 580-9981
Sean@SeanFreitas.com
SEANFREITAS.COM

These drawings are instruments of service and are the property of Sean Freitas, Architect. All design information contained in these drawings are for use only on this specified project and shall not be used otherwise without the expressed written permission by Sean Freitas, Architect.

PROJECT: 20171213



NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC

3301 ATCHISON STREET
RIVERBANK, CA 95637

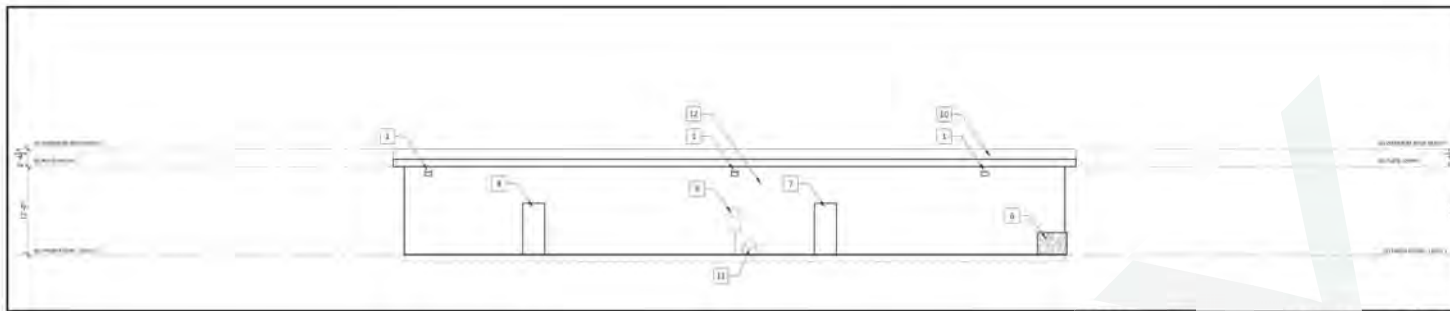
TITLE: FLOOR PLAN

DESIGN REVIEW DRAWING

NOT FOR
CONSTRUCTION

SHEET:

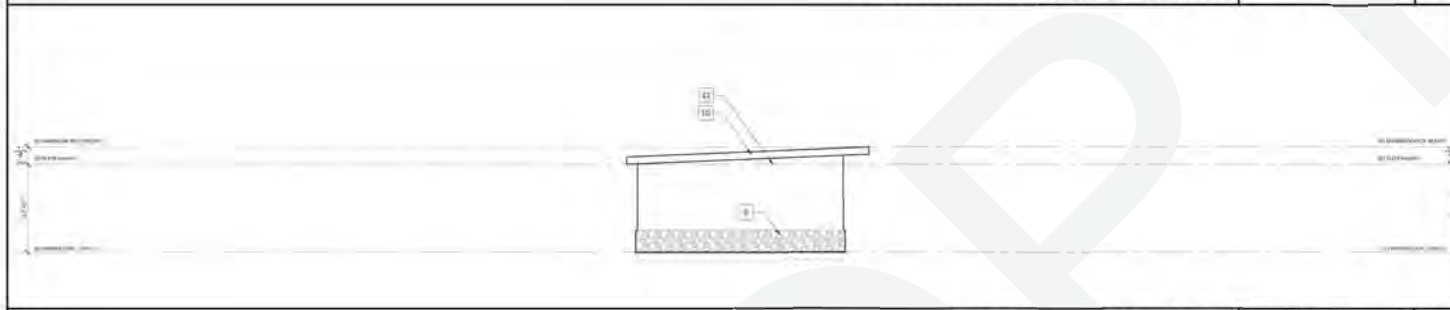
A3.11



EXTERIOR ELEVATION - NORTH

SCALE: 1" = 8'-0"

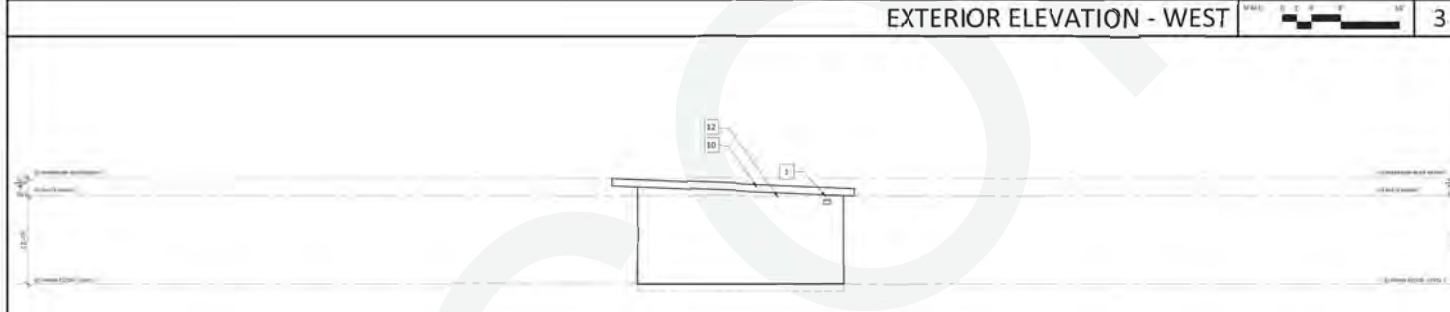
4



EXTERIOR ELEVATION - WEST

SCALE: 1" = 8'-0"

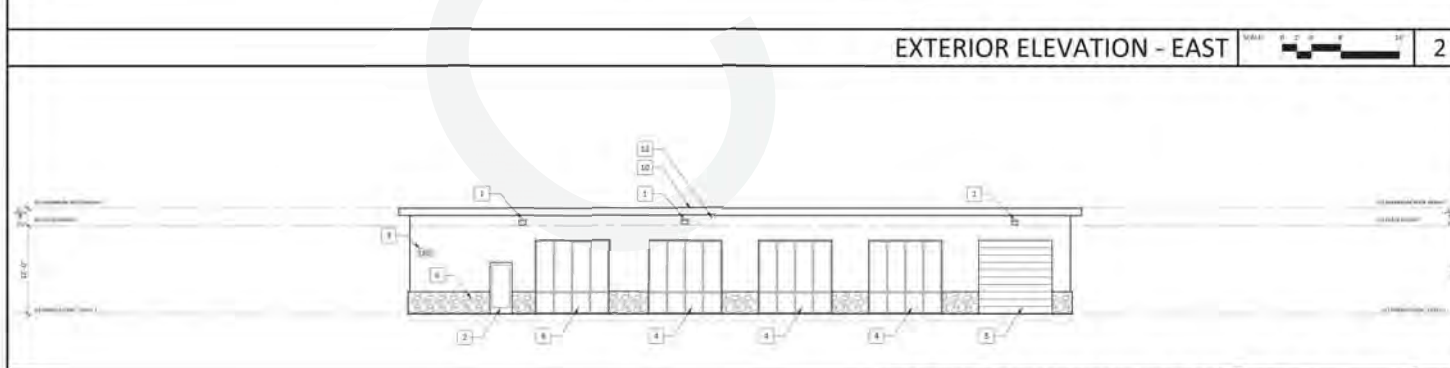
3



EXTERIOR ELEVATION - EAST

SCALE: 1" = 8'-0"

2



EXTERIOR ELEVATION - SOUTH

SCALE: 1" = 8'-0"

1

KEYNOTES

- 1 EXISTING BUILDING LIGHTING
- 2 EXISTING MAIN BUILDING ENTRANCE & EMPLOYEE ACCESS POINT
- 3 EXISTING BUILDING ADDRESS SIGN
- 4 NEW ALUMINUM COMPONENT FRAME & GLAZING
- 5 NEW METAL OVERHEAD DOOR
- 6 EXISTING CYCLO WATERTABLE
- 7 NEW WINDOW DOOR
- 8 NEW EXTERIOR DOOR
- 9 EXISTING UTILITY ELECTRICAL MAIN
- 10 EXISTING ROOF LINE
- 11 EXISTING UTILITY GAS MAIN
- 12 EXISTING BUILDING

SEAN
FREITAS
ARCHITECT

(916) 580-9981
Sean@SeanFreitas.com
SEANFREITAS.COM

These drawings are instruments of service and are the property of Sean Freitas, Architect. All design information contained in these drawings are for use only on this specified project and shall not be used otherwise without the expressed written permission by Sean Freitas, Architect.

PROJECT: 20171213

CLIENT:
JIM & TONY VAN

NEW CONDITIONAL USE PERMIT & DESIGN REVIEW:
(APN: 132-004-045)

ELEVATIONS, LLC
3301 ATCHISON STREET
RIVERBANK, CA 95637

TITLE:
EXTERIOR ELEVATIONS

DESIGN REVIEW DRAWING

NOT FOR
CONSTRUCTION

SHEET:

A7.11

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARING

Meeting Date:	January 28, 2020
Subject/ Title:	First Reading and Introduction by Title Only of a Proposed Ordinance Amending Title XI: Business Regulations by Adding a Chapter 126: Hemp Cultivation to the Riverbank Municipal Code to Prohibit the Outdoor Cultivation of Hemp
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval by making a finding that the City-wide prohibition of outdoor hemp cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment and malodorous smells that may result from such activities. Said approval will also initiate the second reading by title only at the February 11, 2020, regular City Council meeting to consider its adoption.

BACKGROUND AND ANALYSIS

Hemp has been a part of our human experience since before America was a country. From 1631 until the early 1800s, the United States Government encouraged farmers to grow more hemp by allowing them to pay their taxes with hemp. America's oldest Navy ship, the USS Constitution which was built in 1794, used 55 tons of hemp fiber for the rigging, lines, sails, and caulking for the wooden hull of the ship. During World Wars I and II, hemp was planted along railroad tracks in the Midwest and thrown on flatbed train cars when harvested for use in military rope and sails. Eventually hemp was lumped together with cannabis (they look similar and have the same unique odor) and the possession of either one was prohibited from the early 1930s until the early 2000s.

Proposed Ordinance 2020-XXX ("Ordinance") adds Chapter 126, Hemp Cultivation to Title XI, Business Regulations of the Riverbank Municipal Code ("RMC"), to ban outdoor industrial hemp cultivation within City limits. The Ordinance is proposed in response to SB 1409, the California Industrial Hemp Farming Act which was signed into law in September 2018 to authorize the commercial production of industrial hemp within the state. Industrial hemp is cannabis that contains no more than 0.3% tetrahydrocannabinol

("THC"), the psychoactive ingredient in cannabis. Except when grown by an established agricultural research institution or a seed breeder, industrial hemp in California cannot be cultivated on acreages of less than one-tenth of an acre (4,356 square feet, a small residential lot).

The Stanislaus County Board of Supervisors enacted an ordinance in July 2019 to address the cultivation of industrial hemp within the County's jurisdiction (cities excluded), which prohibits cultivation within a Local Agency Formation Commission ("LAFCO") Sphere of Influence or Urban Transition General Plan designation of a city. Unless a city jurisdiction has local restrictions on the cultivation of industrial hemp, the Stanislaus County Agricultural Commissioner/Sealer is required by the State to issue a hemp registration to qualified applicants located within cities (Attachment 2). By enacting the proposed Ordinance, the City will maintain local control over the regulation of outdoor industrial hemp cultivation within the City.

The Riverbank Municipal Code ("RMC") does not expressly address the outdoor cultivation of industrial hemp. Under the City's permissive zoning ordinance, this means that the outdoor cultivation of industrial hemp is not allowed in any zoning district of the City, as such activities are not defined as permitted uses in any of the City's zoning districts. The proposed ordinance expressly prohibits the outdoor cultivation of industrial hemp both to clarify the City's position on it for the County as well as to provide easy access of the information for our citizens – they would not have to research State or County documents to find this information. City staff may propose additional ordinances or amendments in the future as industrial hemp cultivation continues to evolve.

ALTERNATIVES

The City Council's options regarding the Ordinance include:

1. Motion to introduce the Ordinance for first reading to enact a City-wide prohibition of outdoor hemp cultivation, which is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, and malodorous smells that may result from such activities; or
2. Continue introduction of the Ordinance for first reading to the next regular City Council meeting, with changes or revisions provided by the City Council; or
3. Reject the introduction of the Ordinance for first reading and direct staff to draft an ordinance regulating the outdoor cultivation of industrial hemp.

ENVIRONMENTAL REVIEW

The proposed Ordinance does not constitute a project subject to review under the California Environmental Quality Act ("CEQA"), and the proposed Ordinance will not result in any direct or indirect environmental impacts that trigger CEQA review as the Ordinance formalizes current prohibitions under the City's permissive zoning.

FINANCIAL IMPACT

The City will not likely see a significant financial impact added to local law enforcement or code enforcement costs, as the City's existing code generally prohibits the outdoor cultivation of industrial hemp.

STRATEGIC GOALS

Riverbank's Strategic Planning sessions allow the Council and staff to reaffirm the City's Mission Statement, Vision Statement, Core Values and Three-Year Goals. In addition, objectives are drafted and completed as City staff works toward their long range goals. The "Enhance Quality of Life" goal has objective 8.3.b: "Support efforts to improve air quality." One of the reasons that Council previously banned outdoor cannabis cultivation is the odor it creates. Industrial hemp should not be permitted to be grown out of doors because has the same odor as commercial cannabis. Therefore, this item relates to a strategic objective.

ATTACHMENT

1. Ordinance 2020-XXX
2. Hemp Letter to City Managers dated 10-8-19

CITY OF RIVERBANK

ORDINANCE NO. 2020-XXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AMENDING TITLE XI: BUSINESS REGULATIONS BY ADDING
CHAPTER §126 HEMP CULTIVATION TO THE RIVERBANK MUNICIPAL CODE TO
PROHIBIT THE OUTDOOR CULTIVATION OF HEMP**

WHEREAS, in 2018, the State of California approved SB 1409 (codified as Food and Agricultural Code Sections 81002, 81003, 81004, 81005, 81006, 81007, and 810011 and California Health and Safety Code § 11018.5 and entitled “The California Industrial Hemp Farming Act” or “CIHFA” or the “Act”); and

WHEREAS, the intent of CIHFA was to amend the state’s definition of industrial hemp, allow the production of hemp by clonal propagation, delete certain requirements and prohibitions concerning the cultivation of hemp, reduce the registration processing time for industrial hemp growers from two years to one year, authorize the county boards of supervisors to adopt fees relating to the production of hemp, require a sampling process and the laboratory testing of industrial hemp, specify the type of testing (gas chromatography with a flame ionization detector), specify the destruction process of tested hemp that exceeds permitted THC levels, and authorize the California Department of Food and Agriculture (“CDFA”) to carry out a pilot program, and

WHEREAS, CIHFA also authorizes a city or county, by local ordinance and upon making a specified finding, to prohibit growers or seed breeders from conducting, or otherwise limit growers’ conduct of, industrial hemp cultivation, regardless of whether growers meet, or are exempt from, the registration requirements in the above described provisions or any other law; and

WHEREAS, the City Council finds that (1) outdoor industrial hemp activities can adversely affect the health, safety, and well-being of City residents; (2) City-wide prohibition of outdoor hemp is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, and malodorous smells that may result from such activities; and (3) outdoor hemp cultivation in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, while the City Council finds that outdoor hemp cultivation is prohibited under the City’s permissive zoning regulations, it desires to enact this ordinance to make clear that such uses are prohibited throughout City limits; and

WHEREAS, the City Council of the City of Riverbank finds that this ordinance is consistent with the City's current ban on the outdoor cultivation of cannabis and is in the best interest of the health, welfare and safety of the public.

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

SECTION 1: Chapter 126: Hemp Cultivation of Title XI: Business Regulations of Riverbank's Municipal Code shall be added as follows:

The Title of Chapter 126: Hemp Cultivation, of Title XI: Business Regulations of Riverbank's Municipal Code shall be added to read:

CHAPTER 126: HEMP CULTIVATION

(A) Definitions. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) BOARD means the California Industrial Hemp Advisory Board.
- (2) COMMERCIAL HEMP ACTIVITY shall mean cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, delivery transport, distribution, or sale of hemp or a hemp product, and other similar activities defined under Business & Professions Code § 19300.5, as amended from time to time.
- (3) COMMISSIONER means the Stanislaus County Agricultural Commissioner.
- (4) CULTIVATION shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of industrial hemp.
- (5) ESTABLISHED AGRICULTURAL RESEARCH INSTITUTION means any institution that is either:
 - (1) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or
 - (2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001) that grows, cultivates, or manufactures industrial hemp for the purposes research conducted under an agricultural pilot program or other agricultural or academic research.
- (6) INDUSTRIAL HEMP (OR HEMP) shall have the same meaning as that term defined in Section 11018.5 of the California Health and Safety Code.

- (7) OUTDOOR CULTIVATION shall mean cultivation of plants that are not grown within a fully enclosed and secure structure, and where such plants rely primarily on the sun for photosynthesis.
- (8) SECRETARY means the California Secretary of Food and Agriculture.
- (9) SEED BREEDER means an individual or public or private institution or organization that is registered with the Stanislaus County Agricultural Commissioner to develop seed cultivars intended for sale or research.
- (10) SEED CULTIVAR means a variety of industrial hemp.
- (11) SEED DEVELOPMENT PLAN means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

(B) Outdoor cultivation of industrial hemp is expressly prohibited in all zones and planned development areas in the City of Riverbank, and no permit shall be issued therefore. No person shall establish, engage in, conduct, or allow industrial hemp to be cultivated outdoors anywhere within the City.

§ SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this chapter, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage February 11, 2020, provided it is published pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a regular meeting of the City Council of the City of Riverbank on January 28, 2020. Said ordinance was given a second reading by title only and adopted.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on the 28th day of January, 2020; motioned by Councilmember _____, seconded by Councilmember _____; moved said ordinance by a City Council _____ vote of _____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan, City Attorney



**DEPARTMENT OF AGRICULTURE
& WEIGHTS AND MEASURES**

Milton O'Haire
**Agricultural Commissioner/
Sealer of Weights and Measures**

Daniel Bernaciak
**Assistant Agricultural Commissioner/
Sealer of Weights and Measures**

SENT VIA E-MAIL

October 8, 2019

Subject: Industrial Hemp Cultivation in City Limits

Dear City Manager:

We are reaching out to our city partners to make you aware of the industrial hemp cultivation requirements and to answer any questions you may have. The County Agricultural Commissioner is responsible for registering industrial hemp growers within the County (including cities) and we have been contacted by various individuals wanting to grow industrial hemp within city limits. Unless a city jurisdiction has local restrictions on the cultivation of industrial hemp, our office is required to issue a registration to qualified applicants located within cities. Please let us know if your city has enacted any restrictions or prohibitions. If we receive an application for registration to grow industrial hemp within your city limits, we will contact you.

The California Industrial Hemp Farming Act was signed into law to authorize the commercial production of industrial hemp in California. Industrial hemp is cannabis that contains no more than 0.3% tetrahydrocannabinol (THC), the psychoactive component associated with the effects of marijuana. State law requires growers of industrial hemp for commercial purposes to register with the agricultural commissioner prior to cultivation. Growing industrial hemp for personal use is prohibited.

The Stanislaus County Board of Supervisors enacted an ordinance in July 2019 to address cultivation of industrial hemp within the county's jurisdiction (cities excluded), which prohibits cultivation within a Local Agency Formation Commission Sphere of Influence or Urban Transition General Plan designation of a city.

Information on the cultivation of industrial hemp is available at our website at stanag.org. Please feel free to contact our office at (209) 525-4730 if you have questions or information to share.

Sincerely,

A handwritten signature in blue ink that reads "Milton O'Haire".

Milton O'Haire
Agricultural Commissioner/Sealer

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.3

SECTION 5: PUBLIC HEARING

Meeting Date: January 28, 2020

Subject: First Reading and Introduction by Title Only of a Proposed **Ordinance** Amending Title XV: Land Usage; Chapter 150: Building Regulations; Section 150.01 through 150.16: Adoption of Standard Codes; and Adopting by Reference the 2019 California Administrative, Building, Residential, Electrical, Mechanical, Plumbing Energy, Existing Building, Historical Building, Fire, and Green Building Standards

From: Sean Scully, City Manager

Submitted by: Donna M. Kenney, Planning and Building Manager
Janet Smallen, Sr. Community Development Specialist

RECOMMENDATION

It is recommended that the City Council Introduce and pass to a second reading an Ordinance entitled “An Ordinance of the City Council of the City of Riverbank Amending Title XV: Land Usage; Chapter 150: Building Regulations; Section 150.01 through 150.16: Adoption of Standard Codes; and Adopting by Reference the 2019 Edition of the California: Administrative Code, Building Code; Residential Code; Green Building Standards Code; Plumbing Code; Electrical Code; Fire Code; Mechanical Code; Energy Code; Existing Building Code; Historical Code and Referenced Standards Code; and Amendments.”

SUMMARY

The State of California (State) mandates that local jurisdictions adopt and commence enforcement of the latest State building codes within six months of the adoption by the State. Recently, the State published the 2019 building code with an effective date for enforcement of January 1, 2020. The City of Riverbank must adopt the 2019 building code in order to be in compliance with State law.

BACKGROUND

The California Building Standards Code (Building Code) is updated and published every three years under the direction of the California Building Standards Commission. The Building Code comprises Title 24 of the California Code of Regulations and is intended

to provide for the safety and welfare of all citizens through the implementation of the latest technology, materials, engineering, construction, and sustainability methods, as regulated by the latest adopted building codes.

Some identified changes include:

- Definitions have been added including the definition of a “greenhouse”: A structure or thermally isolated area of a building that maintains a specialized sunlit environment used for and essential to the cultivation, protection, or maintenance of plants.
- The definition of “sleeping unit” has been modified. A sleeping unit is no longer a single bedroom. The new definition modifies it from an individual room to a suite of rooms.
- Sections 1206.2 and 1206.3 allows for the engineering analysis of sound transmissions. A performance-based alternative approach for meeting the required sound transmission class ratings for unit separation walls and floor-ceiling assemblies in residential buildings has been introduced which allows for the use of an engineering analysis based upon a comparison to previously tested assemblies.
- Building Integrated Photovoltaic Panels. These panel systems now have specific regulations as a roof-covering material in the California Building Code.

FINANCIAL IMPACT

There is no direct financial impact associated with the adoption of the 2019 California Building Standards Code (Title 24) other than a set of new code books which were purchased for \$1,267.75.

ATTACHMENT

1. Ordinance No. 2020-XXX

CITY OF RIVERBANK
ORDINANCE NO. 2020-XXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
AMENDING TITLE XV: LAND USAGE; CHAPTER 150: BUILDING REGULATIONS;
SECTION 150.01 THROUGH 150.16: ADOPTION OF STANDARD CODES; AND
ADOPTING BY REFERENCE THE 2019 EDITION OF THE: CALIFORNIA
ADMINISTRATIVE CODE, CALIFORNIA BUILDING CODE; CALIFORNIA
RESIDENTIAL CODE; CALIFORNIA GREEN BUILDING STANDARDS CODE;
CALIFORNIA PLUMBING CODE; CALIFORNIA ELECTRICAL CODE; CALIFORNIA
FIRE CODE; CALIFORNIA MECHANICAL CODE; CALIFORNIA ENERGY CODE;
CALIFORNIA EXISTING BUILDING CODE; CALIFORNIA HISTORICAL CODE; AND
AMENDING TITLE XV: LAND USAGE; CHAPTER 157: WATER EFFICIENT
LANDSCAPE AND IRRIGATION; SECTION 157.01: PURPOSE AND INTENT**

WHEREAS, California building codes and standards are updated annually and published in Title 24 of the California Code of Regulations;

WHEREAS, Title 24 of the California Code of Regulations is republished every three years;

WHEREAS, the City of Riverbank last adopted Title 24 of the California Code of Regulations as published in 2016;

WHEREAS, Title 24 of the California Code of Regulations was republished in 2019;

WHEREAS, the City of Riverbank believes that it is in the best interest of public health, safety, and the general welfare for its City Code to reflect the most recent updates to Title 24 of the California Code of Regulations; and

WHEREAS, the City of Riverbank desires to update its City Code to adopt Title 24 of the California Code of Regulations as published in 2019.

NOW, THEREFORE, The City Council of the City of Riverbank does hereby ordain as follows:

SECTION 1. Title XV: Land Usage, Chapter 150: Building Regulations, Sections 150.01 through Section 150.16 of the Riverbank City Code are repealed in their entirety and shall be amended to read as follows:

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

150.01 Purpose and authority

150.02 Mandatory duty of care

150.03 Severability

150.04 Savings clause

Adoption of Standard Codes

150.05 Administrative Code

150.06 Building Code

150.07 Residential Code

150.08 Green Building Standards Code

150.09 Plumbing Code

150.10 Electrical Code

150.11 Fire Code

150.12 Mechanical Code

150.13 Energy Code

150.14 Existing Building Code

150.15 Historical Building Code

150.16 Solar/photovoltaic power systems

GENERAL PROVISIONS

§ 150.01 PURPOSE AND AUTHORITY.

The purpose of this chapter is to adopt by reference the 2019 Edition of the California Building Standards Code, Title 24 - Part 1; Part 2, Volume I & II; Part 2.5; Part 3; Part 4; Part 5; Part 6; Part 8; Part 9; Part 10; and Part 11 of the California Code of Regulations subject to the definitions, clarifications, and the amendments set forth in this chapter. The purpose of this chapter is also to provide minimum requirements and standards for the protection of public safety, health, property, and welfare of the City of Riverbank.

This chapter is adopted under the authority of Government Code subsection 50022.2 and Health and Safety Code Section 18941.5.

§ 150.02 MANDATORY DUTY OF CARE.

This chapter is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care towards persons and property within or without the city, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

§ 150.03 SEVERABILITY.

If any provision of §§ 150.05 through 150.16 or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. This City Council hereby declares that it would have adopted this chapter irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

§ 150.04 SAVINGS CLAUSE.

The provisions of §§ 150.05 through 150.16 shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by this Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

ADOPTION OF STANDARD CODES

§ 150.05 ADMINISTRATIVE CODE.

In order to regulate the erection, construction, enlargement, alteration, repair, removal, demolition, conversion, occupancy, equipment, wiring, plumbing, use, height, area, and maintenance of all buildings and structures within the City of Riverbank, the 2019 Edition of the California Administrative Code, published by the International Code Council (ICC), as adopted by the Building Standards Commission of the State of California and codified in the California Building Standards Code at Title 24, Part 1, of the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made a part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Administrative Code as adopted by this section shall be on file in the office of the City Building Official for examination and use by the public.

§ 150.06 BUILDING CODE.

In order to regulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, wiring, plumbing, use, height, area, and maintenance of all buildings and structures within the City of Riverbank, the 2019 Edition of the California Building Code, Title 24, Part 2, Volumes 1 and 2, published by the International Code Council (ICC), administrative sections, Chapter 29, Appendices A, C, and I; and amendments, as adopted by the Building Standards Commission of the State of California and codified at Title 24, Part 2 in the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Building Code as adopted by this section shall be on file in the office of the City Building Official for inspection by the public.

§ 150.07 RESIDENTIAL CODE.

The purpose of this Code is to establish minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting, ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, and to provide safety to firefighters and emergency responders during emergency operations. The provisions of this Code shall apply to the construction, alteration, enlargement, replacement, repair, equipment, use, occupancy, location, maintenance, removal, and demolition of every detached one and two single family dwellings, townhouse not more than three stories above grade plane in height with a separate means of egress and structures accessory thereto within the City of Riverbank. Therefore, the 2019 California Residential Code, Title 24, Part 2.5, published by the International Code Council (ICC), in the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Residential Code as adopted by this section shall be on file in the office of the City Building Official for inspection by the public.

§ 150.08 GREEN BUILDING STANDARDS CODE.

(A) In order to improve public health, safety, and general welfare by enhancing the design and construction of buildings through the use of building concepts having a reduced negative impact or positive environmental impact, and encouraging sustainable construction practices within the City of Riverbank, the 2019 Edition of the California Green Building Standards Code, Title 24, Part 11 (also known as the CALGreen Code), published by the International Code Council (ICC), in the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made part of this chapter as though set forth in full herein. The provisions of this code shall apply to the planning, design, use, and occupancy of every newly constructed building or structure, unless otherwise indicated in this code, throughout the City of Riverbank. A true and correct copy of the 2019

California Green Building Standards Code as adopted by this section shall be on file in the office of the City Building Official for inspection and use by the public.

(B) This section shall be known as the Green Building Regulations of the City of Riverbank and regulates the construction of new buildings within this jurisdiction, except work located primarily in a public way, public utility towers and poles, mechanical equipment not specifically regulated in the California Green Building Code, and hydraulic flood control structures. The Green Building Regulations shall also apply to city owned buildings.

(C) Where in any specific case, different sections of the Green Building Regulations specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall apply.

§ 150.09 PLUMBING CODE.

In order to provide minimum requirements and standards for the protection of the public health, safety, and general welfare and to regulate the erection, installation, alteration, addition, repair, relocation, replacement, maintenance, and use of any plumbing system within the City of Riverbank, the 2019 Edition of the California Plumbing Code, Title 24, Part 5 and all appendix chapters, published by the International Association of Plumbing and Mechanical Officials (IAPMO), as adopted by the Building Standards Commission of the State of California and codified in the California Building standards Code at Title 24, Part 5 of the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made a part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Plumbing Code as adopted by this section shall be on file in the office of the City Building Official for inspection and use by the public.

§ 150.10 ELECTRICAL CODE.

In order to provide minimum standards for the proper regulation of the installation of electrical systems within the City of Riverbank, the 2019 Edition of the California Electrical Code, Title 24, Part 3, and all appendix chapters, published by the National Fire Protection Association (NFPA), as adopted by the Building Standards Commission of the State of California and codified in the California Building Standards Code at Title 24, Part 3, of the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made a part of the chapter as though set forth in full herein. A true and correct copy of the 2019 California Electrical Code shall be in the office of the City Building Official for inspection and use by the public.

§ 150.11 FIRE CODE.

In order to provide minimum standards to safeguard life, limb, health, property, and public welfare from fire and explosive hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Riverbank, the

2019 California Fire Code, Title 24, Part 9, including Appendix Chapter 4, Appendices A, B, C, D, E, F, G, H, I, and J, published by the International Code Council (ICC), in the California Code of Regulations, as adopted by the Stanislaus Consolidated Fire Protection District, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Fire Code as adopted by this section shall be on file in office of the Building Official for inspection by the public.

§ 150.12 MECHANICAL CODE.

(A) In order to provide minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, maintenance, and use of heating, ventilating, cooling, refrigeration systems, and other heat-producing appliances and systems within the City of Riverbank, the 2019 Edition of the California Mechanical Code, Title 24, Part 4, and all appendix chapters, published by the International Association of Mechanical and Plumbing Officials (IAPMO), as adopted by the Building Standards Commission of the State of California and codified in the California Building Standards Code at Title 24, Part 4 of the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made a part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Mechanical Code as adopted by this section shall be on file in the office of the City Building Official for inspection and use by the public.

(B) Heating, cooling, and swimming pool equipment shall not be located within the required five-foot side or rear yard setback as defined by the City of Riverbank Zoning Ordinance for residential zonings.

§ 150.13 ENERGY CODE.

In order to provide minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, maintenance and use of manufactured devices that have been certified by their manufacturer to meet or exceed minimum specifications or efficiencies by the California Energy Commission within the City of Riverbank, the 2019 Edition of the California Energy Code, Title 24, Part 6, and all appendix chapters, published by the International Code Council, as adopted by the Building Standards Commission of the State of California and codified in the California Building Standards Code at Title 24, Part 6 of the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made a part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Energy Code as adopted by this section shall be on file in the office of the City Building Official for inspection and use by the public.

§ 150.14 EXISTING BUILDING CODE.

In order to provide minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, maintenance, and use of existing buildings while

reducing the risk of death or injury that may result from the effects of earthquakes on existing unreinforced masonry bearing wall buildings within the City of Riverbank, the 2019 California Existing Building Code, Title 24, Part 10, published by the International Code Council (ICC), in the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Existing Building Code as adopted by this section shall be on file in the office the of City Building Official for inspection by the public.

§ 150.15 HISTORICAL BUILDING CODE.

In order to provide minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, maintenance and use of historical buildings to provide solutions for the preservation of qualified historical buildings or properties, to promote sustainability, to provide access for persons with disabilities, to provide a cost-effective approach to preservation, and to provide for the reasonable safety of the occupants or users within the City of Riverbank, the 2019 California Historical Building Code, Title 24, Part 8, published by the International Code Council (ICC), in the California Code of Regulations, except as specifically repealed or amended by ordinance of the City of Riverbank, is hereby adopted and made part of this chapter as though set forth in full herein. A true and correct copy of the 2019 California Historical Building Code as adopted by this section shall be on file in the office of the City Building Official for inspection by the public.

SOLAR/PHOTOVOLTAIC POWER SYSTEMS

§ 150.16 SOLAR/PHOTOVOLTAIC POWER SYSTEMS.

(A) *Where installed.* Solar Photovoltaic Power Systems shall comply with the requirements of the 2019 California Residential Code, 2019 California Electrical Code, 2019 California Building Code, 2019 California Fire Code and California State Fire Marshal Solar Photovoltaic Installation Guidelines (the “Solar Photovoltaic Installation Guideline,” published April 22, 2008).

(B) The city may impose fees related to Solar/Photovoltaic Power Systems and from time to time amend said fees by resolution.

(C) *Small Residential Rooftop Solar Energy System review process.*

(1) The following words and phrases as used in this section are defined as follows:

ELECTRONIC SUBMITTAL. The utilization of one or more of the following:

1. E-mail;
2. The internet;
3. Facsimile.

SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEM. Includes all of the following:

1. A solar energy system that is no larger than ten kilowatts alternating current nameplate rating or 30 kilowatts thermal.
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the city and paragraph (iii) of subdivision (c) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.
3. A solar energy system that is installed on a single or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

SOLAR ENERGY SYSTEM. Has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

(2) Section 65850.5 of the California Government Code provides that in developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review. The building official is hereby authorized and directed to develop and adopt such checklist.

(3) The checklist shall be published on the city's internet website. The applicant may submit the permit application and associated documentation to the city's building division by personal or electronic submittal together with any required permit processing and inspection fees. In the case of electronic submittal, the electronic signature of the applicant on all forms, applications and other documentation may be used in lieu of a wet signature.

(4) Prior to submitting an application, the applicant shall:

(a) Verify to the city's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the small residential rooftop solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

(b) At the applicant's cost, verify to the city's reasonable satisfaction using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new photovoltaic electrical loads.

(5) For a small residential rooftop solar energy system eligible for expedited review, only one inspection shall be required, which shall be done in a timely manner and may include a consolidated inspection by the Building Inspector and Fire Department designee. If a small residential rooftop solar energy system fails inspection,

a subsequent inspection is authorized; however the subsequent inspection need not conform to the requirements of this subsection.

(6) An application that satisfies the information requirements in the checklist, as determined by the building official, shall be deemed complete. Upon receipt of an incomplete application, the building official shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

(7) Upon confirmation by the building official of the application and supporting documentation being complete and meeting the requirements of the checklist, the building official shall administratively approve the application and issue all required permits or authorizations within one to three working days in which the permit application is submitted. Such approval does not authorize an applicant to connect the small residential rooftop energy system to the local utility provider's electricity grid. The applicant is responsible for obtaining such approval or permission from the local utility provider.

SECTION 2. Title XV: Land Usage, Chapter 157: Water Efficient Landscape and Irrigation, Sections 157.01 of the Riverbank City Code is amended to read as follows:

§ 157.01 Purpose and Intent.

The purpose and intent of this chapter is to establish landscaping regulations that are intended to:

(A) Enhance the aesthetic appearance of development in all areas of the city by providing development standards relating to quality, quantity and functional aspects of landscaping and landscape screening.

(B) Increase compatibility between residential and abutting commercial and industrial uses.

(C) Reduce the heat and glare generated by development.

(D) Establish a water conservation plan to reduce water consumption in the landscape environment using conservation principles important to the State of California and the City of Riverbank.

(E) Protect public health, safety, and welfare by minimizing the impact of all forms of physical and visual pollution, controlling soil erosion, screening incompatible land uses, preserving the integrity of neighborhoods, and enhancing pedestrian and vehicular traffic and safety.

(F) Comply with the California Department of Water Resources Model Water Efficient Landscape Ordinance as contained in Title 23, Division 2, Chapter 2.7 of the California Code of Regulations and the California Green Building Standards of 2019 and/or these standards as amended from time to time.

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

SECTION 4. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. This Ordinance shall become effective thirty (30) days after its passage by the City Council, and following the affirmative vote of a majority of the members of the City Council. Within 15 days of its adoption, a summary of the ordinance shall be published in a newspaper of general circulation in the City of Riverbank, State of California, which summary shall include the names of those Council Members voting for and against the ordinance. A certified copy of the full text of such adopted ordinance or amendment shall be on file in the office of the City Clerk.

SECTION 6. The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank held on January 28, 2020. Said ordinance was given a second reading at a regular meeting of said Council on February 11, 2020, and Councilmember _____, seconded by Councilmember _____, moved the adoption of said ordinance and upon roll call was carried by the following:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan
City Attorney

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	January 28, 2020
Subject:	PROS Consulting Update on the Parks and Recreation Needs Assessment Survey Results
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council review the Riverbank Parks and Recreation Needs Assessment Survey Results presented by PROS Consulting as part of the Citywide Park Master Plan.

SUMMARY

Under the direction of PROS Consulting, ETC Institute administered a Parks and Recreation Needs Assessment survey for the City of Riverbank during the fall and winter of 2019. The purpose of the survey was to help the City plan the next generation of park and recreation opportunities. The survey results will also aid the City in taking a resident-driven approach to making decisions that best serve the Riverbank Community.

Michael Svetz, our consultant with PROS Consulting will present the survey results and give a status report on the overall Citywide Master Plan process.

METHODOLOGY

ETC Institute mailed a survey packet to a random sample of households in Riverbank. Each survey packet contained a cover letter, a copy of the survey, and a postage-paid return envelope. Residents who received the survey were given the option of returning the survey by mail or completing it on-line at www.RiverbankParkSurvey.org.

Ten days after the surveys were mailed, ETC Institute sent emails and placed phone calls to the households that received the survey to encourage participation. The emails contained a link to the on-line version of the survey to make it easy for residents to complete the survey. To prevent people who were not residents of Riverbank from participating, everyone who completed the survey on-line was required to enter their home address prior to submitting the survey. ETC Institute then matched the addresses

that were entered on-line with the addresses that were originally selected for the random sample. If the address from a survey completed on-line did not match one of the addresses selected for the sample, the on-line survey was not counted.

The goal was to collect a total of 375 surveys, that goal was exceeded with a total of 421 residents completing the survey. The overall results for the sample of 421 households have a precision of at least +/-4.8% at the 95% level of confidence.

RESULTS

PROS Consulting will provide a presentation of the results to City Council

STRATEGIC PLAN

This item is relevant to the City Strategic Plan by ***Enhancing the Quality of Life*** for the residents of Riverbank through our parks and recreational programs.

FINANCIAL IMPACT

There is no financial impact to this report.

ATTACHMENT

There are no attachments to this report.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	January 28, 2020
Subject:	Five-Year Financial Forecast
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager

RECOMMENDATION

It is recommended that the City Council receive a presentation regarding the General Fund Five-Year Financial Forecast.

SUMMARY

The Finance Department has prepared the annual Five-Year Financial Forecast for the General Fund. The forecast provides the City Council with an opportunity to review the financial stability of the City which will assist in making decisions that will have an impact on the City's financial condition. A final document, which will include detailed information on the opportunities and threats impacting the City's finances will be released to the public after tonight's meeting.

BACKGROUND

In 2015, the City began its practice of preparing a Five-Year Financial Forecast so that the City Council would have an opportunity to gauge the financial stability of its General Fund. In preparing for the Financial Forecast, key economic indicators and measures are used to analyze the impact they may have on General Fund Revenues, particularly those that are sensitive to changes in the economy (i.e. Sales Tax and Property Tax).

Overall, the City's General Fund has somewhat stabilized due to increases in Sales Tax Revenue and savings on budgeted expenses. Despite the fact that projected expenditures continue to significantly outpace the anticipated revenues, the General Fund is projected to meet (and exceed) the base Reserve Requirement of 13%. An overview of the next five years is presented as follows:

	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Beginning Reserve	\$3,371,417	\$2,905,176	\$2,662,955	\$2,393,083	\$2,043,042
Revenues	9,989,000	10,375,211	10,600,994	10,788,157	11,048,367
Expenditures	10,091,500	10,617,431	10,870,867	11,138,198	11,388,182
Surplus/(Deficit)	(102,500)	(242,220)	(269,873)	(350,041)	(339,815)
Capital Outlay	363,741	0	0	0	0
Ending Reserve	\$2,905,176	\$2,662,955	\$2,393,083	\$2,043,042	\$1,703,227
Reserve %	29%	26%	23%	19%	15%

Five-Year Revenue Projections

Over the next five years, the City's General Fund Revenue sources are projected to increase by 11%. Of note are the following major sources:

Revenue Source	Projected Five-Year Increase	Notes
Sales Tax	14%	Growth based on current projections with a minor increase for Crossroads West.
Property Tax	22%	5% annual increases based on historical growth. Does not anticipate potential impacts of a recession.

Five-Year Expenditure Projections

Expense	Projected Five-Year Increase	Notes
Staffing Costs	18%	Negotiated Salary Increases & associated benefit increases. Includes PERS Unfunded Accrued Liability Increases.
Law Enforcement Contract	13%	Anticipated Contract Amendments/Increases

STRATEGIC PLAN

This is directly related to the City's Strategic Plan Goal to "Ensure Financial Stability".

FINANCIAL IMPACT

There is no financial impact associated with this report. However, the report does provide the City Council with information that may be used to make decisions that will have an impact on future City finances.

ATTACHMENT

1. Five-Year Financial Forecast Summary

GENERAL FUND FIVE YEAR FISCAL FORECAST: 2020-24										
	2014-15 Actual	2015-16 Actual	2016-17 Actual	2017-18 Unaudited	2018-19 Unaudited	SUPPLEMENTAL FORECAST				
						2019-20	2020-21	2021-22	2022-23	2023-24
AVAILABLE FUND BALANCE, BEGINNING OF YEAR	879,645	901,617	1,127,135	1,876,844	2,351,790	3,371,417	2,905,176	2,662,955	2,393,083	2,043,042
Set-Aside for Legal Settlement	275,000									
REVENUES & OTHER SOURCES										
Taxes	5,728,736	6,145,288	6,419,870	6,614,628	7,075,981	6,995,300	7,348,074	7,503,751	7,698,278	7,898,944
Sales Tax + In-lieu (Based on "effective" 1% tax rate)	2,756,970	3,061,905	3,244,950	3,307,696	3,618,081	3,400,000	3,640,000	3,712,800	3,787,056	3,862,797
Homeowners Property Tax Relief	12,039	15,850	15,203	14,382	11,661	14,000	14,420	14,853	15,298	15,757
SB 813 Supplemental Taxes	16,069	23,162	25,416	22,721	35,894	15,000	15,300	15,606	15,918	16,236
Property Tax	1,274,990	1,243,384	1,234,433	1,278,945	1,308,201	1,357,600	1,425,480	1,496,754	1,571,592	1,650,171
Property Tax in lieu of VLF	1,547,436	1,659,479	1,759,979	1,871,727	1,967,246	2,081,300	2,122,926	2,165,385	2,208,692	2,252,866
PILOT	30,795	31,976	35,023	34,622	35,294	35,000	35,700	30,000	30,000	30,000
Unitary Tax	22,862	25,722	26,287	27,825	29,218	26,700	27,234	-	-	-
Real Property Transfer Tax	67,575	83,811	78,578	56,709	70,387	65,700	67,014	68,354	69,721	71,116
Franchise Fees	574,548	623,171	614,510	618,376	634,635	613,700	625,974	638,493	651,263	664,289
Subventions, Grants & Transfers In	1,892,295	1,457,153	1,429,234	1,304,058	1,628,789	1,805,000	1,814,276	1,908,556	1,970,221	2,011,440
Vehicle License Fees	9,525	9,476	10,713	12,954	12,117	12,000	-	-	-	-
Operating Transfers In	1,505,334	1,313,532	1,227,019	1,175,887	1,467,925	1,643,000	1,659,276	1,748,556	1,805,221	1,846,440
Other Subventions & Grants	377,436	134,145	191,502	115,216	148,747	150,000	155,000	160,000	165,000	165,000
Service Charges	501,638	621,748	381,554	457,412	395,111	331,300	345,885	350,991	356,193	361,492
Police Service Fees	127,051	113,115	118,255	126,736	75,226	71,000	74,550	76,041	77,562	79,113
Building & Planning Fees	219,217	397,766	151,904	205,966	189,487	140,100	147,105	150,047	153,048	156,109
Business License Fee	64,344	65,335	63,885	67,906	71,726	66,000	67,320	67,993	68,673	69,360
Other Service Charges	91,026	45,532	47,510	56,805	58,672	54,200	56,910	56,910	56,910	56,910
Other Revenues	112,775	103,028	137,487	243,980	413,615	243,700	241,002	199,202	112,202	112,202
Fines & Forfeitures	38,306	32,030	33,022	43,407	40,795	40,000	40,800	32,000	32,000	32,000
Interest Earnings and Rents	47,327	43,413	99,406	94,913	263,214	90,600	75,000	75,000	75,000	75,000
Legal Settlement	-	-	-	95,000	90,000	108,000	120,000	87,000	-	-
Other Revenues	27,141	27,585	5,059	10,661	19,606	5,100	5,202	5,202	5,202	5,202
Total Revenues	8,809,991	8,950,388	8,982,655	9,238,455	10,148,131	9,989,000	10,375,211	10,600,994	10,788,157	11,048,367
EXPENDITURES										
Staffing Costs	2,664,069	2,932,255	2,708,552	2,846,892	3,041,697	3,508,500	3,667,831	3,895,967	4,050,488	4,154,651
Operating - Non-staffing costs	2,046,022	1,652,136	1,412,335	1,418,930	1,406,711	1,568,700	1,807,500	1,807,500	1,782,300	1,792,100
Law Enforcement Contract	3,453,364	3,417,607	3,438,065	3,541,312	3,867,282	4,157,400	4,380,000	4,490,000	4,600,000	4,710,000
Housing Authority Assessment	22,556	22,556	22,556	23,232	25,125	25,000	25,000	25,500	26,010	26,530
Legal Settlement	287,815	-	-	150,716	141,212	133,100	124,900	-	-	-
Downtown Beautification Loan Repayment	100,000	123,600	-	-	-	-	-	-	-	-
On-Going Capital Outlay	-	11,944	6,336	12,908	16,423	20,000	20,000	20,000	20,000	20,000
Transfers & General Fund Subsidies	399,487	444,700	514,900	744,053	579,071	678,800	592,200	631,900	659,400	684,900
SUBTOTAL EXPENSES	8,973,313	8,604,798	8,102,744	8,738,043	9,077,522	10,091,500	10,617,431	10,870,867	11,138,198	11,388,182
Fund Balance, Beginning of Year	1,154,645	901,617	1,127,135	1,876,844	2,351,790	3,371,417	2,905,176	2,662,955	2,393,083	2,043,042
Structural Surplus (Deficit) Expenditures	(163,322)	345,590	879,911	500,412	1,070,609	(102,500)	(242,220)	(269,873)	(350,041)	(339,815)
One Time Fund Balance Adjustment			-	-	-					
SUBTOTAL FUND BALANCE END OF YEAR, BEFORE ONE TIME EXPENSES	991,323	1,247,207	2,007,046	2,377,256	3,422,399	3,268,917	2,662,955	2,393,083	2,043,042	1,703,227
ONE TIME EXPENSES ADOPTED/RECOMMENDED										
Capital Outlay	89,706	11,216	50,699	25,466	14,437	33,741	-	-	-	-
Finance Software	-	23,252	7,200	-	-	-	-	-	-	-
Storm Drain Related Expenditures	-	10,314	9,327	-	-	-	-	-	-	-
Telephone System Upgrades	-	43,000	-	-	-	-	-	-	-	-
Pool Upgrades	-	32,290	798	-	15,939	-	-	-	-	-
Galaxy Theater Solar Lights	-	-	-	-	20,606	-	-	-	-	-
Computer/Network Upgrades	-	-	-	-	-	35,500	-	-	-	-
Building Upgrades/Replacements	-	-	-	-	-	74,500	-	-	-	-
Community Center Kitchen Remodel	-	-	-	-	-	160,000	-	-	-	-
Vehicles	-	-	62,178	-	-	60,000	-	-	-	-
Total Adopted or Recommended One Time Expenses	89,706	120,072	130,202	25,466	50,982	363,741	-	-	-	-
Ending Fund Balance	901,617	1,127,135	1,876,844	2,351,790	3,371,417	2,905,176	2,662,955	2,393,083	2,043,042	1,703,227
Reserve @ 10% of Revenues (14/15-18/19) @13% 19/20 & After	881,000	895,000	898,300	923,800	1,014,800	1,298,600	1,348,800	1,378,100	1,402,500	1,436,300
Reserve Above/(Below) Policy Level	20,617	232,135	978,544	1,427,990	2,356,617	1,606,576	1,314,155	1,014,983	640,542	266,927
Reserve %	10%	13%	21%	25%	33%	29%	26%	23%	19%	15%

GENERAL FUND FIVE YEAR FISCAL FORECAST: 2020-24

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.3

SECTION 6: NEW BUSINESS

Meeting Date:	January 28, 2020
Subject:	Request to Accept the Proposal Submitted by SS Consulting for Coordination of the Riverbank 2020 Cheese & Wine Festival and Authorize Staff to Enter into Contract Negotiations
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council accept the proposal submitted by SS Consulting and approve City Staff to begin contract negotiations. The negotiated contract for Council's approval will be agendized at a later date.

SUMMARY

At the November 12, 2019 City Council meeting, the Parks and Recreation Director was given direction to research the hiring of a Recreation Coordinator to oversee the 2020 Cheese & Wine Festival and other possible companies that may be interested in bidding for the contract with the City to coordinate the event. This process is complete and a request for Council's acceptance of the proposal submitted by SS consulting will be presented tonight.

BACKGROUND

The Riverbank Cheese & Wine Festival has been held in Riverbank for the past 43 years. The Riverbank Chamber of Commerce implemented the festival for 29 years and the Riverbank Rotary Club ran the festival for 8 years. The City of Riverbank purchased the event from the Rotary Club 6 years ago when they determined that they were no longer able to administer the event. For the past 6 years, the City Parks and Recreation Department contracted with Chris Ricci Presents, Inc. to coordinate the festival. Overall, the Cheese & Wine Festival has been successful and enjoyed by the community.

PROPOSAL

When evaluating the 2019 Cheese & Wine Festival, it was determined that it would be in the best interest of the City to research a variety of options for the coordination of the festival. Council considered options such as hiring a Recreation Coordinator for special

events and receiving proposals from festival promoters. Staff pursued multiple avenues per Council's direction; fortunately, when contacting a variety of festival promoters multiple companies expressed interest in the event. After weighing the pros and cons of internal options, and meeting with festival promoters/coordinators that were interested in the event, it was determined that, for at least this year, contracting out this service would be the option that would provide the best chance for success for this year's event.

Therefore, it is recommended that the proposal submitted by SS Consulting be accepted by the City Council. SS Consulting is a mother/daughter team. They are from Ripon and have business, event, and leadership experience. Some events they have implemented are the Almond Blossom, 3-day Festival, the Soaring over Ripon Hot Air Balloon and Kite Festival, the One World Cultural Festival and various other parades, concerts and events. Staff has discussed specifics, history and overall feedback from the event with SS Consulting and received excellent feedback on how they would handle running the event. In addition, SS Consulting will coordinate larger portions of the day to day management and planning responsibilities which will (hopefully) reduce internal staff time needed in coordination of the event. Finally, SS Consulting has offered to be responsible for both the main festival and wine and cheese components of the event. The City would continue to provide oversight and support to the Consultant but at a lesser level than in the past 6 years. Parks and Public works would continue to provide street closure, clean up the morning after the weekend festival and some sponsorships.

If the submitted proposal from SS consulting is accepted, staff will begin contract negotiations and a contract by Resolution will be brought to the City Council for review and approval.

STRATEGIC PLAN

This item is relevant to the City Strategic Plan in ***providing high quality, professional services and a safe family-oriented community for our diverse residents to thrive.***

FINANCIAL IMPACT

Staff has had preliminary negotiations with SS Consulting. Based generally on past festival performance the initial terms would not likely result in financial impact to the City of Riverbank for the festival. The bid for SS Consulting service was for \$20,000 or 15% of Gross Revenue from the festival, whichever is greater. This bid includes coordination of the entire festival, including vendor recruitment and the wine tasting component. The Festival revenue would cover these costs and the cost for the operation of the event.

This year, the festival did require additional Sheriff support and security measures. If this requirement continues, supplemental funds will be needed from another source as the event will not be able to cover these costs.

ATTACHMENT

There are no attachments to this item.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.4

SECTION 6: NEW BUSINESS

Meeting Date: January 28, 2020

Subject: A **Resolution** of the City Council of the City of Riverbank, California, Authorizing the Purchase of a Property Located at 3021 High street (APN: 132-003-022), Authorizing the City Manager to Execute Necessary Documents to Complete the Sale, and Authorizing Appropriation of \$76,000 from the Sewer and Water Operational Funds for Purchase of the Property

Submitted by: Sean Scully, City Manager

RECOMMENDATION:

It is recommended that the City Council approve the resolution which authorizes the property purchase of 3021 High Street, Riverbank, and the City Manager to execute any final documents necessary to complete the purchase, and appropriation of funds for said purchase.

SUMMARY:

In 2018 a fire occurred at 3021 High St. that severely damaged the residential home located at 3021 High St. The fire destroyed enough of the structure that it is no longer habitable without a significant reconstruction (or more likely a tear down and rebuild). Since the time of the fire, no rehab, clearance or reconstruction has occurred onsite. Simultaneously to these events, the City of Riverbank has been in the ongoing process of attempting to configure the Public Works corporation yard (which is adjacent to the 3021 High St property) to plan for needed additional office space for the Public Works Department.

The property being immediately adjacent to the current corporation yard presents a unique opportunity for the City of Riverbank to acquire property that could serve as a area for future Corporation Yard expansion. Staff's initial discussions concept for use of this property (if acquired) would be to upgrade and use this property for Public Works office building space and associated parking. It is possible that moving current modular offices to this site would create additional operational area within the central corp yard for use. Currently there is no other available property adjacent to the Public Works Corporation yard that would be suitable for this purpose.

The property is currently in probate, staff has been in touch with the firm representing the estate that owns the property. Based on direction previously received, staff has made an offer to the representatives for the property of \$59,632.00. The lot had previously been listed for \$99,950. The property would be purchased "as is" and the

City would have the responsibility of removing the burnt structure and any other ancillary cleanup of the site. Staff has received quotes for this work which will cost approximately \$15,631.95. Total cost for clearance and acquisition of the property is approximately \$76,000 (including approximately \$1,000 in closing costs). If Council authorizes purchase, the offer will go to the probate court for final approval.

Once the property is acquired and cleared staff would begin the process of obtaining quotes for building placement and upgrade of the site. It would be most appropriate to budget for this phase during the upcoming 20/21 budget process.

FISCAL IMPACT:

Total approximate closing costs: \$60,000

Total approximate demolition/cleanup costs: \$16,000

Funds will be appropriated from the Sewer Operational Fund (106) and the Water Operational Fund (114) at an equal 50/50 share.

ATTACHMENTS:

1. Map

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AUTHORIZING THE PURCHASE OF A PROPERTY LOCATED AT
3021 HIGH STREET (APN: 132-003-022), AUTHORIZING THE CITY MANAGER TO
EXECUTE NECESSARY DOCUMENTS TO COMPLETE THE SALE, AND
AUTHORIZING APPROPRIATION OF \$76,000 FROM THE SEWER AND WATER
OPERATIONAL FUNDS FOR PURCHASE OF THE PROPERTY**

WHEREAS, the property located at 3234 Santa Fe Road is available for sale and is part of a bankruptcy proceeding; and

WHEREAS, the property has been previously listed for a price of \$99,500, and based on direction provided, the City of Riverbank has offered \$59,632.00 for the purchase of said property; and

WHEREAS, the probate court will consider the offer submitted by the City of Riverbank; and

WHEREAS, it will cost approximately \$15,631.95 to clear the property of the burnt remains of a residential structure on site; and

WHEREAS, the City of Riverbank will complete any necessary inspections within the allowable inspection period; and

WHEREAS, if purchased the City of Riverbank will budget funds for appropriate upgrades to the space when a plan is reviewed, considered, and approved by the City Council.

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

1. Authorize purchase of the property located at 3021 High Street (APN: 132-003-022).
2. Authorize the City Manager to execute necessary documents to complete the sale upon approval of the submitted the offer to the Probate Court.
3. Authorize the appropriation of approximately \$76,000 from the Sewer and Water Operational Funds at an equal 50/50 share for the purchase of the property and clearance of the existing structure.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th day of January, 2020; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.5

SECTION 6: NEW BUSINESS

Meeting Date:	January 22, 2019
Subject:	Adjustments to the 2020 Regular City Council Meetings Schedule
From:	Sean Scully, City Manager
Submitted by:	Sean Scully, City Manager Annabelle Aguilar, City Clerk/Elections Official

RECOMMENDATION

It is recommended that the City Council cancel the regular City Council meetings of July 14th, August 11th, November 24th, and December 22nd, for a modified summer schedule and to minimize conflicts with Holiday activities.

SUMMARY

Summer 2020

It is proposed that the City Council cancel the regular meeting of July 14th and the regular meeting of August 11th of 2020. It is not uncommon for agencies to set up a schedule that includes adjustments for summer vacations or impacts of City business. The City has in the past adopted a modified summer schedule to allow staff and the members of the City Council to more effectively coordinate their vacation plans and minimize scheduling conflicts. In addition, the cancellations are beneficial by providing this time for the City to concentrate on its end of the fiscal year budget activities as well as allowing time for the City Clerk, who serves as the City's Elections Official, to concentrate on the opening and closing of the candidate nomination period that runs from July 13th through August 7th, or if extended to August 12th, for the November 2020 Riverbank Municipal Elections.

Fall/Winter 2020

It is also proposed that the City Council cancel the November 24th regular meeting and the December 22nd regular meeting of 2020. For many, the Thanksgiving Holiday, Christmas Holiday, and New Year's Holiday are traditionally celebrated with family and friends. Travel time is often scheduled prior to the Holiday to arrive and leave early, to avoid the heavy traffic. This Holiday time has also been beneficial for City staff and City

Council to recharge and/or catch-up on backlogged work in preparation of the coming new year.

It is therefore proposed that the City Council cancel the regular Council meetings of July 14th, August 11th, November 24th, and December 22nd, for the year 2020. This is consistent with Council's meeting schedule of 2019, and previous years. However, if it is Council's desire to consider alternate or additional Council meeting cancellations it is within Council's authority to do so. As always, in the event that it is necessary to schedule a meeting, the Council may call for a Special meeting to be held.

STRATEGIC PLAN

Since the City Council meetings play an integral role in the delivery of the strategic plan, establishing a clear Council meeting schedule relates directly to most aspects of the strategic plan.

FINANCIAL IMPACT

There is no direct fiscal impact.