



RIVERBANK CITY COUNCIL / LRA
MEETING
SPECIAL NOTICING OF MEETING PROCEDURES FOR
Tuesday, March 24, 2020 AT 6:00 P.M.

NOTICE: THIS MEETING WILL BE HELD BY THE FOLLOWING PROCEDURES IN ACCORDANCE WITH THE GOVERNOR'S NEW EXECUTIVE ORDER N-29-20, ISSUED ON MARCH 17, 2020, REGARDING THE OPEN MEETING REQUIREMENTS OF THE RALPH M. BROWN ACT (CALIFORNIA GOVERNMENT CODE SECTION 54950, ET SEQ.), AND THE FEDERAL AMERICANS WITH DISABILITIES ACT IN AN EFFORT TO HELP CONTROL THE SPREAD OF COVID-19, TO MAXIMIZE TRANSPARENCY, AND PROVIDE PUBLIC ACCESS TO CITY COUNCIL MEETINGS.

CITY COUNCIL PARTICIPATION STATEMENT

The Governor's Executive Order temporarily waives Brown Act "teleconferencing" provisions, and authorizes City Council to hold public meetings via teleconferencing.

The requirement of physical presence of Council Members, the City Clerk, other Personnel of the body, or the public as a condition of participation in or a quorum to conduct a public meeting is waived.

PUBLIC PARTICIPATION STATEMENT

This meeting will not be physically open to the public. All members of the public will be given the opportunity to provide comments by participating in the meeting telephonically or via email. Every possible effort will be made to have these technological systems available and in working order.

ADA COMPLIANCE STATEMENT

In compliance with the Americans with Disabilities Act, and the Governor's Executive Order N-29-20, the City will make every effort to receive and swiftly resolve requests for reasonable modifications or accommodations from individuals with disabilities, consistent with ADA. Persons requiring special assistance to participate in the meeting should notify the Administration Dept. at (209) 863-7122 or the City Clerk at aaguilar@riverbank.org at least (48) hours prior to the meeting to enable the City to make reasonable arrangements for accessibility.

ACCESS FOR PUBLIC VIEWING ARE:

Charter Government Channel – 2
AT&T UVERSE Government Channel – 99

PUBLIC COMMENTS/PARTICIPATION TO ITEMS OF CONSIDERATION:

Via Email: Written public comments will be received via email *before and during* the time the Item being considered is open for comments by the Mayor. Please follow the following protocol:

- Emails before the meeting: Send comments via email to cityclerk@riverbank.org and they will be provided to the Council for consideration and made part of the record.
- Emails during the meeting when the Mayor has opened the Item for comment: Send comments to cityclerk@riverbank.org, when announced to do so.
 - o In the **subject line, indicate the Item #** that you are commenting on to help identify your comment.
- Every effort will be made to read all comments up to (5) minutes, however, this allotted time may be reduced, and some comments may not be read due to time limits. All comments received will be made part of the City's record
- The time allotted and the number of emails read will be at the discretion of the Mayor..
- Emails received *after* the Mayor has closed the comment period for that Item or has moved on to another Item of Business will not be included in the record.

Public comment telephonically: Calls will be received only during the time the Mayor opens the hearing or opens the item for comments. You may **call (209) 863-7172**. One call at a time will be received, please try again if the line is busy.

- The normal allotment of (5) minutes to comment will be allowed; however, this remains at the discretion of the Mayor due to the new process of commenting.

CHANGES TO THIS NOTICE OF PROCEDURES

In accordance with the Governor's Executive Order, should the aforementioned meeting procedures change for public viewing or public commenting, the City may use the most rapid means of communication available at the time including, but not limited, to posting the notice of changes on the City's website.

REPLAY OF THE MEETING RECORDING

The video recording of this meeting is usually posted on YouTube within 24 hours of the meeting adjourning as long as there are no technical difficulties.

Please visit the City's website at <http://www.riverbank.org/agendacenter>

The Mayor has the right to stop any uncivil decorum during the meeting.

FOR QUESTIONS

Contact Annabelle Aguilar, City Clerk at aaguilar@riverbank.org or (209) 863-7198, before 5:00 p.m. on Tuesday, March 24, 2020.



**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, MARCH 24, 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 Luis Uribe (CM-D1)
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.

Comments will be accepted via email to cityclerk@riverbank.org
or calling (209) 863-7172

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: Adoption of a **Resolution** to Amend Riverbank's Elections District Based Map G to Add the Crossroads West Specific Plan Annexed Territory to the Nearest Existing Councilmember Residency District(s), and Directing the City Clerk to Forward the Territory's Certified Legal Description and Amended Map G to the Stanislaus County Registrar of Voters.

Item 3.C: A **Resolution** to Award City Civil Engineering Services to Giuliani & Kull, Inc. and Authorize City Manager to Enter into a Contract with Giuliani & Kull, Inc. to Perform General Municipal Engineering Services for the City of Riverbank, and to Negotiate Contracts on an "As Needed" basis with Gouveia Engineering, Inc. for Project Specific Civil Engineering Services, and Kjeldsen, Sinnock, Neudeck (KSN), Inc. for "As Needed" Engineering Services for Wastewater and Water Projects.

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 of Ordinance No. 2020-004 Approving a Development Agreement No. 02-2019 for the River Run Subdivision Residential Project (APN: 062-021-008)** – It is recommended that the City Council adopt Ordinance No. 2020-004 for a Development Agreement which extends the life of approved River Run Tentative Map 02-2016 relating to real property located at 6272 Central Avenue (APN 062-021-008).

5. PUBLIC HEARINGS

The public notice for Item 5.1 and 5.2 were published in the Riverbank News on 03/03/2020.

Item 5.1: **A Resolution to Adopt a \$1 Application Fee for a Sidewalk Vending Permit in the City of Riverbank** – It is recommended that the City Council consider adopting a Resolution to approve a \$1 application fee for sidewalk vending permits.

Item 5.2: **First Reading by Title Only and Introduction of a Proposed Ordinance Amending Section 92.28: Issuance of Permit; Non-Transferability; Duration, Under the Fireworks Sales and Discharge Subsection, and Section 92.43: Administrative Fines, and Section 92.44: Administrative Appeal Hearing Under Fireworks Regulations and Enforcement Subsection, of Chapter 92: Fire Protection and Prevention Under Title IX: General Regulations of the City of Riverbank Code of Ordinances** – 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 initiates the second reading of the ordinance to consider its adoption at the regular City Council meeting on April 14, 2020.

6. NEW BUSINESS

Item 6.1: **2019 General Plan and Housing Element Annual Progress Reports. A Resolution to Adopt the 2019 General Plan and Housing Element Annual Progress Reports (APRs) as well as authorizing Staff to submit said Reports to the California Office of Planning and Research and California Department of Housing and Community Development** – Staff recommends approval of the City's 2019 General Plan and Housing Element Annual Progress Reports (APR) and to authorize Staff to submit said reports to the California Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD).

Item 6.2: **Utility Billing Discussion and Feedback** – It is recommended that the City Council provide feedback on the implementation of any one or combination of options presented regarding utility billing during the coronavirus ("COVID-19") pandemic.

Item 6.3: **General Local Public Health COVID-19 Update** – It is recommended that the City Council receive an update, discuss the matter, and provide any direction to staff as deemed necessary.

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: Threat to Public Services or Facilities

Pursuant to Government Code § 54957

Consultation with: City of Riverbank Director of Emergency Services

9. REPORT FROM CLOSED SESSION**Item 9.1: Report from Closed Session on Item 8.1 – Threat to Public Services or Facilities.****ADJOURNMENT (The next regular City Council meeting – Tuesday, April 14th @ 6:pm)**

COVID-19 Information	Please refer to the City of Riverbank website at www.riverbank.org for information.
City Office Building Doors Closed	By direction of the City Council – Office building doors will be closed to the public through April 30, 2020, to help eliminate the spread of COVID-19. You may call (209) 869-7101 to reach City Departments or you may email staff.

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 20th day of March, 2020

/s/ Annabelle H. Aguilar, CMC, City Clerk / L R A Recorder

Please refer to the amended meeting procedures.

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.

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	March 24, 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 AGENDA ITEM NO. 3.B

SECTION B: CONSENT CALENDAR

Meeting Date: March 24, 2020

Subject: Adoption of a **Resolution** to Amend Riverbank's Elections District Based Map G to Add the Crossroads West Specific Plan Annexed Territory to the Nearest Existing Councilmember Residency District(s), and Directing the City Clerk to Forward the Territory's Certified Legal Description and Amended Map G to the Stanislaus County Registrar of Voters

From: Sean Scully, City Manager

Submitted by: Annabelle H. Aguilar, CMC, City Clerk/Elections Official

RECOMMENDATION

It is recommended that the City Council adopt, by roll call vote, the proposed resolution to implement the action as required by Election Code Section 21603 (a) when a Municipality has annexed territory to its city limits, and for the action required by Election Code Section 10522 for certification of a map and legal description of the Councilmember District boundaries adjustments for the November 3, 2020, General Municipal Election.

SUMMARY

A Certificate of Completion for the Change of Organization to the City of Riverbank, was filed with the Stanislaus County Recorder's Office on August 26, 2019, by the Stanislaus Local Agency Formation Commission (LAFCO) as set forth in LAFCO Resolution No. 2019-13 for the annexation of approximately 403.79 acres known as the Crossroads West Specific Plan ("CWSP"). According to LAFCO Application No. 2019-06, a factor mentioned indicates that there are less than 12 registered voters. Due to the annexation of this new territory to the City of Riverbank, this territory is required to be identified and included in the City's by-district based electoral boundaries Map G for the upcoming November 3, 2020, General Municipal Election.

BACKGROUND

Effective January 8, 2016, Riverbank City Council Ordinance No. 2015-019 changed the City's electoral system from "at-large" to a "by-district" based system electing its four (4) Councilmembers from the four (4) district boundaries as depicted in the adopted Map "G"

(attached), which are labeled as Districts 1, 2, 3, and 4. The even numbered Councilmember District seats of 2 and 4 were established in the November 8, 2016, General Municipal Election, and the odd numbered Councilmember District seats of 1 and 3 were established in the November 6, 2018, General Municipal Election.

If at any time between each decennial federal census a city annexes territory, California Election Code Section 21603 (a) states *“If the boundaries of a city expand by the addition of new territory, including through annexation of unincorporated territory or consolidation with another city, the Council shall add that new territory to the nearest existing council district without changing the boundaries of other council district boundaries.”*

The Riverbank Municipal Code Section 30.03 provision (3) authorizes the City Clerk to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. Upon review of the CWSP territory and its alignment with the existing District Boundaries on Map G, the natural boundary that appears is Morrill Road. This natural boundary will be used to add the annexed territory north of Morrill Road to District 3, and the annexed territory south of Morrill Road and north of Claribel Road to District 4, pursuant to the EC § 21603(a), and as depicted in the attached amended Map G.

Upon approval of the resolution, the City Clerk will certify the amended Map G, and the legal description of the added territory, and file these documents with the Stanislaus County Registrar of Voters for the November 3, 2020, General Municipal Election. This action will include resident registered voters in the CWSP to vote in Riverbank’s Municipal Elections, and assist in the adjustment and establishment of precinct boundaries by the County Registrar of Voters.

This process to amend District Map G is not to be misconstrued with the lengthy public hearing process of “redistricting”, which occurs every 10 years to equalize the populations of all district boundaries based on the decennial federal census. The redistricting process will be conducted in early 2022 for the November 8, 2022, General Municipal Election.

FINANCIAL IMPACT

There is no significant increase in the cost of conducting the Municipal Elections.

ATTACHMENT

1. Resolution
2. Amended Map G
3. Copy of Exhibit B of the Crossroads West Change of Organization to the City of Riverbank

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO AMEND ELECTIONS DISTRICT BASED MAP G TO ADD THE CROSSROADS WEST SPECIFIC PLAN ANNEXED TERRITORY TO THE NEAREST EXISTING COUNCILMEMBER RESIDENCY DISTRICT(S), AND DIRECTING THE CITY CLERK TO FORWARD THE TERRITORY'S CERTIFIED LEGAL DESCRIPTION AND AMENDED MAP G TO THE STANISLAUS COUNTY REGISTRAR OF VOTERS

WHEREAS, a Certificate of Completion for the Change of Organization to the City of Riverbank, was filed with the Stanislaus County Recorder's Office on August 26, 2019, by the Stanislaus Local Agency Formation Commission (LAFCO); and

WHEREAS, LAFCO adopted Resolution No. 2019-13 to approve annexation of approximately 403.79 acres at the northwest corner of Claribel Road and Oakdale Road to the City of Riverbank known as the Crossroads West Specific Plan ("CWSP"); and

WHEREAS, if at any time between each decennial federal census a city annexes territory, California Election Code § 21603 (a) states "If the boundaries of a city expand by the addition of new territory, including through annexation of unincorporated territory or consolidation with another city, the Council shall add that new territory to the nearest existing council district without changing the boundaries of other council district boundaries; and

WHEREAS, Riverbank Municipal Code Section 30.03 provision (3) authorizes the City Clerk to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district; and

WHEREAS, alignment of the annexed CWSP to the existing District Boundaries of Map G, and use of the natural boundary of Morrill Road, adds the annexed territory north of Morrill Road to District 3, and the annexed territory south of Morrill Road and north of Claribel Road to District 4, in accordance with EC § 21603(a); and

WHEREAS, adopted District Boundaries Map G shall be amended to include the annexed CWSP, and the added territories to District 3 and District 4; and

WHEREAS, the City Clerk shall certify the amended Map G, and the legal description of the added territory, and file these documents with the Stanislaus County Registrar of Voters for the November 3, 2020, General Municipal Election.

NOW, THEREFORE, BE IT RESOLVED, that the City of Riverbank City Council does hereby amend the City's District Boundaries Map G by adding the new CWSP territory to Map G, and by use of the natural boundary of Morrill Road, add the annexed territory north of Morrill Road to District 3, and the annexed territory south of Morrill Road and north of Claribel Road to District 4.

AND BE IT FURTHER RESOLVED, that the City of Riverbank City Council directs the City Clerk to file a certified amended Map G, and certified legal description of the new territory with the Stanislaus County Registrar of Voters.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 24th day of March, 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:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

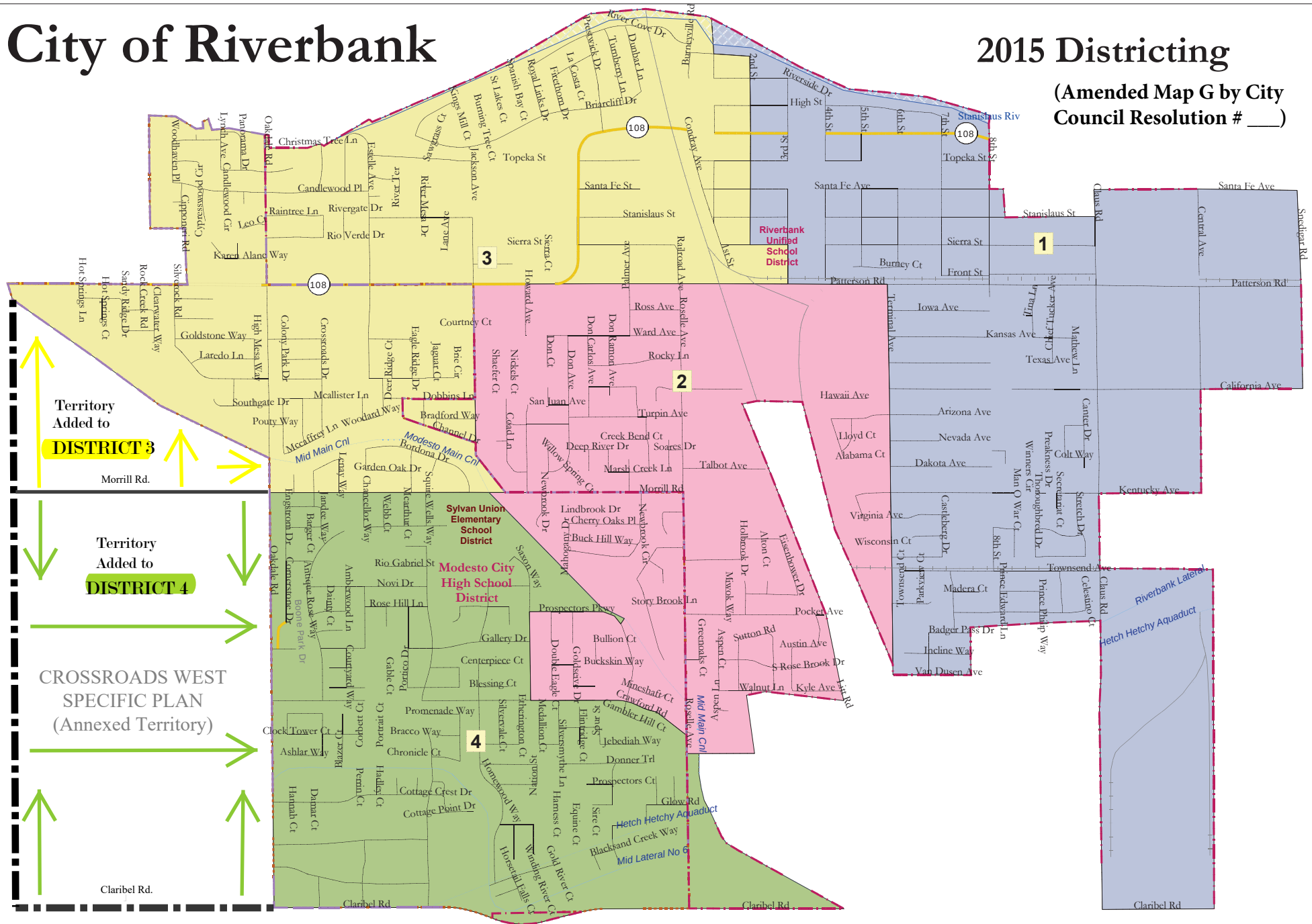
Richard D. O'Brien
Mayor

Attachment: Certified Amended District Boundaries Map G and certified legal description.

City of Riverbank

2015 Districting

(Amended Map G by City Council Resolution # ____)



**CROSSROADS WEST
CHANGE OF ORGANIZATION TO
THE CITY OF RIVERBANK**

All that certain real property being a portion of Section 34 & 27 of Township 2 South, Range 9 East Mount Diablo Base and Meridian; situate in the County of Stanislaus, State of California, more particularly described as follows:

COMMENCING at the Section Corner common to Sections 2 and 3, Township 3 South, Range 9 East, Mt. Diablo Base and Meridian and Sections 34 and 35, Township 2 South, Range 9 East Mt. Diablo Base and Meridian, said point also being the centerline intersection of Claribel Road and Oakdale Road; thence North 89°38'50" West 50.01 feet to a point 50.00 feet westerly of the West line of said Section 2 to the **TRUE POINT OF BEGINNING**; said point also being the Southwest corner of the existing City limit line and the Crossroads change of organization recorded August 11, 1997;

Thence leaving said Southwest corner the following four (4) courses:

- 1) thence Westerly along the centerline of Claribel Road and the Southerly line of said Section 34; North 89°38'50" West a distance of 2592.85 feet to a point on the north-south centerline of section 34;
- 2) thence Northerly along the said North-South centerline of Section 34, North 00°22'42" West a distance of 2652.00 feet to the center one-quarter of said section 34;
- 3) thence Northerly along the said North-South centerline of Section 34, North 00°23'10" West a distance of 2643.64 feet to a point on the Southerly line of the North-South centerline of section 27;
- 4) thence Northerly along said North-South centerline of section 27, North 00°25'20" West a distance of 2431.39 feet to a point on the southwesterly corner of the Patterson Road No. 2 Reorganization to the City of Riverbank, recorded August 9, 1991; said line also being the Southerly right way line of the 100.00 foot wide Modesto Irrigation Districts main canal;

Thence leaving the North-South centerline of said section 27, Southeasterly along said Southerly line of the Patterson Road No. 2 Reorganization and Southerly line of said canal the following six (6) courses:

- 5) thence continuing along said Patterson Road Reorganization South 59°58'22" East a distance of 197.60 feet to the beginning of a 300.00 foot curve concave southwesterly, the radius of which bears North 48°03'15" East;
- 6) thence Southeasterly along the arc of said 300.00 foot curve, through a central angle of 18°01'38", an arc distance of 94.39 feet;

- 7) thence Southeasterly along said Patterson Road No. 2 Reorganization south $41^{\circ}56'45''$ East a distance of 423.66 to the beginning of a 400.00 foot radius curve concave northeasterly; the radius of which bears South $15^{\circ}06'39''$ West;
- 8) thence Southeasterly along the arc of said 400.00 foot curve, through a central angle of $32^{\circ}56'36''$, an arc distance of 229.99 feet;
- 9) thence Southeasterly along said Patterson Road No. 2 Reorganization, South $74^{\circ}53'21''$ East a distance of 534.61 feet to the beginning of a 300.00 foot curve concave southwesterly the radius of which bears North $36^{\circ}10'15''$ West;
- 10) thence continuing southeasterly along the arc of said 300.00 foot curve, through a central angle of $19^{\circ}14'26''$, an arc distance of 100.74 feet, to a point on the Southwesterly corner of the Khatri reorganization to the City of Riverbank recorded on February 23, 1988;

Thence leaving said Patterson Road No. 2 City limit line continuing Southeasterly along said Khatri Reorganization and South right-of-way line of said canal the following (5) courses:

- 11) thence Southeasterly along the arc of said 300.00 foot curve, through a central angle of $16^{\circ}41'58''$, an arc distance of 87.44 feet;
- 12) thence Southeasterly along said Khatri Reorganization, South $38^{\circ}56'57''$ East a distance of 1409.99 feet to the beginning of a 450.00 foot radius curve concave northeasterly; the radius of which bears South $36^{\circ}10'15''$ West;
- 13) thence Southeasterly along the arc of said 450.00 foot curve, through a central angle of $14^{\circ}52'48''$, an arc distance of 116.87 feet;
- 14) thence Southeasterly along said Khatri Reorganization South $53^{\circ}51'15''$ East a distance of 295.42 feet to a point on a 276.00 foot radius curve, concave northeasterly, the radius of said curve bears South $30^{\circ}32'21''$ West;
- 15) thence Southeasterly along the arc of said curve, through a central angle of $5^{\circ}36'24''$, an arc distance of 27.01 feet to a point 25.00 feet westerly of the east line of section 27; said point being the current westerly City limit line and the northwest corner of the said Crossroads Annexation;

Thence southerly along said westerly city limits line the following four (4) courses:

- 16) thence 25.00 feet West of and parallel with the east line of Section 27, South $00^{\circ}36'08''$ East a distance of 260.71 feet to a point 25.00 feet west of the east line of section 34;

- 17) thence 25.00 feet west of and parallel with the east line of said Section 34, South $00^{\circ}29'06''$ East a distance of 4782.92 feet to an angle point in the current City limit line;
- 18) thence South $89^{\circ}30'54''$ West a distance of 25.00 feet to a point 50.00 feet westerly of the east line of section 34;
- 19) thence 50.00 feet westerly and parallel with the east line of said Section 34, South $00^{\circ}29'06''$ East a distance of 500.75 feet to the **TRUE POINT OF BEGINNING**.

Containing 403.79 Acres, more or less.



EXISTING CITY OF
RIVERBANK CITY LIMIT
LINE

CROSSROADS WEST CHANGE OF ORGANIZATION TO THE CITY OF RIVERBANK

EXISTING ANNEXATIONS

(A) PATTERSON ROAD NO. 2

(B) KHATRI

(C) CROSSROADS
074-011-005 & 008

CURVE DATA

RADIUS: 276.00'
[1] DELTA: 5°36'24"
ARC LENGTH: 27.01'
074-014-011

RADIUS: 450.00'
[2] DELTA: 14°52'48"
ARC LENGTH: 116.87'

RADIUS: 300.00'
[3] DELTA: 35°56'44"
ARC LENGTH: 188.18'
074-014-012

RADIUS: 400.00'
[4] DELTA: 32°56'36"
ARC LENGTH: 229.99'

RADIUS: 300.00'
[5] DELTA: 18°01'38"
ARC LENGTH: 94.39'
074-014-010

BASIS OF BEARING

CENTERLINE OF CLARIBEL
ROAD BETWEEN FOUND
SECTION 34 MONUMENTS
AS N89°38'50"W

1. N89°38'50"W
2592.85'

TRUE POINT OF
BEGINNING

CLARIBEL ROAD

N89°38'50"W
50.01'

POINT OF
COMMENCEMENT

OAKDALE ROAD

LEGEND

1. COURSE NUMBER

--- EXISTING ANNEXATION
LINE

0 500 1000 2000
SCALE: 1" = 1000' Feet



18. S89°30'54"W
25.00'

EXISTING CITY OF
RIVERBANK CITY LIMIT
LINE

Drawn By: JNL/TL

Date: 06/07/19

Scale: 1"=1000'

Job No.: 06293

Phone: 866.526.4214

CROSSROADS WEST CHANGE OF ORGANIZATION

BEING A PORTION OF SECTION 34 & SECTION 27
TOWNSHIP 2 SOUTH, RANGE EAST 9, M.D.B.&M,
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

RIVERBANK

CALIFORNIA



1117 L Street, Modesto, CA 95354

866.526.4214 | www.mve.net

Northern California | Southern California | Nevada

SHEET

4

OF 4

FILED 2019 JUN 11 PM 3:21 BY JNL/TL CROSSROADS WEST CHANGE OF ORGANIZATION EXHIBIT LONG

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONSENT CALENDAR

Meeting Date: March 24, 2020

Subject: A **Resolution** to Award City Civil Engineering Services to Giuliani & Kull, Inc. and Authorize City Manager to Enter into a Contract with Giuliani & Kull, Inc. to Perform General Municipal Engineering Services for the City of Riverbank, and to Negotiate Contracts on an “As Needed” basis with Gouveia Engineering, Inc. for Project Specific Civil Engineering Services, and Kjeldsen, Sinnock, Neudeck (KSN), Inc. for “As Needed” Engineering Services for Wastewater and Water Projects

From: Sean Scully, City Manager

Submitted by: Kathleen Cleek, Development Services Administration Manager

RECOMMENDATION

It is recommended that the City Council approve the attached resolution awarding City Civil Engineering services to Giuliani & Kull, Inc. and authorize City Manager to enter into a contract with Giuliani & Kull, Inc. to perform general municipal engineering services for the City of Riverbank. In addition, the resolution authorizes the City to negotiate separate contracts with Gouveia Engineering and KSN Inc. on an as needed and specific project basis.

STAFF SUMMARY

On November 25, 2019, the City issued a Request for Proposal for Civil Engineering Services to perform general municipal engineering services for the City of Riverbank. This process is required once every five years based on Federal Legislation detailed in the Code of Federal Regulations (23 CFR, Section 172). The requirement states that local agencies must complete an open and fair competitive negotiation, which demonstrates competence and professional qualifications. This requirement is detailed in the State of California Department of Transportation’s Local Assistance Procedure Manual.

The City received proposals from the following engineering firms:

GDR Engineering, Inc.
Giuliani & Kull, Inc.
Gouveia Engineering, Inc.
Kjeldsen, Sinnock, Neudeck (KSN), Inc.
North Star Engineering Group, Inc.

The six (6) Proposals for Civil Engineering Services were reviewed by a selection committee made up of the City Manager, Public Works Director, Planning & Building Manager, Development Services Administration Manager and Sr. Construction Inspector. After a thorough analysis of the proposals, utilizing the established criteria set forth in the RFP, the committee chose the top 4 firms to interview GDR Engineering, Inc., Giuliani & Kull, Inc., Gouveia Engineering, Inc. and KSN, Inc. The interviews were conducted on February 19, 2020 and scored by the committee. Two of the firms interviewed Gouveia Engineering out of Gustine and Giuliani & Kull out of Oakdale scored the highest for all around civil engineering services. KSN scored high with their specific knowledge and expertise of engineering for wastewater and water projects.

After a thorough discussion amongst the committee the decision was made to recommend the City continue contracting with Giuliani & Kull and enter into a three (3) year contract. Giuliani & Kull has been the City's contract engineer for over 10 years and their knowledge and expertise will continue to aid the City with existing and new development. Since the scores were so close between Giuliani & Kull and Gouveia Engineering, and the growing engineering needs of the City the committee recommended negotiating a separate contract with Gouveia Engineering on an "as needed" and "specific project" basis. This will give the City an opportunity to work with Gouveia Engineering and get familiar with the services their firm has to offer. The committee also suggested negotiating a separate contract with KSN, Inc. on an "as needed" and "specific project" basis for wastewater and water projects.

FINANCIAL IMPACT

The current Fiscal Year budget for 2019-2020 allocated \$40,000 for Contract Engineering Services. Any costs for additional engineering services for capital projects are reimbursed through authorized Federal or Measure L funding.

ATTACHMENTS

1. Resolution
2. City Engineer Agreement

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO AWARD CITY CIVIL ENGINEERING SERVICES TO GIULIANI & KULL, INC. AND AUTHORIZE CITY MANAGER TO ENTER INTO A CONTRACT WITH GIULIANI & KULL, INC. TO PERFORM GENERAL MUNICIPAL ENGINEERING SERVICES FOR THE CITY OF RIVERBANK AND TO NEGOTIATE A CONTRACT WITH GOUVEIA ENGINEERING, INC. ON AN “AS NEEDED” BASIS FOR PROJECT SPECIFIC CIVIL ENGINEERING SERVICES, AND KJELDSSEN, SINNOCK, NEUDECK (KSN), INC. FOR “AS NEEDED” ENGINEERING SERVICES FOR WASTERWATER AND WATER PROJECTS

WHEREAS, on November 25, 2019, the City issued a Request for Proposal for Civil Engineering Services to perform general municipal engineering services for the City of Riverbank; and

WHEREAS, this process is required once every five years based on Federal Legislation detailed in the Code of Federal Regulations (23 CFR, Section 172); and

WHEREAS, the requirement states that local agencies must complete an open and fair competitive negotiation, which demonstrates competence and professional qualifications; and

WHEREAS, the City received six (6) proposals and the review committee chose the top four (4) to interview; and

WHEREAS, after interviews Giuliani & Kull, Inc. and Gouveia Engineering, Inc. scored the highest for all around civil engineering;

WHEREAS, the committee decided to recommend awarding the City Engineering contract to Giuliani & Kull, Inc.;

WHEREAS, the Giuliani & Kull, Inc. has been the City's contract engineer for over 10 years and their knowledge and experience will continue to aid the City with existing and new development.; and

WHEREAS, the committee requested entering into an “as needed” contract with Gouveia Engineering, the second highest scorer for project specific civil engineering services, and Kjeldsen, Sinnock, Neudeck (KSN), Inc. for “as needed” engineering services for wastewater and water projects.

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

1. Award City Civil Engineering Services Contract to Giuliani & Kull, Inc. and Authorize City Manager to enter into a Contract with Giuliani & Kull, Inc. to perform general municipal engineering services for the City of Riverbank.
2. Authorize City Manager to negotiate and enter into a contract with Gouveia Engineering on an “as needed” basis for project specific civil engineering services, and Kjeldsen, Sinnock, Neudeck (KSN), Inc. for “as needed” engineering services for wastewater and water projects.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 24th day of March, 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:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment: Copy of agreement.

CITY OF RIVERBANK CITY ENGINEER AGREEMENT

THIS AGREEMENT, by and between the CITY OF RIVERBANK, a municipal corporation, hereinafter referred to as "City", and **Giuliani & Kull, Inc.**, hereinafter referred to as "Engineer", provides for **William F. Kull** to be appointed city engineer for the City of Riverbank in accordance with the authority of Government Code Sections 37103 and 53060 for the City.

The City specifically designates **William F. Kull**, of **Giuliani & Kull, Inc.**, License Number **C34935**, as the City Engineer.

The engineer and other engineers at **Giuliani & Kull, Inc.** are duly licensed under the laws of the State of California and are fully qualified to perform the duties of City Engineer and to provide the services contemplated by this Agreement.

The parties do mutually agree to be bound and obligated to terms and conditions as follows:

1. **Term.** The term for performance of the services hereunder by the Engineer as City Engineer will commence on **March 24, 2020**. The Agreement shall be for a (3) three year period unless either party gives written notice to the other of its intent to renegotiate the terms of the Agreement. Such notice must be given not less than three (3) months before the end of the pending term.

2. **Termination of the Agreement.** This Agreement may be canceled by either party hereto by the giving of thirty (30) days written notice to the other party of their wishes to terminate the Agreement.

3. **Scope of Services.** The Engineer shall perform the duties of the office of the City Engineer of the City and shall use his best effort to provide engineering services in a competent and professional manner. The Engineer shall provide all engineering services to the City of the kind and nature typically provided by an in-house City Engineer's Office to a municipality unless specifically exempted by this Agreement. Engineer shall attend City Council meetings when requested at no charge to the City.

4. **Time and Performance.** The services performed hereunder by Engineer shall be undertaken and completed in such sequence as to ensure their expeditious completion and to best carry out the purpose of the Agreement.

5. **Compensation.** City shall pay Engineer on an hourly rate basis as prescribed by the Rate Schedule in Exhibit "B" for performance of engineering services. Engineering services include those services listed on Exhibit "A". Engineer shall attend City Council meetings when requested at no charge to the City. For all other engineering services not listed in Exhibit "A", the City agrees to pay the Engineer at the rates as set forth in Exhibit "B". In addition to paying the engineering fees as set forth in Exhibit "B", City shall reimburse the Engineer for customary and reasonable costs and expenses incurred by the Engineer as set forth in Exhibit "B".

6. **Billing Procedures and Monthly Statements.** The Engineer shall submit to the City, within 30 days after the end of each calendar month, an itemized statement of the professional services by project or funding source provided in the time expended providing those services in the form customarily submitted by the Engineer to clients which are billed on an hourly basis. The Engineer shall include in the monthly statement cost and expense items, and project details. The parties acknowledge that the payment of all monthly statements is expected to be made within 30 days of the billing date.

7. **Work Performed.** No work shall be performed by Engineer except general engineering and related services, unless directed to do so by the City Manager or the City Council. Engineer agrees that an engineer of **Giuliani & Kull, Inc.** must be already versed in the facets of the Grant Funding process for public works projects for a General Law City, federal, state and local. Engineer, must already be familiar with the CAL TRANS process regarding acquiring encroachment permits and construction by the City in State Rights of Ways.

8. **Additional Services.** Additional services beyond those set forth in Exhibit "A" and subject to the engineer rates set forth in Exhibit "B" include, but are not limited to, the following areas:

- a. Planning;
- b. Administration;
- c. Construction Management;
- d. Surveying.

9. **Cost Principles.** **Giuliani & Kull, Inc.** agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

Giuliani & Kull, Inc. also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to **Giuliani & Kull, Inc.** that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by **Giuliani & Kull, Inc.** to City.

Subcontracts in excess of \$25,000.00 shall contain this provision.

10. **Amendments.** This Agreement may be amended at any time by mutual written agreement of the parties hereto.

11. **Return of File and Client Property.** After Engineer's services are completed, Engineer will, upon City's request in writing, deliver the file(s) to the City, along with any property of the City in Engineer's possession. City's file(s) and property include correspondence, transcripts, engineering documents, exhibits, maps, and other items reasonably necessary to City's business and to its continued and future engineering service

needs, whether City has paid for them or not. City's file(s) and property include all work performed by the Engineer on behalf of the City or its continued engineering needs.

12. Retention of Records/Audit. For the purposes of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; **Giuliani & Kull, Inc.**, subcontractors, and City shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, the State Auditor, any books, records, and documents of **Giuliani & Kull, Inc.** that are pertinent to the contract for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

Subcontracts in excess of \$25,000 shall contain this provision.

13. Independent Contract. Engineer is an independent contractor. Engineer is engaged on a part-time basis. Engineer is responsible for providing and maintaining its own staff, facilities, resources, and benefits. It is the Engineer's sole responsibility to assure the City that the Engineer's professional and administrative staff are adequately trained and the City shall have no obligation to pay for training of the Engineer or staff or the provisions of professional resources or material. The Engineer shall stand ready, willing and able to perform the duties for the City pursuant to this Agreement as called upon by the City Council or the City's designated representative. It is understood, however, that the Engineer is otherwise free to engage in the private practice of engineering so long as its practice does not put it in conflict with the City. In addition to the proscriptions regarding conflicts of interest imposed on the Engineer, the Engineer represents that no member of the firm shall appear before any council, commission, committee, or agency of the City for a period of six (6) months from the date of termination of the Engineer's employment as City Engineer for the purpose of representing any other client of the Engineer's before such City Council, commission, committee, or other agency.

14. Licensed Engineer. **William F. Kull** is a licensed engineer in the State of California, License No. **C34935**. Any other employees or officers of Engineer providing services for the City of Riverbank in connection with this Agreement shall be duly licensed under the laws of the State of California and shall be qualified to perform the duties and provide the services by this Agreement.

15. Assignment and Delegation. This Agreement contemplates the personal professional services of the Engineer and this Agreement, or any portion thereof, shall not be assigned or delegated without the prior written consent of the City.

16. Insurance. The Engineer represents and discloses to the City that he maintains professional, general liability insurance, including errors and omissions coverage, in excess of \$1,000,000 per occurrence and \$1,000,000 per policy term. The insurance maintenance by the Engineer shall be consistent with the requirements set forth in Exhibit

"C" attached hereto. The Engineer is required to provide the City with certificates of insurance certifying the aforementioned insurance coverage.

17. Inspection. Engineer shall furnish City with every reasonable opportunity for City to ascertain that the Services of Engineer are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Engineer of any of its obligations to fulfill the Agreement as prescribed.

Engineer and any subcontractor shall permit the City, the State, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

18. Conflict of Interest. A. Engineer covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of City hinder Engineer's performance of the Services. Engineer further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of City. Engineer agrees at all times to avoid conflicts of interest, or the appearance of any conflicts of interest in the performance of the Agreement.

B. Engineer is not a designated employee within the meaning of the Political Reform Act because Engineer:

1. Will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of City or of any City official; and

2. Possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendation, or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

19. General. Engineer shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Engineer represents and warrants to City that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Engineer to practice its profession. Engineer shall maintain a City business license.

20. Prevailing Wage. Engineer and Engineer's sub-consultants (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter I, Article 2. Copies of the applicable wage determination are on file at City's Public Works Department.

21. Equal Employment Opportunity. Engineer is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Engineer will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Engineer will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

22. Covenant Against Contingent Fees. The Engineer warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the engineer; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

23. Safety. A. Engineer shall comply with OSHA regulations applicable to Engineer regarding necessary safety equipment or procedures. The Engineer shall comply with safety instructions issued by City representatives. Engineer personnel shall wear hard hats and safety vests at all times while working on the construction project site.

B. Pursuant to the authority contained in Section 591 of the Vehicle Code, the City has determined that construction areas may be located in areas open to public traffic. The City shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The Engineer shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

B. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

24. Statement of Compliance. Engineer's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that the Engineer has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

25. Debarment and Suspension Certification. A. The Engineer's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the Engineer has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or

determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the City.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Engineer responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

26. Rebates, Kickbacks, or Other Unlawful Consideration. The Engineer warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any City employee. For breach or violation of this warranty, City shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

27. Indemnity. **Giuliani & Kull, Inc.** agrees to indemnify and hold harmless the City, its officers, agents and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of **Giuliani & Kull, Inc.** The fees, incurred by City in defendant against claims ultimately determined to be due to negligent acts, errors, or omissions of **Giuliani & Kull, Inc.**

28. Nonexclusive Agreement. The City may contract with other individuals or entities to provide engineering services. This is a nonexclusive agreement.

29. Notices. Notices regarding this Agreement shall be given to the parties at the following addresses:

City:	City of Riverbank Development Services Department 6707 Third Street Riverbank, CA 95367
Engineer:	Giuliani & Kull, Inc. William F. Kull 440 S. Yosemite Avenue, Suite A Oakdale, CA 95361

30. Severability. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

31. Entire Agreement. This Agreement contains the entire understanding of the parties regarding their rights and obligations hereunder. Any alleged oral representations or modifications concerning this Agreement and the subjects thereof shall have no force or effect unless reduced to a writing signed by both parties. This Agreement supersedes any previous agreements between the parties for the provision of Interim City Engineer services.

32. Goodwill. The parties hereto agree that it is in their best interests to maintain harmonious relations in the fulfillment of the engineering requirements and that every effort will be made to provide timely, efficient and courteous service to those who require engineering services.

33. Captions. The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of the Agreement or its terms, or in any way affect it.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 24th day of March, 2020.

"CITY"

CITY OF RIVERBANK

By: _____
Sean Scully
City Manager

"ENGINEER"

GIULIANI & KULL, INC.

By: _____
William F. Kull
Principal

ATTEST:

By: _____
Annabelle Aguilar, City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT "A"

CITY ENGINEER SERVICES – SCOPE OF WORK

Giuliani & Kull, Inc. will provide on-call consulting City Engineer services to the City of Riverbank to include (but not limited to) the following:

1. Review correspondence from state and federal permitting agencies that require response or action from City Engineer or Development Services staff.
2. Assist City staff in processing paperwork with StanCOG and Caltrans Local Assistance regarding state and federal grant programs such as CMAQ, RSTP, SR2S, TEA, HSIP, EEMP etc.
3. Provide input to City Staff and City Council regarding the City's master plans, capital improvement program, and maintenance needs.
4. Prepare Plans, Specifications and Estimates for capital improvement projects.
5. Provide Bid Administration, Construction Management, and Inspection services for capital improvement projects.
6. Provide plan review and approval of all proposed private development projects within the City. This shall include reviewing and proposing conditions of approval for all entitlement projects (tentative maps, site plans, etc) and reviewing and approving all encroachment permits, parcel maps, final maps, improvement plans etc.
7. Attend City Council and/or Planning Commission meetings when requested.
8. Provide all other City Engineer functions as requested by City staff and council.

The services above will be provided on an "as needed" basis, as directed by the City Manager, and billed monthly at Time & Materials.

EXHIBIT B



SCHEDULE OF HOURLY RATES: Effective August 1, 2019

Classification	Hourly Rate
Principal Engineer	\$185.00
Senior Engineer (PE)	\$150.00
Senior Land Surveyor (PLS)	\$150.00
Associate Engineer	\$115.00
Associate Land Surveyor	\$115.00
Qualified SWPPP Developer (QSD)	\$150.00
Inspector (Non-Prevailing Wage)	\$105.00
Inspector (Prevailing Wage)	\$125.00
Senior Drafter	\$105.00
2-Man Survey Crew	\$220.00
2-Man Survey Crew (Prevailing Wage)	\$250.00
1-Man Survey Crew w/ GPS or Robotics	\$150.00
1-Man Survey Crew w/GPS or Robotics (P.W.)	\$175.00
Clerical	\$70.00
Expert Witness	\$400.00

Reimbursable expenses for sub-consultants, special delivery, printing and copies beyond those required for plan review will be cost plus ten percent 10%.

APPENDIX B INSURANCE REQUIREMENTS

The City of Riverbank City Council requires submittal of certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's Rating of no less than A:VII:

Minimum Limits of Insurance

Professional Liability/Errors and Omissions Liability Insurance: Minimum of \$1,000,000 per occurrence and in the aggregate.

Claims made policies are acceptable if the policy further provides that:

1. The policy retroactive date coincides with or precedes the professional services contractors' start of work (including subsequent policies purchased as renewals or replacements).
2. The professional services contractor will make every effort to maintain similar insurance during the required extended period of coverage following project completion, including the requirement of adding all additional insured.
3. If insurance is terminated for any reason, professional services contractor agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this agreement or permit,
4. The reporting of circumstances or incidents that might give rise to future claims.

Deductibles, Self-Insured Retentions, Limitations or Modifications

Any deductibles, self-insured retentions or similar forms of coverage limitations or modifications, must be approved by the City Manager and City Attorney of the City of Riverbank. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.

Description of Work to be Performed

The staff contact and purpose of the evidence of coverage must be identified.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 4.1

SECTION 4: UNFINISHED BUSINESS

Meeting Date:	March 24, 2020
Subject:	Second Reading by Title Only of Ordinance No. 2020-004 Approving a Development Agreement No. 02-2019 for the River Run Subdivision Residential Project (APN: 062-021-008)
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council adopt Ordinance No. 2020-004 for a Development Agreement which extends the life of approved River Run Tentative Map 02-2016 relating to real property located at 6272 Central Avenue (APN 062-021-008).

SUMMARY

The proposed project consists of a Development Agreement ("DA"), which extends the life of TM 02-2016 for a fifty-one (51) lot single-family residential subdivision with an overall density of 5.6 du/acre. The project site currently has a General Plan Land Use designation of Low Density Residential (LDR) and is currently zoned Planned Development (R-1).

BACKGROUND

The subject project is located on the eastern edge of Riverbank and is bounded by rural residential parcels to the North and East, Central Avenue to the West, and California Avenue along the project's Southern boundary. The formal address of the proposed project site is 6272 Central Avenue. The project site is comprised of an irrigated pasture with no improvements of value. The site is surrounded by lands in transition to urban uses but consists primarily of ranchette parcels. The Riverbank High School is located directly west of the site across Central Avenue.

A. Tentative Map 02-2016

Tentative Map 02-2016 is a small lot single-family residential subdivision approved on November 21, 2017. The lot sizes are below the R-1 standard size of 6,000 square feet;

therefore, the property was approved for a rezone to PD which accommodates the proposed 5,000 square foot lots. All streets were designed to accommodate City Street Designs with consideration for low-impact design standards as well as to encourage Complete Streets for vehicles as well as pedestrians. The tentative map shows three (3) out lots. Lot A is a stormwater treatment, storage, and retention basin with a subsurface French drain system. Lot B is an existing Oakdale Irrigation District facility, of which O.I.D. will maintain ownership. Lot C will work in conjunction with Lot A to accommodate storm drainage and L.I.D. standards.

The tentative map proposes 51 buildable single-family residential lots. Before Final Map stage, the proposed street names will be reviewed by staff and outside agencies such as Fire and 911 to see if they are currently in use. Per RMC section 152.026 (L) all street names shall be approved by City Council. Duplication of existing names within the County will not be allowed unless the streets are obviously in alignment with existing streets and likely to sometime be a continuation of the other street.

Tentative Map 02-2016 was approved by the City Council after it made all of the following findings:

1. The proposed map is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted.*
2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted as they relate to connectivity, sidewalks, and the provision of amenities.*
3. The site is physically suitable for the type of development. *The site is suitable for a new subdivision of this type.*
4. The site is physically suitable for the proposed density of the development. *The site is physically suitable for a proposed density of 0-8 dwelling units per net acre.*
5. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitats. *The design of the subdivision should not injure fish, wildlife, or their habitats, none of which are present on the site.*
6. The design of the subdivision or the type of improvements is not likely to cause serious public health problems. *The design of the subdivision should not cause serious health problems.*
7. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of, property

within the proposed subdivision. In this connection, the City Council may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This division shall only apply to easements of record or to easements established by judgement of a court of competent jurisdiction. *The design of the subdivision should not conflict with any easements of record.*

B. Architecture / Design Guidelines

A Design Guidelines Manual dated October 19, 2017 will guide all future development of the subject property. The manual lacks specific architectural designs at this time so Riverbank will require a future builder to design specific house plans which adhere to the Design Guidelines Manual. When the future builder of the tentative map has been retained, they will be required to submit an Architecture and Site Plan Review application, of which the Planning Commission has final discretionary approval.

C. Transportation and Circulation

The City has required the applicant to improve portions of California and Central Avenues, including the project's frontage, to be consistent with the City's Circulation Element Street Design Standards. These improvements include installing a crosswalk at the intersection of California and Central to ensure residents have a regional safe route in and out of the development.

As a part of the request for a PD zone, the applicant asked for relief from the City's 64 feet internal street design standards. The applicant proposed an internal street design of 50 feet. The internal residential streets feature two (2) 10-13 foot drive lanes, two (2) 8 foot parking lanes, a parkway, and two (2) 5-6 foot sidewalks. The parkway was removed from the south side of the internal east-west street to adjust the turn radius at the knuckles. Stanislaus Consolidated Fire District reviewed and approved the turn radius of the internal streets based on submitted traffic modeling.

D. Low Impact Development (LID) Standards

The City developed LID guidelines due to storm water discharge standards implemented by the State of California through the MS4 permit process. Tentative Map 02-2016 embraces the City's and State's LID guidelines. All project storm water will be collected and disposed of on-site through the use of a terminal storm water retention basin. While the project has been designed to retain the storm water collected within the boundaries of the map, City staff remains concerned that the LID systems might fail at some point in the future. In this regard, the City requires all Bruinville area developers to participate in the funding of the Nolte Storm Water Solution per the adopted Master Plan. These fees are in the adopted System Development Fees imposed on all new development in the City of Riverbank.

E. General Plan Amendment

The General Plan designation for this project had been Medium Density Residential (MDR) which allowed 8-16 dwelling units per net acre. The approved General Plan Amendment re-designated the project from MDR to Low Density Residential (LDR) which allows the project to be built at 0-8 dwelling units per net acre. The tentative map is fifty-one (51) dwelling units on 9.1± net acres for a total of 5.6 dwelling units per net acre (“net” means excluding the basin and private street square footages). Thus, the map’s density is consistent with the LDR designation of the General Plan.

Below is a list of General Plan Policies with which the map was found to be consistent:

1. Policy DESIGN-2.5

“The City will require visually attractive streetscapes with street trees and sidewalks on both sides of streets, planting strips, attractive transit shelters, benches and pedestrian-scale streetlights in appropriate locations.” *The project will provide required street trees and architecturally accented streetlights and planting strip as seen in the Design Guidelines Manual for the proposed project.*

2. Policy DESIGN-2.7

“In general, the City will require the construction of sidewalks on both sides of all new streets.” *The applicant has provided sidewalks on both sides of all new proposed streets.*

3. Policy DESIGN-3.1

“The City will limit block lengths and encourage continuity of streets among neighborhoods to facilitate access, increase connectivity, and support safe pedestrian, bicyclist, and vehicular movement in residential neighborhoods.” *The City is requiring the applicant to make improvements at the intersection of California and Central in order to accommodate resident safety and support vehicular movements. In addition, the applicant is required to improve California and Central Avenues at the project’s frontage. Improvements will include a five (5) foot bicycle lane.*

4. Policy DESIGN-3.2

“Approved plans, projects, and subdivision requests shall provide residential site and building design that contributes to an attractive, pedestrian-friendly environment along neighborhood streets. Approved plans, projects and subdivision requests will minimize the visual prominence of garages and instead incorporate porches, stoops, active rooms, and functionally opening windows that face the street.” *Architecture and Site Plan Review will be presented to the Planning Commission pending the purchase of the site by a developer/builder.*

5. Policy DESIGN-3.5

“The City will ensure that smaller residential lots, including those with widths of less than approximately fifty (50) feet, shall minimize driveway widths, set garages back from the home structure, and minimize garage widths.” *The Planning Commission will review the proposed architectural details for the proposed project when the builder of the homes submits for Architecture and Site Plan Review.*

6. Policy DESIGN-5.2

“The City will encourage the use of porches, stoops, and other elements that provide a place to comfortably linger and thereby provide ‘eyes on the street,’ helping to maintain a sense of security within neighborhoods.” *The Planning Commission will review the proposed architectural details for the proposed project when the builder of the homes submits for Architecture and Site Plan Review.*

7. Policy CONS-4.2

“Approved projects, plans and subdivisions shall provide for collection, conveyance, treatment, detention, and other storm water management measures in a way that does not decrease water quality or alter hydrology in the Stanislaus River or associated groundwater recharge areas.” *The Developer has provided a stormwater basin within the project to keep the water on-site for percolation. He will be working with the City Engineer to ensure it is an appropriate size for the project. The developer is required to annex into Community Facilities District 01-2016 for back up in case of failure. Therefore, the Project is consistent with this General Plan policy concerning storm water.*

8. Policy CONS-8.6

“The City will encourage compact development to achieve more efficient use of resources and provision of public facilities and services.” *The project proposes homes on 5,000 sf lots at a density of 5.6 homes per net acre. Therefore, the Project is consistent with this General Plan policy concerning more compact development.*

9. Policy CONS-8.9

“Approved projects, plans, and subdivision requests shall include native, drought-tolerant landscaping.” *Based upon the City’s Model Standards and Specifications for Low Impact Development Practices, conditions of project approval include a condition that “Three sets of landscape and irrigation plans shall be prepared and submitted with a fee for review and approval by a landscape architect.” This condition ensures the subdivision contains native, drought-tolerant landscaping and, therefore, is consistent with General Plan policy. Therefore, the Project is consistent with this General Plan policy concerning native, drought-tolerant landscaping.*

10. Policy SAFE-2.2

“The City will consult with fire protection service providers in reviewing development proposals. Development proposals will include City conditions that respond to concerns of fire protection service providers.” *During the review process for this project, Fire required, and the developer complied with looped water lines for the project. Therefore, the Project is consistent with this General Plan policy concerning fire protection service provider comments.*

F. Rezone

The developer requested relief from Single Family Residential (R-1) standards through rezoning the property as Planned Development (PD). The Table below compares the standards of the former and approved districts, seven (7) of which proposed smaller minimums than the R-1 zone did (*):

Type of Standard	LDR Zoning Standards	Adopted PD Standards
Lot Size	6,000 square feet minimum	5,000 square feet minimum *
Lot Width	60/65 feet minimum	50/55 feet minimum *
Lot Depth	100 feet minimum	100 feet minimum
Density	8 units per net acre	5.6 units per net acre
Height	35 feet maximum	To Be Determined
Front Setback	10 feet minimum	15 feet minimum
Garage Setback	20 feet minimum	20 feet minimum
Side Setback	5 feet minimum	5 feet minimum
Rear Setback	5 feet minimum	10 feet minimum
Lot Coverage	50% maximum	50% maximum
Accessory Height	15 feet maximum	To Be Determined
Local Street Width	64 feet	50 feet minimum *
Sidewalks	Both sides of street	Both sides of street
Onsite Parking	2 covered spaces	2 covered spaces
Street Parking	Both sides of street	Both sides of street

Pursuant to RMC section 153.162 (E)(3), staff requested that the developer offer amenities to compensate the neighborhood for deviating from the modified minimum standards above. These amenities could include enhanced landscaping, a colored concrete or brick crosswalk, electric charging stations in the garages, upgraded front doors and garage doors, decorative wrought iron fencing in the front, open space furniture, French doors instead of sliders, etc. Other suggestions will be considered. The developer has proposed some amenities such as picnic tables, grills, and trash cans near the basin, electric vehicle charging outlets in the garages, and enhanced signage (concrete sign) and landscaping at the subdivision entrance.

Rezone Findings

The Planning Commission recommended approval of the rezone to PD to the City Council. In recommending approval, they found the project met the required findings of fact:

1. Each individual unit of the development if built in stages, as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development. *The development could be built in stages and exist as independent units capable of creating a good environment.*
2. The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect. *The site is currently a mostly vacant parcel with a couple of small existing buildings in the northwest corner of the site. A new subdivision will reduce any blighted conditions on the property as well as add to the diverse housing stock the City has to offer to potential new residents.*
3. Any deviation from the standard ordinance requirements is warranted by the unusual design and additional amenities incorporated in the development plan which offers certain redeeming features to compensate for any deviations that may be permitted. *Amenities proposed by the developer and staff for the deviations from R-1 included: electric vehicle charging outlets in garages, picnic tables, grills and trash cans at the basin, and enhanced signage (concrete sign) and landscaping at the subdivision entrance.*
4. The principles incorporated in the proposed master plan identify unique characteristics which could not otherwise be achieved under other zoning districts. *Smaller lots could not be achieved under other zoning districts.*
5. Where a PD rezone is initiated by the City, the previous findings are not required and a master plan is not required. *This PD was not initiated by the City.*

G. Park-in-lieu Fee

Pursuant to RMC Section 11-3-12(c), the Project has an obligation to dedicate park land or pay a Park-in-lieu Fee. The developer has set aside 0.9 acres for a stormwater basin. Staff does not consider this a dual-use park basin because the sides at 5:1 have little recreational use, the flat bottom is small in area and will be under water at times during the year, and there is no recreational equipment proposed, just benches and grills offered as an amenity for the PD zoning. Park-in-lieu calculations below show the obligation for this project is 0.44 acres to be paid based on values of land at the time the Final Map is recorded.

Development Agreement

A. Term

A development agreement vests the rights of the developer. The term of the Development Agreement is five (5) years unless the agreement is terminated, modified, or extended. The developer may request to extend the term of the agreement one time for the length of five (5) years. The City Council may approve the extension which would then be recorded on the property in the official records of Stanislaus County.

B. System Development Fees

Developer shall pay all fees subject to the Mitigation Fee Act, Government Code section 66000 *et seq.*, including System Development Fees, impact fees, connection fees, public facilities fees or similar fees adopted by the City, and all other fees imposed as conditions of approval of the Property. City and Developer have agreed in concept to System Development Fee credits attributable to Developer.

ENVIRONMENTAL DETERMINATION

A Mitigated Negative Declaration was approved for the River Run subdivision on December 12, 2017 when the City Council approved a General Plan Amendment, Tentative Map, and a Rezone. All Mitigations and Conditions of Approval will continue to apply during the life of the proposed Development Agreement. Therefore, the City has determined that the Development Agreement will not have a significant effect on the environment.

FINANCIAL IMPACT

There is no direct financial impact to the City associated with this project. The project is required to annex into CFD 2016-01 to mitigate future impacts to the City's water, waste water, storm water, park, and roadways systems.

PUBLIC NOTICE

On February 26, 2020, public notices for the City Council hearing were mailed to interested parties and property owners within 300 feet of the project location. The Planning Commission hearing notice was published in the Riverbank News and on the City's website on February 26, 2020. It was also posted at City Hall North, South, the post office and sent to the library on February 26, 2020. The subject property was posted on February 7, 2020.

ATTACHMENTS

Attachment 1 – Ordinance No. 2020-004

Attachment 2 – River Run Development Agreement

CITY OF RIVERBANK

ORDINANCE NO. 2020-004

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 02-2019 FOR
THE RIVER RUN SUBDIVISION RESIDENTIAL PROJECT
(APN: 062-021-008)**

WHEREAS, the R & K Lowe 1997 Revocable Trust (“the Trust”), which proposes to develop 51 residential lots in the City of Riverbank (“City”) and related public improvements, is requesting to extend by Development Agreement the life of Tentative Map 02-2016, a subdivision known as River Run (the “Project”); and

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

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

WHEREAS, on December 12, 2017, the City Council adopted Resolution No. 2017-078, approving a general plan amendment redesignating 9.1 acres to low-density residential (LDR) which allows for a net density of zero to eight (0-8) dwelling units per acre; and

WHEREAS, on December 12, 2017, the City Council adopted Resolution No. 2017-079, approving Tentative Map 02-2016 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 51 residential lots on 9.1 acres; and

WHEREAS, on January 9, 2018, the City Council adopted Ordinance No. 2018-002, approving a rezone of 9.1 acres to Planned Development and allowing for a net density of zero to eight (0-8) dwelling units per acre; and

WHEREAS, the City of Riverbank Planning Commission held a duly noticed public hearing on Tuesday, February 18, 2020 to consider the River Run Development Agreement and provided their recommendation to the City Council; and

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

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on March 10, 2020 to consider the introduction of the River Run Development Agreement for first reading; and

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on March 24, 2020, to consider the approval of the River Run Development Agreement; and

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

A. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank; and

B. The City Council finds that the River Run Development Agreement:

1. Is consistent with the objectives, policies, and programs and residential land uses established by the 2005 Riverbank General Plan; and

2. Is consistent with the provisions of Government Code Section 65864 through 65869.5; and

3. Is in conformity with the public convenience and general welfare and good land use practices because the terms of the Development Agreement establish appropriate and adequate mechanisms to fund and install infrastructure needed to support public services relating to the Project and General Plan planning area; and

4. Will provide funding and infrastructure to support the Project, and will not adversely affect the orderly development of property or the preservation of property values; and

5. Will provide funding and infrastructure to ensure that adequate public services are available to serve the Project without being detrimental to the health, safety, and general welfare of the City of Riverbank; and

6. Provides sufficient benefit to the City to justify entering into the Development Agreement.

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

Section 1: The City Council of the City of Riverbank approves a Development Agreement by and between the R & K Lowe 1997 Revocable Trust and the City of Riverbank relating to the development known as “River Run” located on the following APN: 062-021-008.

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

Section 3: Notice of the public hearing on the proposed Development Agreement Ordinance was published in the Riverbank News, a newspaper of general circulation, on February 26, 2020; 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, on February 26, 2020.

Section 4: Pursuant to the California Environmental Quality Act (CEQA) environmental impacts relating to the Project were evaluated and mitigated in the Mitigated Negative Declaration adopted on December 12, 2017, when the City Council approved a General Plan Amendment, Tentative Map, and Rezoning for the Project. Pursuant to CEQA Guidelines Section 15378, the Development Agreement is within the purview of the River Run Project, for which environmental impacts have already been reviewed. Thus, approval of the Development Agreement does not require further environmental review.

Section 5: If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The 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 (04/24/2020), 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 03/10/2020. 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 24th day of March, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and moved said ordinance by a City Council roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan, City Attorney

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

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

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

(Space above line for recorder's use only)

APN: 062-021-008

DEVELOPMENT AGREEMENT BY AND BETWEEN THE

CITY OF RIVERBANK

AND

R & K LOWE 1997 REVOCABLE TRUST

RELATING TO THE DEVELOPMENT KNOWN AS THE

“RIVER RUN”

Adopted by City Council Ordinance No. 2020-0____
on _____, 2020

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between the CITY OF RIVERBANK, a California municipal corporation (“City”) and R & K LOWE 1997 REVOCABLE TRUST (“Developer”). Developer and City may hereinafter be referred to individually as a “Party” and collectively as the “Parties”. There are no other parties to this Agreement.

This Agreement is made with reference to the following facts:

RECITALS

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

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

C. Developer represents that, as of the recordation of this Agreement, it will have a legal or equitable interest to land consisting of approximately 9.1 gross acres, as shown on the tentative map attached hereto as **Exhibit A**, and legally described in **Exhibit B** (the “Property”).

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

(i) On December 12, 2017, the City Council adopted Resolution No. 2017-078, approving a general plan amendment redesignating 9.1 acres to low density residential (LDR) which allows for a net density of zero to eight (0-8) dwelling units per acre;

(ii) On December 12, 2017, the City Council adopted Resolution No. 2017-079, approving tentative subdivision map 02-2016 (the “River Run Tentative Map”) and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 51 residential lots on 9.1 acres;

(iii) On December 12, 2017, the City Council adopted Ordinance No. 2018-002, approving a rezone of 9.1 acres to Planned Development and allowing for a net density of zero to eight (0-8) dwelling units per acre;

E. On December 12, 2017, the City Council approved an Initial Study/Mitigated Negative Declaration in connection with its adoption of Ordinance No. 2018-002 approving the Rezone.

F. Developer has proposed to develop the Property into 51 residential lots and related public improvements in conformance with the provisions of this Agreement and the Project Approvals (the “Project”).

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

H. Pursuant to Government Code Section 65867.5, the City finds that development of the Project in accordance with this Agreement, the Project Approvals and Subsequent Approvals will provide for orderly growth within the City consistent with the goals, policies, and provisions of the General Plan.

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

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

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

ARTICLE 1 DEFINITIONS

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

1.01. “Agreement” means this Development Agreement entered into by and between the City and Developer relating to the development known as “River Run”.

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

1.03. “City Council” shall mean the City Council of the City of Riverbank.

1.04. “City Code” shall mean the Riverbank Municipal Code.

1.05. “Conditions of Approval” shall mean the consolidated conditions of approval for the Project, attached and incorporated hereto as **Exhibit C**. The Conditions of Approval supersede previous conditions adopted in connection with City Resolution Nos. 2017-078 and 2017-079.

1.06. “Developer” shall mean, R & K Lowe 1997 Revocable Trust, and may include Developer’s assignees where such assignment is validly made pursuant to this Agreement.

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

1.08. “Facilities Districts” or “CFDs” or “CFD 2016-01” shall mean that Mello-Roos Community Facilities District that Developer shall annex into for the purpose of facilitating the long-term maintenance of public improvements serving the Property.

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

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

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

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

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

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

1.15. “Property” shall mean 9.1 acres of real property located north of California Avenue, east of Central Avenue, west of Snedigar Road, and south of Patterson Road, in the City of Riverbank and the County of Stanislaus, State of California, as shown on the River Run Tentative Map in **Exhibit A**.

1.16. “River Run Tentative Map” shall refer to the Tentative Subdivision Map for the Project, as approved by the City Council on December 12, 2017 by Resolution No. 2017-079, attached and incorporated hereto as **Exhibit A**, which may be amended from time to time in compliance with this Agreement.

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

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

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

ARTICLE 2 GENERAL PROVISIONS

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

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

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

- Exhibit A: River Run Tentative Map
- Exhibit B: Legal Description of Property
- Exhibit C: Consolidated Conditions of Approval
- Exhibit D: System Development Fee Reimbursement Agreement
- Exhibit E: River Run SDF
- Exhibit F: Subdivision Improvement Agreement
- Exhibit G: River Run Design Guidelines Manual
- Exhibit H: Assumption and Assignment Agreement

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

2.05. Term.

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

(b) Extension. Developer may request to extend the Term of the Agreement one time for the length of five (5) years. The City Council may approve a one-time extension. If approved, the extension shall be recorded on the Property in the official records of Stanislaus County.

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

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

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

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

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

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

ARTICLE 3 DEVELOPMENT OF THE PROPERTY

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

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

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

3.04. Character Design. Each home built as part of the Project shall conform to the Community and Character Design elements of the General Plan, specifically the policies of Goal Design-3, 4, and 5. The design of each home shall be subject to architecture and site plan review by the Community Development Director based upon the adopted River Run Design Guidelines Manual incorporated hereto as **Exhibit G**.

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

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

3.07. Subdivision Maps.

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

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

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

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

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

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

(d) Other Public Agencies. The Parties acknowledge that other public agencies outside of the control and authority of the City may regulate aspects of the development of the

Project. This Agreement does not limit the authority of any such public agency. To the extent Developer requires permits or approvals from other public agencies, however, City agrees to cooperate with Developer to obtain such permits and approvals for the Project.

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

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

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

3.09. Development Timing. Developer shall be obligated to comply with the terms and conditions at those times specified in either the Project Approvals or this Agreement. The Parties acknowledge that Developer cannot predict with certainty when or the rate at which phases of the Property would be developed. Such decisions depend upon numerous factors which are not all within the control of Developer, such as market orientation and demand, interest rates, competition and other factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development controlling the parties' agreement, it is the intent of the City and Developer to hereby acknowledge and provide for the right of Developer to develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment, subject to the terms, requirements and conditions of the Project Approvals and this

Agreement. The City acknowledges that such a right is consistent with the intent, purpose and understanding of the parties to this Development Agreement, and that without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statute, City Council Resolution No. 1999-039 and this Agreement. Developer shall use their best efforts, in accordance with their business judgment and taking into consideration market conditions and other economic factors influencing Developer's business decision, to commence or to continue development, and to develop the Project in a regular, progressive and timely manner in accordance with the provisions and conditions of this Agreement and with the Project Approvals.

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

ARTICLE 4 FEES, COSTS AND REIMBURSEMENTS

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

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

4.03. System Development Fee Credits^[JV1]. City and Developer have agreed in concept to System Development Fee credits or reimbursements attributable to Developer, as provided in the agreement attached as **Exhibit D** (the "System Development Fee Reimbursement Agreement" or "Reimbursement Agreement"). City shall review, consider and remit fee credits and reimbursements attributable to Developer consistent with the City's System Development Fee ("SDF") program. City may update its SDF program to incorporate a sewer capacity fee, to update the traffic fee, and/or to update the community park component of the parks fee. Updates to the City's SDF program fees must occur within two (2) years after the Effective Date of this Agreement to be applicable to the subject Property. In no event, however, shall City adopt or increase the SDF fee for sewer capacity, traffic, or the community park component of the parks

fee by more than twenty-five percent (25%) of the current SDF amounts (**Exhibit E** “Eligible Project Specific Reimbursements”) attached hereto. In the event the City Manager reasonably determines that the existing sewer infrastructure is inadequate to serve the Project, the City may increase the SDF fees to cover such improvements, but shall not exceed fifty percent (50%) of the current SDF amounts for sewer (**Exhibit E**), or increase any other SDF category within the program, except sewer capacity, traffic and parks. The SDF fee for sewer capacity, traffic and parks may be subject to an annual escalation for inflation commencing five (5) years after the Effective Date, provided that in no event shall escalation exceed three percent (3%) per annum.^[NG2] In addition, no SDF fee increase shall apply to any property for which the Developer has previously paid, requested a credit of such SDF fee(s), or pulled a building permit for such property or building.

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

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

ARTICLE 5 IMPROVEMENTS, SERVICES AND UTILITIES

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

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

5.03. Subdivision Improvement Agreement. Developer is obligated to construct the improvements identified in the River Run Tentative Map and Conditions of Approval. Developer acknowledges that, in order for the City to process any final map in connection with the Property, Developer shall be required to enter into a Subdivision Improvement Agreement as one of the Subsequent Approvals related to the Project, and shall be approved in a form substantially similar to the Subdivision Improvement Agreement attached hereto as **Exhibit F**.

5.04. Storm Drainage Improvements. Developer agrees to construct storm drainage improvements which shall be a condition to recording the final map, or in connection with the City's approval of a Subdivision Improvement Agreement

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

(a) Dedication. To receive reimbursement for dedication of parkland within the storm drainage area, Developer must submit concept landscape drawings to the satisfaction of the Community Development Director and the Parks and Recreation Director in connection with approval of the final subdivision map for the Property. Developer will be obligated to install or bond for the landscaping improvements, which shall comply with City Drought Tolerant Landscape Standards. As the Property is currently subject to CFD 2016-01 to finance ongoing maintenance of public improvements, no additional financial mechanism shall be required for park maintenance, provided that the Property remains in CFD 2016-01.

(b) Parkland Credit. The dedicated parkland will create a dual-use basin, which serves to solve the Project's storm water obligation. Since the dedicated parkland serves as a dual-use basin, the City shall only allow a fee credit of up to fifty-percent (50%) of Developer's park-in-lieu fees, per net acre, in satisfaction of the parkland dedication requirements for the Property.

Oversizing. City and Developer may agree to the dedication of more parkland than legally required for the Project (factoring in the 50% credit as set forth above). In such case, the value of the neighborhood park improvements to be installed by Developer may be credited through the City's SDF program, up to the amount defined in the neighborhood park improvement budget in the adopted SDF program. The terms for dedicating such excess parkland shall be defined in a reimbursement agreement, in substantially similar form to the Reimbursement Agreement provided in **Exhibit C**. In no case shall Developer be entitled to any fee credit or reimbursement for construction costs that exceed the defined neighborhood park improvement budget.

ARTICLE 6 CITY OBLIGATIONS

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

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

ARTICLE 7 DEFAULT, REMEDIES, TERMINATION

7.01. General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either Party to perform any term or provision of this Agreement shall constitute a default. Any Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which the default may be cured. During any such thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings. After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may terminate this Agreement and institute legal or equitable action to cure, correct or remedy any default, including but not limited to an action for specific performance of the terms of this Agreement. In no event shall either Party be liable to the other for consequential damages for any default or breach of this Agreement.

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

7.03. Default by City. In the event City does not accept, review, approve or issue development permits, entitlements, or other land use or building approvals for use in a timely

fashion as provided in this Agreement or as otherwise agreed to by the parties, or the City otherwise defaults under the terms of this Agreement, Developer shall have all rights and remedies provided herein or under applicable law or equity (except as limited herein). Developer shall provide City with written notice of the default and the City shall have thirty (30) days to notify Developer of City's initial action to cure the default and ninety (90) days from receipt of Developer's notice to cure the default.

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

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

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

ARTICLE 8 INDEMNIFICATION

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

8.02. Third Party Legal Challenge. In the event of any legal or equitable act, action, or other proceeding instituted by a third party, other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending said action or proceeding. If Developer elects to file a validation action in order to confirm validity

of this Agreement, City agrees to cooperate with Developer in this litigation and further agrees to refrain from raising any arguments that challenge the validity of this Agreement.

ARTICLE 9

ASSIGNMENT; MORTGAGEE PROTECTION

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

9.02. Mortgagee Not Obligated. Notwithstanding the provisions of Section 9.01 above, no mortgagee shall have any affirmative obligation or duty under this Agreement to construct or complete improvements, or to guarantee such construction or completion. A mortgagee who takes lawful possession of the Property shall, however, assume any or all development rights consistent with any vested rights and this Agreement. Foreclosure under a mortgage, deed of trust, deed in lieu of foreclosure or sale following foreclosure or deed in lieu of foreclosure is permitted without the consent of the City. Following its acquisition of all or a portion of the Project, such holder of any mortgage or deed of trust, or any successor in interest thereto, shall be entitled to the benefits of this Agreement, shall be bound by its terms and obligations, and shall have standing to enforce the provisions of this Agreement, including the terms and conditions of Project Approvals which pertain to the Project or such portion thereof in which it holds an interest. Any such holder or successor who comes into possession of the Project, or any portion thereof, shall take the Project, or such portion thereof, subject to any claims for payments or charges against the Project or such portion thereof, which accrue under this Agreement or Project Approvals prior to the time such holder or successor comes into possession of the Project or such portion thereof. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder or successor to devote the Project, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by Project Approvals and this Agreement, subject to all of the terms and conditions of this Agreement.

9.03. Assignment of Rights. Subject to compliance with Section 9.04 below, Developer may sell, assign or transfer the Project in whole or in part to any person or entity at any time during the Term of this Agreement. Developer shall seek City's prior written consent to any sale, assignment or transfer, which consent shall not be unreasonably withheld or delayed. Failure by City to respond within forty-five (45) days to any request made by Developer for such consent

shall be deemed to be City's approval of the sale, assignment or transfer in question. City may refuse to give its consent only if, in light of the proposed assignee's reputation and financial resources, such assignee would not in City's reasonable opinion be able to perform the obligations proposed to be assumed by such assignee. Such determination shall be made by the City Manager, and may be appealable by Developer to the City Council. To the extent reimbursements or fee credits from City are required pursuant to this Agreement or the Project Approvals, any and all such reimbursements and credits shall be distributed to Developer unless Developer and the subsequent Landowner specifically direct City in writing to distribute such reimbursements, or apply such credits, otherwise.

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

ARTICLE 10 GENERAL

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

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

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

10.04. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held

invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

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

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

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

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

10.09. Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice or communication shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City: City of Riverbank
6707 3rd Street
Riverbank, CA 95367
Attn: City Manager

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

If to Developer: R & K Lowe 1997 Revocable Trust
3112 Buckingham Court
Modesto, CA 95350
Attn: Rod Lowe

10.10. Prevailing Wage. Developer shall be solely responsible for determining whether construction of any or all of the improvements required in connection with the Project trigger the obligation to pay prevailing wages under California or federal law. In the event and to the extent that the payment of prevailing wages is required, Developer shall use diligent good faith efforts to ensure full compliance with those requirements. Developer shall defend, indemnify and hold harmless City, its agents, employees, officers and officials from any liability, loss, debts, costs or damages sought by a third party for a failure to pay prevailing wages in connection with the Project. The indemnification obligation set forth in this Section shall survive the termination of this Agreement.

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

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

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

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

[Signatures on following page]

DRAFT

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

CITY	DEVELOPER
The City of Riverbank, a California municipal corporation	
By: _____ Richard O'Brien, Mayor	_____ Print Name: <u>Rod Lowe</u> On behalf of R & K 1997 Revocable Trust
Date: _____	
APPROVED AS TO FORM:	
By: _____ Tom Hallinan, City Attorney	
ATTEST:	
By: _____ City Clerk	

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

(Seal)

California All-Purpose Acknowledgment

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

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

State of California)
)
County of _____)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

EXHIBIT A

River Run Tentative Map

DRAFT

**RIVER RUN
TENTATIVE MAP
RIVERBANK, CALIFORNIA**

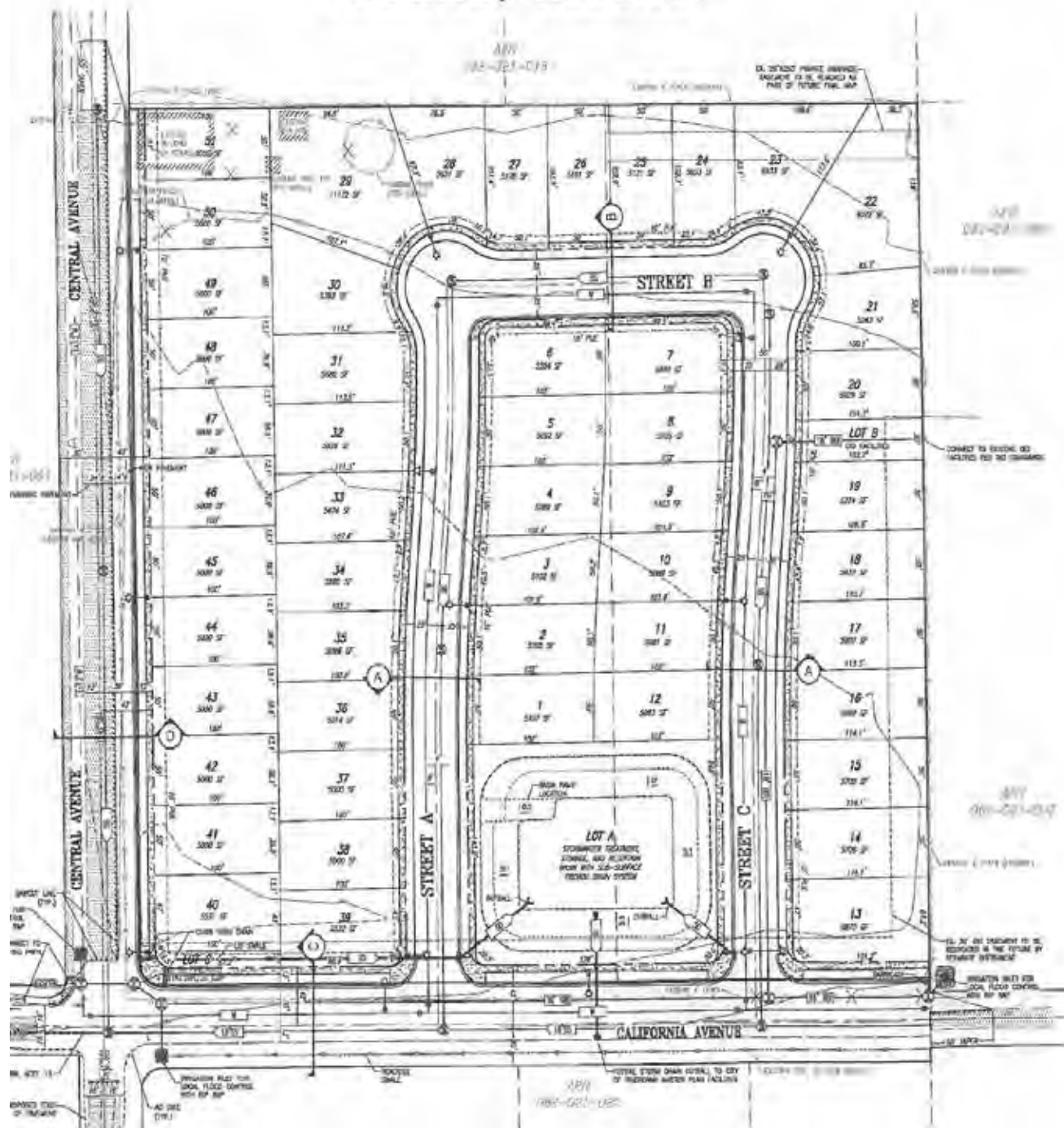


EXHIBIT B

Legal Description of Property

DRAFT

EXHIBIT "B"
Legal Description

For APN/Parcel ID(s): 062-021-008

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

PARCELS A AND B AS SHOWN ON PARCEL MAP FILED FOR RECORD MARCH 30, 1977 IN BOOK 24 OF PARCEL MAPS, AT PAGE 87, STANISLAUS COUNTY RECORDS.

EXHIBIT C

Consolidated Conditions of Approval

DRAFT

Exhibit "C"

River Run Consolidated Conditions of Approval

1. Applicant shall comply with the City of Riverbank Standard Conditions as contained in Planning Commission Resolution 2013-014, including annexing into Community Facilities District 2016-01, or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and
2. The northeasterly and northwesterly intersection of Central Avenue and California Avenue shall be fully improved including curb, gutter, sidewalk, crosswalk, and storm drainage in accordance with the approved tentative map. Completion of this condition of approval will not require the acquisition of additional right-of-way. If it is determined that sufficient right-of-way is unavailable to construct the proposed improvements, the proposed improvements will be modified to fit within the existing available right-of-way; and
3. Central Avenue and California Avenue streets shall be fully improved half streets plus a new twelve (12) foot paved drive lane on the unimproved side. Completion of this condition of approval will not require the acquisition of additional right-of-way. If it is determined that sufficient right-of-way is unavailable to construct the proposed improvements, the proposed improvements will be modified to fit within the existing available right-of-way; and
4. A fifty (50) foot transition taper and barricade shall be required at the transition of new roadways to existing roadways on all improved travel lanes. Completion of this condition of approval will not require the acquisition of additional right-of-way. If it is determined that sufficient right-of-way is unavailable to construct the proposed improvements, the proposed improvements will be modified to fit within the existing available right-of-way; and
5. The storm drainage on the southerly side of California Avenue shall be managed with a swale, discharging runoff to proposed field drainage inlets discharging directly to the Riverbank Drain in accordance with the approved tentative map; and
6. The storm drainage shall be stubbed to a future regional basin per the Bruinville Master Plan; and
7. Developer shall extend the existing 36" Riverbank Drain to the east end of the project and provide a field drainage inlet along California Avenue per Oakdale Irrigation District standards and specifications and in accordance with the approved tentative map. The developer shall endeavor to obtain an easement from the neighboring property owner to install the proposed field drainage inlet. If the developer has made good faith efforts to obtain the easement which can be shown to the City in writing, and is unable to come to an agreement with the property

Exhibit "C"

owner, the City will make a determination on removing this condition and allow the construction of the proposed field drainage inlet along California Avenue within the proposed right-of-way along the project frontage; and

8. The developer is required to provide a final grading and drainage plan as part of the project improvement plans to mitigate potential flooding at the site and at the intersection of Central Avenue and California Avenue per previous discussion with City staff to include the following:
 - a. A storm drain basin will be constructed to retain the proposed stormwater from the project site in accordance with current City of Riverbank Standards and specifications.
 - b. The existing floodwater overland release path for the project site is to the west along California Avenue. The proposed project site shall be designed to provide overland release of emergency floodwaters to protect the future residential units.
 - c. The developer will extend the existing 36" Riverbank Drain to the east end of the project and provide a field drainage inlet in accordance with condition #7.
 - d. The proposed building pads on the north and east sides of the project site will be constructed a minimum of 6" above the neighboring properties to mitigate potential irrigation floodwaters.
 - e. Additional drainage inlets will be installed and connected directly to the Riverbank Drain at the intersection of California Avenue and Central Avenue in accordance with the approved tentative map; and
9. The project will need to conform to the City's storm drainage ordinance, Post Construction Standards manual, and low impact development requirements. This will require additional storm water mitigation on each lot beyond running the water down the street to the basin; and
10. Three (3) sets of landscape and irrigation plans shall be prepared and submitted with fee for review and approval by the City's contract landscape architect. The storm basin shall be fully landscaped and slope protection provided.; and
11. Applicant shall pay an in-lieu fee for parkland dedication based on values of land at the time the Final Map is recorded. The obligation for this project is the value of 0.44 acres; and
12. A Tree Survey shall be conducted and Tree Protection Plan provided (if required) before a grading permit can be issued and
13. An access ramp shall be designed into the basin for maintenance. The proposed material for the ramp to be concrete, asphalt base, or decomposed granite; and
14. Lots A, B & C shall be maintained by the CFD; and

Exhibit "C"

15. The OID pipeline shall be designed and installed to OID standards; and
16. All wet utilities are to be cleaned, tested, and videotaped prior to acceptance by the City of Riverbank; and
17. All existing and proposed overhead utilities shall be installed underground along California Avenue and Central Avenue; and
18. The storm basin shall have a minimum of five (5) feet of sandy material below the lowest French drain system to insure good percolation; and
19. Private street names shall be approved by City Council; and
20. An automatic fire system shall be provided for all Group R occupancies. **CFC 903.2.8**; and
21. Buildings shall be provided with proper address identification in accordance with the California Fire Code as amended by the Stanislaus Consolidated Fire Protection District. **CFC 505.1**; and
22. Approved fire apparatus access roads shall be provided for every facility, building, or portion of a building hereafter constructed or moved into the jurisdiction. All fire apparatus access roads shall meet the design requirements of the California Fire Code. **CFC 503.1.1**; and
23. During construction, Fire apparatus access roads shall be clearly marked with notices or markings that include the words NO PARKING – FIRE LANE. The markings shall be clean and legible at all times. **CFC 503.3**; and
24. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the site. **CFC 507.1**; and
25. Fire apparatus access roads and a water supply for fire protection shall be installed and made serviceable prior to and during the time of construction. **CFC 501.4**; and
26. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two (2) times per day; and
27. All haul trucks transporting soil, sand, or other loose material off-site shall be covered; and
28. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited; and

Exhibit "C"

29. All vehicle speeds on unpaved roads shall be limited to fifteen (15) miles per hour; and
30. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binding are used; and
31. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes. Clear signage shall be provided for construction workers at all access points; and
32. All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified visible emissions evaluator; and
33. Post a publicly visible sign with the telephone number and person to contact at the Air District regarding dust complaints. The Air District shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations; and
34. Applicant shall comply with San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review; and
35. Pre-construction surveys for nesting Swainson's hawks within 0.25 of the project site are recommended if construction commences between March 1 and September 15. If active nests are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should utilize criteria set forth by CDFW (CDFG, 1994); and
36. Pre-construction surveys for burrowing owls are recommended if construction commences between February 1 and August 31. If occupied burrows are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should be pursuant to criteria set forth by CDFW (CDFG, 2012); and
37. If vegetation removal and/or construction commences during the general avian nesting season (March 1 through July 31), a pre-construction survey for nesting birds is recommended. If active nests are found, work in the vicinity should be delayed until the young fledge; and
38. On-site trees could be used by nesting raptors and other protected birds. Any trees that need to be removed to facilitate future development should be felled outside of the general bird nesting season (February 1 through August 31) or a nesting bird survey should be conducted immediately prior to tree removal. If active nests are found, tree felling should be delayed until the young have fledged; and

Exhibit "C"

39. If potential human remains are encountered, the construction contractor shall halt work in the vicinity (within 100 feet) of the find and contact the City of Riverbank. The project applicant and/or contractor shall be required to contact the Stanislaus County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5. If the coroner determines the remains are Native American, the coroner would contact the Native American Heritage Commission (NAHC). As provided in Public Resources Code Section 5097.98, the NAHC would identify the person or persons believed to be most likely descended from the deceased Native American. The most likely decedent makes recommendations for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98. Implementation of Mitigation Measure CUL-1 would reduce the potential impact on human remains to a less than significant level; and
40. Pursuant to the 2005-2025 General Plan Policy SAFE-1.11, the proposed project requires a detailed Geotechnical Study prepared by an independent qualified geologist to be reviewed and approved by the City. The Geotechnical Study shall be submitted with the project Improvement Plans; and
41. Consistent with the requirements of the City of Riverbank Municipal Code, the National Pollutant Discharge Elimination System (NPDES) Construction General Permit, the project applicant shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential adverse impacts on surface water quality through the project construction period. The SWPPP shall be designed to address the following objectives:
 - a. All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity, are controlled using source control and treatment control best management practices (BMPs).
 - b. Where not otherwise permitted by the Regional Water Quality Control Board, all non-stormwater discharges are identified and eliminated.
 - c. BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity in accordance with the Construction General Permit; and
42. The project applicant shall fully comply with the City of Riverbank Municipal Code and all Regional Water Quality Control Board stormwater permit requirements, including Provision C.3 of the Municipal Regional Permit (MRP). This will require preparation and implementation of a complete Stormwater Control Plan (SCP) for the project, which shall be submitted to the City Engineer for review and approval prior to any construction activity. The SCP shall act as the overall program

Exhibit "C"

document designed to provide measures to mitigate potential water quality impacts associated with the operation of the proposed project and shall be designed to comply with both MRP and City of Riverbank requirements. At a minimum, the SCP for the project shall include the following:

- a. An inventory and accounting of existing and proposed impervious areas.
 - b. Low Impact Development (LID) design details incorporated into the project. Specific LID design details may include but are not limited to rain gardens, bio retention areas, pervious pavements, harvesting and reuse of stormwater, dispersal of runoff to landscaped areas, and/or routing of runoff swales and other small-scale facilities distributed throughout the site.
 - c. Measures to address potential stormwater contaminants. These may include measures to address potential sources of stormwater pollutants at the project site, covering trash collection and parking areas.
 - d. A Draft Stormwater Facility Operation and Maintenance Plan for the project site, which shall include periodic inspection and maintenance of the storm drainage system. Persons responsible for performing and funding the requirements of this plan shall be identified. This plan shall be finalized prior to the issuance of any building permits for the project; and
43. Construction equipment shall be well maintained to be as quiet as possible. The following measures, when applicable, shall be implemented to reduce noise from construction activities:
- a. All internal combustion engine-driven equipment shall be equipped with mufflers that are in good condition and appropriate for the equipment.
 - b. "Quiet" models of air compressors and other stationary noise sources shall be used, where technology exists.
 - c. Stationary noise-generating equipment shall be located as far as feasible from sensitive receptors (dwelling and Riverbank High School).
 - d. Unnecessary idling of internal combustion engines shall be prohibited.
 - e. Staging areas and construction material storage areas shall be located as far away as possible from adjacent sensitive land uses (dwellings and Riverbank High School).
 - f. Construction-related traffic shall be routed along major roadways (Claus Road and Patterson Road) and as far as feasible from sensitive receptors.
 - g. Residences or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing. The construction contractor shall designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of the noise complaints (e.g., starting too early,

Exhibit "C"

bad muffler, etc.) and shall institute reasonable measures to correct the problem. The construction contractor shall conspicuously post a telephone number for the liaison at the construction site.

- h. The construction contractor shall hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and construction liaison) are completed; and
44. The approval of this map TM 01-2016 will invalidate the prior approval of the underlying Tentative Map approved in 2006 known as TM 06-2005.

EXHIBIT D

System Development Fee Reimbursement Agreement

DRAFT

SYSTEM DEVELOPMENT FEE REIMBURSEMENT AGREEMENT

THIS SYSTEM DEVELOPMENT FEE REIMBURSEMENT AGREEMENT (the "Agreement") is made this ____ day of _____ 2020 (the "Effective Date"), by and between the City of Riverbank, a municipal corporation ("City"), and R&K Lowe 1997 Revocable Trust ("Developer"). City and Developer may each be referred to individually as a "Party" or collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. On December 12, 2017 the City Council adopted Resolution No. 2017-079, approving Tentative Map 02-2016 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 51 residential lots on 9.1 acres.

B. On December 12, 2017, the City Council adopted Resolution No. 2017-079, approving Tentative Map 02-2016 (the "Tentative Map" and "Project Area"). The Tentative Map is attached hereto for reference, as **Exhibit A**.

C. On _____, 2020, City adopted Ordinance No. 2020-XXX, approving a development agreement between City and Developer (the "Development Agreement"), to extend the life of the Tentative Map, clarify the conditions of approval applicable to the Project Area, establish vested entitlements to construct 51 residential lots in the Project Area, and overall, to promote the logical and orderly development of the Project Area.

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

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

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

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

AGREEMENT

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

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

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

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

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

(a) SDF Fee Credit. Upon issuance of each of the 51 building permits in the Project Area, City shall reduce the SDF fees collected from Developer for each category of SDF fees related to the Improvement to be constructed (the "SDF Fee Credit"), in an amount up to the total SDF reimbursement shown on Exhibit B.

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

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

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

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

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

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

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

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

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

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

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

Section 7. Limited City Obligation. The obligations arising from this Agreement are neither a debt of City nor a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except for the issuance of SDF Fee Credits, as provided herein. Neither the City's general fund nor any special fund of City, except for the applicable account associated with each SDF

category, shall be liable for the payment of any obligations arising from this Agreement. The credit or taxing power of City is not pledged for the payment of any obligation arising from this Agreement. Developer shall not compel the forfeiture of any of City's property to satisfy any obligations arising from this Agreement.

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

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

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

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

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

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

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

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

Developer: R&K Lowe 1997 Revocable Trust
1190 Spring Creek Drive
Ripon, CA 95366
Attn: Rod Lowe

With a copy to:

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

Section 13. General Provisions.

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

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

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

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

13.5. *Governing Law; Venue.* This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by, the laws of the State of California.

In the event of a dispute concerning the terms of this Agreement, the venue for any legal action shall be with the appropriate court in the County of Stanislaus, State of California.

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

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

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

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

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

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

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

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

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

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

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

CITY:

City of Riverbank, a California municipal corporation

DEVELOPER:

R&K Lowe 1997 Revocable Trust, a Trust

By: _____
Sean Scully, City Manager

By: _____
Rod Lowe, a Representative of the Trust

Date Signed: _____

Date Signed: _____

APPROVED AS TO FORM:

By: _____
Tom Hallinan, City Attorney

EXHIBIT A
Tentative Map

DRAFT

EXHIBIT B

SDF Fee Reimbursements

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

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

*To receive a parkland reimbursement, Developer must comply with provisions in the recorded development agreement for the Property; e.g., prepare landscape and irrigation plan in compliance with City Drought Tolerant Landscape Standards and install open space to the satisfaction of the Community Development Director and the Recreation Director. Potential credit shall be subject to City approval of the Pocket Park plans. Reimbursement will be consistent with the adopted System Development Fees as enacted by the Riverbank City Council and would include the park improvements as well as adjacent curb, gutter, sidewalk and ½ of the adjacent neighborhood streets in the percentages described above.

EXHIBIT C

Adjusted SDF Fee Schedule

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

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

EXHIBIT E

SDF Chart

DRAFT

Exhibit E

Developer shall pay all fees subject to the Mitigation Fee Act, Government Code section 66000 *et seq.*, including System Development Fees, impact fees, connection fees, public facilities fees or similar fees adopted by the City, and all other fees imposed as conditions of approval of the Property. City and Developer have agreed in concept to System Development Fee credits attributable to Developer. City shall review, consider and remit fee credits and reimbursements attributable to Developer consistent with the City's System Development Fee ("SDF") program.

EXHIBIT F

Subdivision Improvement Agreement

DRAFT

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

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

(Space above this line for Recorder's use)

SUBDIVISION IMPROVEMENT AGREEMENT FOR RIVER RUN SUBDIVISION

This **SUBDIVISION IMPROVEMENT AGREEMENT** ("Agreement") is made and entered into this ___ day of ___ 2020, by and between the City of Riverbank, a California municipal corporation ("City") and R&K Lowe 1997 Revocable Trust ("Subdivider"). City and Subdivider may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement. This Agreement is made with reference to the following:

RECITALS

A. Subdivider is possessed of a tract of land consisting of approximately 9.1 acres, lying in the City of Riverbank, County of Stanislaus, California, known as "River Run" (the "Subdivision").

B. On November 21, 2017, the Planning Commission approved Tentative Subdivision Map No. 02-2016 for the Subdivision with conditions of approval (the "Tentative Map"). Resolution No. 2017-024 approving the Tentative Map is attached hereto as **Exhibit A** and incorporated herein by this reference (the "Resolution of Approval").

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

D. Complete improvement plans for the construction, installation, and completion of the improvements ("Improvement Plans") have been prepared by Subdivider and approved by the City of Riverbank City Engineer ("Engineer") and Planning and Building Manager or her designee ("Manager").

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

F. In order for the City to approve and record a Final Map for the Subdivision, the Subdivider must either complete all of the improvements required by the Subdivision Laws,

Resolution of Approval, Improvement Plans and Tentative Map (“Improvements”), or execute an agreement with the City to complete the Improvements within a specified period of time.

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

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

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

AGREEMENT

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

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

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

4. Installation of Required Improvements. Subdivider agrees to furnish, construct and install at Subdivider’s own expense the Improvements, as shown on the Improvement Plans, which are to be installed to the sole satisfaction of the Manager and will be on file in the Development Services Department. The Improvement Plans may only be modified by the Subdivider subject to prior written approval by the Manager.

In-lieu of providing a performance bond and payment bond, Subdivider agrees to construct all of the required Improvements prior to the approval and recordation of the final map. As such, the ordinary requirements for providing a performance bond and payment bond has been waived in this Agreement.

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

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

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

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

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

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

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

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

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

I. Require each contractor and subcontractor to have a competent foreman on the job at all times when that contractor or subcontractor, or any employee or agent thereof, is performing any work related to the Improvements. Subdivider shall maintain an office with a telephone and Subdivider or a person authorized to make decisions and act for Subdivider in Subdivider's absence shall be available at the site of any Improvements within three (3) hours of being called at such office by the City at any time when construction work is being performed on the Improvements.

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

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

6. Estimated Cost of Improvements. The total estimated cost of the Improvements, as provided by Subdivider and reviewed and confirmed by the Engineer and Manager, is _____ (\$_____).

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

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

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

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

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

10. Repair of Defective Work. If, however, within a period of one (1) year after final acceptance by the City Council of the Improvements, any portion of the Improvements or any work done under this Agreement fails to fulfill any of the requirements of this Agreement, the Improvement Plans or the Improvement Standards, Subdivider shall without delay and without any cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or

parts of the Improvements or work. If the Subdivider fails to act promptly in accordance with this requirement, or if the exigencies of the situation require repairs or replacements to be made before Subdivider can be notified or correct the situation, then the City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Subdivider shall pay to City the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by City.

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

A. *Faithful Performance Security.* [omitted; see Section 4 above]

B. *Payment Security.* [omitted; see Section 4 above]

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

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

E. *Records.* Evidence of the Securities required by this Agreement shall be kept on file with the City Clerk. If the City Council gives specific, written approval to replace the Securities by another approved security, such replacement Securities shall be filed with the City Clerk and, upon filing, shall be deemed to be incorporated into this Agreement. Upon filing of replacement Securities with the City Clerk, the replaced Securities may be released.

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

A. *Faithful Performance Securities.* [omitted]

B. *Payment Security.* [omitted]

C. *Guarantee and Warranty Securities.* The Securities provided for guarantee and warranty of workmanship shall be released after one (1) year following the completion and acceptance of the Improvements, and inspection thereof by the City's Construction Inspector and

approved by the Engineer. If, however, the Engineer and Manager determine there are defects in the Improvements that require correction pursuant to Section 10 above, the Manager shall utilize the Securities to make all necessary corrections, including payment of reasonable expenses and fees and attorney's fees.

13. Inspections.

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

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

C. Subdivider shall bear all costs of inspection and certification, including but not limited to the direct costs of all third-party inspection agencies and City inspection consultants.

14. Default of Subdivider.

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

- i. Subdivider's failure to timely complete construction of the Improvements;
- ii. Subdivider's failure to timely cure any defect in the Improvements to the satisfaction of the Manager;
- iii. Subdivider's failure to timely deposit additional Securities as may be required by this Agreement;
- iv. Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which Subdivider fails to discharge within thirty (30) days;
- v. the commencement of a foreclosure action against the Subdivision or a portion thereof, or any conveyance in-lieu or in avoidance of foreclosure; or
- vi. Subdivider's failure to perform any material obligation under this Agreement.

B. *Notice of Default.* In the event of Subdivider's default, Subdivider shall be deemed to be in breach of this Agreement and the City may serve written notice upon Subdivider

and Subdivider's surety, if any, of the breach of this Agreement. Subdivider shall have fifteen (15) days from receipt of written notice by City to cure any default.

C. *Remedies; Performance by City.*

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

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

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

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

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

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

15. Environmental Warranty.

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

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

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

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

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

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

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

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

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

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

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

16. Design or Construction Defect.

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

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

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

17. No Agency Relationship. Neither Subdivider nor any of Subdivider's agents or contractors are or shall be considered to be agents of the City in connection with the performance of Subdivider's obligations under this Agreement. City elected and appointed councils, commissions, officers, agents, employees and representatives ("City Agents") shall not, be liable

or responsible for any accident, loss or damage, regardless of the cause, happening or occurring to the Improvement Work or Improvements specified in this Agreement prior to the completion and acceptance of the Improvement Work or Improvements. All such risks shall be the responsibility of and are hereby expressly assumed by Subdivider.

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

19. Indemnity/Hold Harmless.

A. The City and City Agents shall not be liable and Developer agrees to indemnify, hold harmless and defend the City and City Agents from any and all claims, costs, and liability for claims of damage, for any property damage or personal injury, including death, which may arise as a result of any negligent acts or omissions by Developer or Developer's contractors, subcontractors, agents, or employees in connection with the construction, improvement, or operation, of the Improvements, including all claims, demands, causes of action, liability, or loss because of, or arising out of, in whole or in part, the design or construction of the Improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design or construction of the Subdivision and the Improvements as provided herein, and in addition, to injuries to adjacent property owners as a consequence of the diversion of waters from the design or construction of public drainage systems, streets and other Improvements.

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

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

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

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

A. Proof of Insurance.

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

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

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

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

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

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

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

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

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

iii. Worker's Compensation Insurance.

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

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

C. *Course of Construction.* Subdivider shall maintain course of construction insurance for a value of not less than the completed value of the Subdivision and the Improvements.

D. *Professional Liability Insurance.* Subdivider shall maintain professional liability insurance, as applicable, in the amount of not less than two million dollars (\$2,000,000.00) per claim and three million dollars (\$3,000,000.00) in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services.

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

22. Notices. Any notice or communication required hereunder between City and Subdivider must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:	City of Riverbank 6707 Third Street Riverbank, CA 95367 Attn: Donna M. Kenney, Planning and Building Manager
-------------	---

With copies to:	City of Riverbank 6707 Third Street
-----------------	--

Riverbank, CA 95367
Attn: Sean Scully, City Manager

and

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

If to Subdivider:

and

23. General Provisions:

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

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

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

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

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

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

G. *Integration.* This Agreement, together with its specific references, attachments and Exhibits, constitute all of the agreements, understandings, representations,

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

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

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

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

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

[Signatures on following page]

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

SUBDIVIDER:

_____, President

By: _____
Name: _____
Title: _____

Date Signed: _____

CITY:

CITY OF RIVERBANK, a California
municipal corporation:

By: _____
Sean Scully, City Manager

Date: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Tom Hallinan, City Attorney

California All-Purpose Acknowledgment

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

State of California)
)
County of Stanislaus)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

California All-Purpose Acknowledgment

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

State of California)
)
County of 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)

EXHIBIT A

Tentative Map Resolution of Approval

EXHIBIT G

River Run Design Guidelines Manual

DRAFT

River Run Subdivision

Design Guidelines Manual

Riverbank, CA



October 19, 2017

620 12TH Street, Modesto, CA 95354
P: (209) 524-3525 F: (209) 524-3526
www.nseng.net

DESIGN GUIDELINES

For

RIVER RUN

OCTOBER 19, 2017

Client:

ROD LOWE
1700 STANDIFORD AVENUE #130
MODESTO, CA. 95350
(209) 523-4223

Project Address:

6272 CENTRAL AVE,
Riverbank CA 95367
APN# 062-021-008

Study Prepared by:



620 12TH STREET
MODESTO, CA 95354
ANTHONY P. DE MELO, PE #71387

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Section 1 Forward

1.1 PROJECT INTRODUCTION

River Run Design Guidelines is the regulatory design document to provide the general framework for how the proposed project will develop. The Design Guidelines are a requirement of the project entitlements as requested by the City of Riverbank for the proposed Planned Development application. The information contained within this booklet will be utilized by City staff, Planning Commission, and City Council to evaluate River Run. Furthermore, these guidelines will be utilized by future developers to establish a minimum standard for the development of the project. The following pages have been organized to provide a vision of River Run to demonstrate how the project elements relate to the overall goals of the Development and the City of Riverbank.

As a guiding document, these guidelines are meant to provide direction to help achieve the vision of River Run and are thus not meant to be exclusively restricted. Flexibility has been written into the guidelines to encourage and support innovation, diverse housing options, and foster creativity.

1.2 PROJECT SETTING

The area that the project is located in has been annexed into the City of Riverbank for several years. River Run is comprised of two adjacent parcels “A” and “B” as shown on parcel map Book 24, page 87, APN 062-021-008 totaling 9.1 acres. The project site is located north of California Avenue and east of Central Avenue.

The current City of Riverbank General Plan has designated the property as Medium Density Residential (MDR - 8-16 units per acre). This designation was in part because of a previous application that was processed for the site requesting a higher density of development which was due to the current housing market conditions that were present at the time.

The property has primarily been used as grazing land. There is an existing and active Oakdale Irrigation District (OID) ditch that runs along the easterly and southerly portion of the site. This is to be relocated within the project and to connect downstream.

1.3 BACKGROUND

The proposed project will be a more traditional project similar to other Low Density Residential Project (LDR – 0-8 Units per acre). This change of development intensity is to provide a product that is more consistent with the current needs of the potential home buyer. They are looking for room to play with their kids and use the outdoors for their personal family use. Larger lots provide a space be able to grow and expand without disrupting their neighbors with a backyard for family entertainment. Buying a home is the single biggest investment most Americans will make in their lifetime, and they want a place that they can have friends and family over to enjoy the surroundings. We feel we have the perfect mix of room and affordability. The intent of the project layout is to provide flexibility for future developers to create a strong community for the City of Riverbank.

Enclosed in this package are exhibits and examples of how we propose to handle issues like storm water retention, and conforming to the new LID standards imposed by the state.

Figure 1.1 – Project Vicinity Map

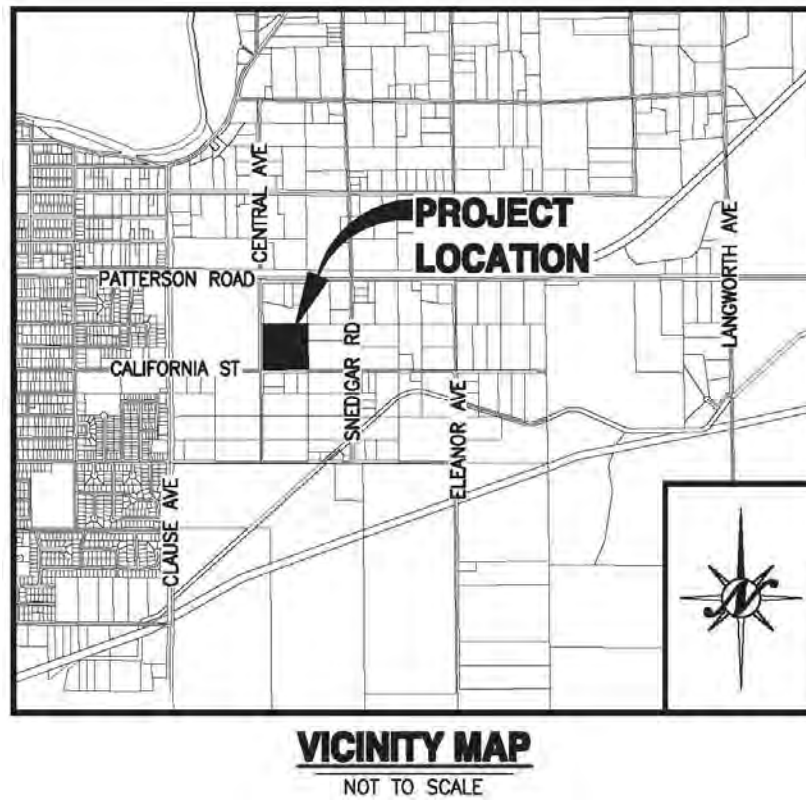


Figure 1.2 – Existing Parcel Aerial



Section 2 Proposed Development and Entitlements

2.1 PROPOSED DEVELOPMENT

The proposed project includes 51 Single Family lots that are a minimum of 5,000 square feet each. We are asking for a General Plan Amendment to change the land use from Median Density Residential (MDR) to Low Density Residential (LDR). Furthermore, we will be rezoning the property from Single Family Residential to PD Planned Development zoning. Included in this proposal is a request to provide a revised street cross section and provide some other attractive amenities such as park improvements, bar-b-que areas, picnic tables, park benches, custom mailboxes and decorative street lights. Examples of some of the proposed amenities are included with this package (please refer to Section 5). The project is not located within any Master Planned area, or future Specific Plan area. This project will annex into the City of Riverbanks Community Facilities District (CFD) for the maintenance of the public park, streetscapes and lighting.

Since we don't know if we'll be building these homes, we are asking that the architectural components that are usually required with a PD proposal be "postponed" until a builder is in place. At that time, we suggest that the required architectural floor plans and elevations be submitted to the City of Riverbank for approvals in the future (see Appendix A for proposed project Tentative Map).

2.2 ZONING, GENERAL PLAN AND DENSITY

The proposed density of the project is approximately 5.6 units to the acre. The purpose for the change of development intensity is to provide a product that is more consistent with the current needs of the potential home buyer. Furthermore the change in density was designed to provide a seamless transition from the existing land uses adjacent to the project to the surrounding rural community. Although the General Plan calls for a higher density at this location, we feel that those land uses can be achieved at other locations that are better suited. This can occur once future applications for annexation are processed. We feel this would be the time to address the overall density issues not only in this area, but city-wide (see Appendix B for project Entitlement Exhibits).

Figure 2.1 – General Plan Amendment Exhibit



2.3 FINDINGS

As a requirement of the Entitlement Submittal Package, the following findings are required to be address as part of the application:

Finding:

- In connection with their review of a tentative map, the City Council shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in violation of existing requirements prescribed.

Response:

- Based on current discussions with City Staff, there are no current sewer capacity issues at the Sewer Treatment plant. Furthermore, a new sewer trunk line is being constructed in California Avenue to serve the project.

Finding:

- The City Council shall consider the effect of its actions on the housing needs of the region in which the local jurisdiction is situated and balance those needs against the public service needs of the city's residents and available fiscal and environmental resources.

Response:

- As noted previously in this study, the request change in density for this project will address the needs for the potential future development and we do not anticipate any adverse effect on the public. Also, the reduction in density will reduce the amount of public services required to serve the project.

A tentative map shall not be approved or conditionally approved by the City Council if it makes any of the following findings:

Finding:

- The proposed map is not consistent with applicable general and specific plans.

Response:

- As part of the proposed application package, and General Plan Amendment will be included requesting to change density for the project.

Finding:

- That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

Response:

- Improvements designed within the subdivision, with the exception of the proposed street section, will be designed in accordance with the City of Riverbank Standards and Municipal Code requirements.

Finding:

- That the site is not physically suitable for the type of development.

Response:

- The existing site conditions are suitable for the proposed land use and are consistent with other projects being developed in the general vicinity of the project.

Finding:

- That the site is not physically suitable for the proposed density of the development.

Response:

- The project site soil conditions and historical uses are consistent with other developments that have been converted from Farmland / Open Space to Low Density Residential.

Finding:

- That the designs of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Response:

- Consisted with the previous applications that have been prepared for this project and in the general vicinity of the project, we do not anticipate any significant environmental damage to the local fish or wildlife habitats.

Finding:

- That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

Response:

- The proposed Low Density Residential land use is consistent with other developments in the area and we do not anticipate serious public health issues as a function for the development of the project.

Finding:

- That the design of the subdivision or; the type of improvements will conflict with easements acquired by the public at large for access through, or use of, property within the proposed subdivision. In this connection, the City Council may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This division shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction.

Response:

- Existing Easements and Roadways will not be effect by the proposed development and, in fact will be improved by the development providing and overall benefit for the City of Riverbank.

Section 3 Project Infrastructure

3.1 WATER SYSTEM

Water is available in the vicinity of the project site. An existing 12" water line runs along the entire length of Central Avenue along the project frontage. This 12" water line also runs along California Avenue, west of the project. As per the 2007 City of Riverbank Water Master Plan, the project proposes to extend the 12" water line in California Avenue along the entire project frontage and provide a stub to the east. A looped system will connect to this 12" water main to serve the project site (see Appendix C for proposed Utility System exhibit).

3.2 SANITARY SEWER

Sewer will be available at the southwest corner of the project site at the intersection of California Avenue and Central Avenue with the construction of the City of Riverbank's current California Avenue Sewer Extension Project. Capacity will be available in the proposed sanitary sewer line and the size of the line is adequate to accommodate our proposal (see Appendix C for proposed Utility System exhibit). If the proposed Sanitary Sewer Extension has not been completed at the time of construction, the River Run project will construct the extension and coordinate reimbursement with the City of Riverbank.

3.3 STORM DRAINAGE

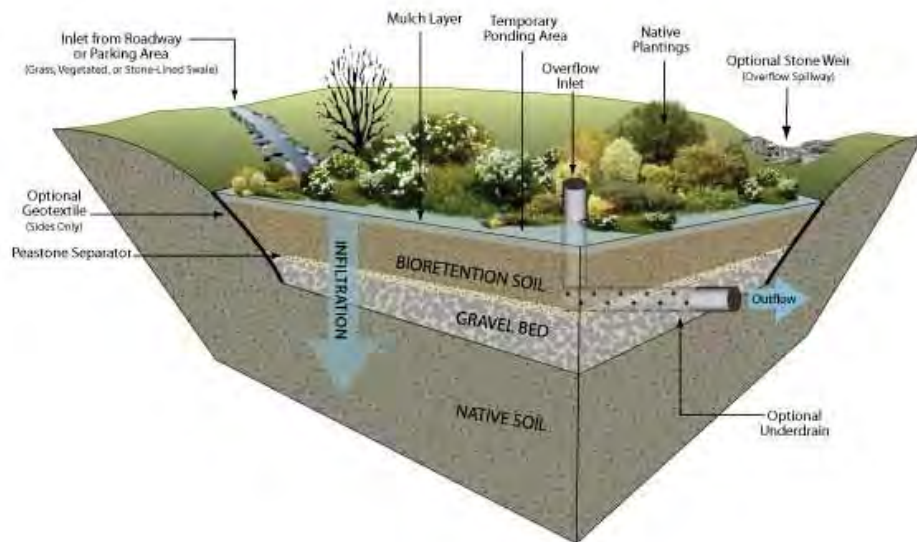
This project is part of the South Bruinville storm drain system which will have a regional storm drain basin, pump stations, and outfall improvements for the entire tributary area. These Master Plan improvements may not be in place for number of years. A temporary solution will be to retain and percolate the required storm drainage runoff for the project. This temporary solution may be required to function as a permanent solution, therefore the storage facility will be designed in accordance with City of Riverbank standards and specifications with all necessary factors of safety. Storm drainage will be collected in an on-site stormwater treatment, storage, and retention basin with a sub-surface horizontal (french) drain system. This basin has been sized to collect the storm drainage from project site including the proposed frontage improvements along California Avenue and Central Avenue with no further capacity for future projects in the surrounding area (see Appendix C for the storm drainage basin cross section and storage calculations). The storm drainage system will also include the construction of a dry outfall line which will be utilized for future discharge to City of Riverbank Master Plan facilities when they are available in the future.

3.4 STORMWATER TREATMENT AND MANAGEMENT

Low Impact Development (LID) is an innovative stormwater management approach with a basic principle that is modeled after utilizing natural features to manage and treat stormwater discharge at the source of potential pollutants. LID's goal is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and retain runoff on-site.

Stormwater Treatment techniques are based on the premise that stormwater management should not be seen as stormwater disposal. LID addresses stormwater through cost-effective landscape features located within each storm drainage tributary area. These landscape features, known as Integrated Management Practices (IMPs), are the building blocks of LID. Almost all components of the urban environment have the potential to serve as an IMP's. This includes not only open space, but also rooftops, streetscapes, parking lots, sidewalks, and medians. LID is a versatile approach that can be applied to new projects.

Figure 3.1 – Example Bio-Retention System



Encourage:

- Bio-retention swales for on-lot storm water run-off
- Decrease amount of impervious surfaces, through efficient street section widths
- Use landscape facilities for pretreatment of storm water
- Sufficient Capacity of total storm system to retain water on-site
- Treat storm water at the source
- Groundwater recharge

Discourage:

- Fully piped storm drainage system
- Discharge of storm water to nearby river/creek/waterway

LID allows for greater development potential with less environmental impacts through the use of smarter designs and advanced technologies that achieve a better balance between conservation, growth, ecosystem protection, and public health I quality of life. Today, bio-retention is one of the LID techniques available to users. Other techniques, such as disconnected downspouts are all effective tools to help developers control pollutants, reduce runoff volume, manage runoff timing, and address a number of other ecological concerns.

A topographic survey and preliminary grading designs were performed for the proposed project. The natural drainage pattern for the site is from north to south. The proposed stormwater basin was located based on this design parameter. The streets within the project are proposed to be super-elevated to allow for direct discharge of a majority of the site runoff to the proposed storm drainage basin. The proposed basin will be sized to store the required stormwater event, and will be design to incorporate planting and sub-base media to allow for pretreatment of stormwater runoff in accordance with the City of Riverbank Standards.

3.5

OAKDALE IRRIGATION DISTRICT RELOCATION IMPROVEMENTS

The proposed project is located within the Oakdale Irrigation District. Typical of projects that were once utilized for farming, an existing irrigation easement traverses the project site along the east property line and along the entire length of California Avenue. The existing irrigation facility is the Riverbank Drain which is used primarily for stormwater conveyance. This drain discharges to the Snedigar Pipeline once it crosses Central Avenue.

The proposed Irrigation Relocation improvements will require the undergrounding the existing Riverbank Drain at the east property line and connecting downstream at the intersection of Central Avenue and California Avenue. Per discussions with City Staff, the historical drainage pattern for the area shows that a large tributary area potentially discharges to this location. The project will construct an additional irrigation line along California Avenue to the east and provide a drainage inlet to convey historical stormwater runoff (see Appendix C for proposed Utility System exhibit). Storm drainage for these proposed conveyance facilities will be design in accordance with OID and City of Riverbank Standards and will be confirmed as part of future storm drainage studies.

Figure 3.2 – Project Utility Plan



Section 4 Function of the Design Guidelines

4.1 PURPOSE

The purpose of the guidelines for the Bruinville Planned Development is to provide a clear set of design policies to developers, property owners, architects and designers (see Appendix B for project Development Plan exhibits).

Properly designed Planned Developments with well design street networks incorporating traffic calming measures reduces the need for community open spaces and maximizes the use of private open space in the front and rear yards of the proposed residential units. Utilizing Low Impact Development (LID) guidelines this will provide storm water bio-filtration and enhances the open space components of the project.

4.2 OBJECTIVES

The Guidelines are intended to address the following objectives:

- Promote higher quality development that maximizes personal open-spaces with larger front and rear yards.
- Create a residential neighborhood of interest which is visually pleasing.
- Provide a single-family project that features a variety of home sizes, housing types, designs and building materials.
- Provide for single-family developments that include interconnected, short blocks that diffuse traffic and provide easy, direct routes for pedestrians, bicyclists and drivers around the neighborhood.
- Provide for Low Impact Development (LID) by incorporating storm drainage designs features that pre-treatment storm water while providing ground water recharge by percolating the storm water back into the soil.
- Provide a Planned Development project that integrates seamlessly with previously approved projects and existing nearby neighborhoods.

4.3 INTENT

The following design guidelines are to be used to assist developers, project applicants and City staff produce a quality Planned Development. City staff and Planning Commissioners will use these Guidelines as a framework for evaluating development proposals and for commenting on the design aspects of proposed projects and future designs.

The Guidelines will be used to augment and reinforce the City of Riverbank 2005-2025 General Plan adopted April 22, 2009. The Planned Development guidelines are general and may be interpreted with some flexibility in their application to specific projects. Variations may be considered for projects with special design characteristics during the City's development review process to encourage the highest level of design quality while at the same time providing the flexibility necessary to encourage creativity on the part of project designers. The Guidelines are also intended to ensure that new development is compatible with existing neighborhoods.

4.4 APPLICABILITY

There is a minimum practical lot size that will accommodate one detached house and still meet the intent of these Guidelines for Planned Development. These guidelines allow the project designer maximum flexibility to develop a quality project that meets the intent of the Guidelines.

4.5 DISCRETIONARY DECISION MAKING

Every project is unique and requires a review on a case-by-case basis. This process depends upon the exercise of discretion. While some Guidelines include quantitative standards, some require qualitative interpretation. The City has the latitude to interpret the Guidelines so long as proposed projects meet the Guidelines' intent.

4.6 ARCHITECTURAL REVIEW AND APPROVALS

Architectural details, plans and elevations will be developed once a homebuilder has been selected for the projects. The City planning commission will review and approve these items through the normal site development process as provided by the Riverbank Municipal Code.

4.8 ADMINISTRATIVE CHANGES

The Development Services Director has authority to correct discrepancies and conflicts within the document so long as the changes meet the overall intent of the guidelines.

4.9 OTHER APPLICABLE REGULATIONS

The Guidelines for Planned Development single family developments primarily address architectural and site design elements. In designing projects, designers must also reference other codes, standards and policies in effect, such as the City of Riverbank Standard Specifications, Uniform Building/Fire Code, Riverbank General Plan, Riverbank Municipal and Zoning Codes, and other applicable policies.

Figure 4.1 – Project Development Plan



Section 5 Design Guidelines

5.1 RELATIONSHIP TO EXISTING NEIGHBORHOODS

New Planned Development residential projects should be integrated with the existing neighborhoods adjacent to them. Designs should avoid the separation caused by high, solid fencing and walls, or blank walls of buildings. Transitions between existing and proposed land uses should be gradual. The height and mass of new projects should not create abrupt changes from those of existing buildings.

The perimeter areas of new projects should be planned to avoid disturbing existing adjacent residential uses. The protection of privacy of adjacent residents and minimization of environmental intrusions should be a major consideration in the design of new projects.

5.2 SETBACKS

Front Setbacks:

- The front setback establishes a relationship between the house and the surrounding neighborhood. Variation of front building setbacks is encouraged to create rhythm and interest along the streetscape. If the house is too close, indoor privacy can be compromised. If the house is too far back, people inside the house cannot observe activity on the street and can become detached from their neighborhood.
- Deviation beyond the minimum setback requirements is encouraged to facilitate the creation of different size public and private open spaces on the lot.

Side Setbacks:

- The side setback is primarily utilitarian. However, living areas of the house usually have windows that open into the side yard. It is encouraged, for privacy purposes, to design windows that face onto side yards so that they do not align between neighboring homes.
- Normal activity in the side yard, although limited, shall be sufficient size so they are usable spaces for trash and recycling receptacles.

Rear Lots:

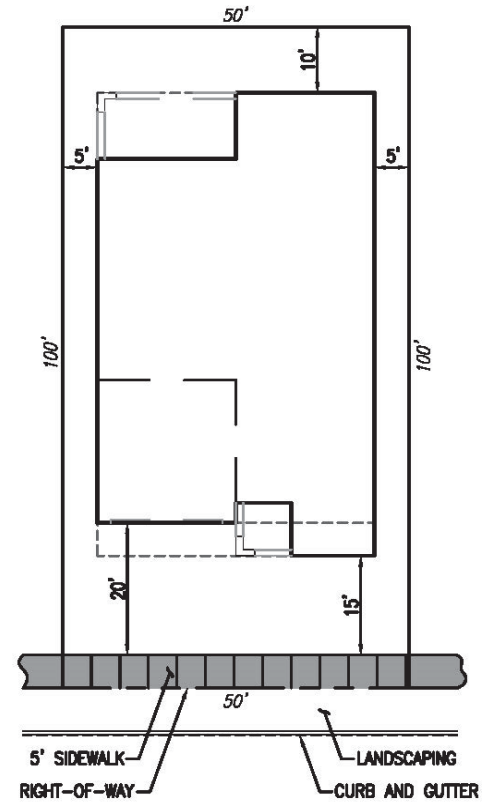
- The rear yard is where most outdoor activity occurs within the private opens space elements of each residence. The siting of the homes is encouraged to promote large back yards for family enjoyment

Corner Lots:

- Corner Lots shall have a larger side setback on the street facing side to allow for additional architectural styles and articulation.
- It is encouraged to provide enhanced wrap-around building elements such as porches on the corner lots to provide a transition to the between the two street frontages.

Table 5.1 Setbacks and Open Space

LOT SIZES	DESIGN GUIDELINES	CITY MUNICIPAL CODE
	5,000 sq. ft. min	6,000 sq. ft. min
Minimum Width (mid-block/corner) [a]	50' / 55'	60' / 65'
Minimum Frontage (knuckles)	35'	35'
FRONT SETBACKS [b]		
Garage [c]	20'	20'
Living Area (1st floor) [c]	15'	10'
Living Area (2nd floor) [c]	15'	10'
Porches [c]	10'	-
REAR SETBACKS		
Living Area	10'	5'
Patio Covers [d] [e]	5'	-
SIDE SETBACKS [b] [h]		
Living Area first floor (interior side) [e]	5'	5'
Living Area (corner side) [e]	10'	10'
LOT CONVERAGE		
Total Lot Coverage	50%	50%



- [a] Minimum frontage for lots fronting cul-de-sacs and knuckles to be 35' minimum along the right of way.
- [b] Dwelling unit & wall/fencing shall be located outside the "clear vision triangle" at street intersections.
- [c] Setback measured from the back of sidewalk and a minimum of 5' from side property line except on corner lots where 10' is required.
- [d] Patio covers should not exceed 30 percent of the size of the usable private open space. Setback is measured from support structures. Up to 24" overhang is permitted. No part of the structure shall be closer than 5' to property line not including building eaves.
- [e] Includes attached garages and patio covers.
- [f] Minor architectural projections, such as fireplaces and bay windows, may project into a setback or separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length, minimum 3' clearance, excluding A/C units.
- [g] Fragments less than 10' will not be counted toward the common open space area.
- [h] Detached garages may be attached to the main house by a breezeway so long as the breezeway is open, post supported and the garage and house meet 1 hour fire wall ratings as stipulated by the UBC.

5.3 PRIVATE OPEN SPACE

Private open space elements typically located in the rear yards, if designed well, provides a place for children to play and for entertaining friends. It must be large enough to allow these activities while maintaining some sense of privacy on both sides of the fence. Model homes in Planned Developments should display a variety of fencing and landscape design concepts including porches, patios, walkways, covered trellises, screens and garden walls. The rear yard is where people expect to have privacy outdoors. These activities are expected and can be noisy, but the noise can be considered intrusive by neighbors. Residents can feel as if their outdoor or indoor privacy is being invaded by rear yard

neighbors. Adequate space is necessary for residents to enjoy their yards while providing a sense of privacy.

5.4 LOT AND BUILDING VARIATION

Single-family lot patterns should be varied to avoid monotonous streetscapes. This could be accomplished by the following:

Encourage:

- Larger lots that emphasize alternating designs of front and rear landscaping
- Single-story buildings and larger lots on corners.
- Mix of single and two-story units.
- Varied building setbacks and plot placement to avoid monotonous streetscapes.
- Variation of setbacks or appearance thereof (substantially different elevations), to avoid monotonous streetscapes.

Discourage / Avoid:

- Blocks more than 600 feet long.

Figure 5.1 – Encouraged Street Scene



5.5 GENERAL BUILDING DESIGN

Variation in residences, structures and buildings is achieved through the use of quality materials, detail in design and distinct variation in floor plan and architecture, which lends visual interest, distinctive character and identity to a community. Quality in detail and design contributes not only to the long-term value of a home, but the neighborhood as well.

Encourage:

- Design diversity by providing front elevation variation throughout the plan. A minimum of three model floor plans shall be made available with 3-4 choices of elevation treatments. To accomplish this, one design should be repeated no more frequently than each fourth house.
- Veneer treatment where applied should turn corners and avoid exposed edges.
- Provide 4-sided architecture within public views. In addition to the architectural design provided for the front elevation, design side and rear elevations to include architectural design treatment (e.g. window frames, shutters, planter boxes, window sills, etc.).
- At corner lots, side yard facades should maintain the same architectural design consistent with the front façade.
- Manipulation of building elements and massing to avoid visual monotony with particular emphasis on long streets.
- Vary roof forms and pitches when a project includes five or more homes. Incorporate home designs that rotate ridge lines both parallel and perpendicular to the street and utilize a variety of hips and gables. Other elements which add variety and break up the roof, such as dormers and turrets are encouraged.
- Roof elements of a two story building that slope downward toward the side property lines providing greater light and air between buildings particularly when the separation between the floors of the two adjoining buildings would be less than 15 feet (Fig. 2).
- Single story homes distributed evenly throughout the neighborhood to provide for seniors, the disabled, and families who prefer or desire single story homes. Single story homes are also encouraged to improve the visual character of neighborhoods and minimize the perceived density of two story neighborhoods. Single story homes shall be constructed on a minimum of 25% of the development.

Figure 5.2 – Example Manipulation Building Elements



Discourage / Avoid:

- Excessive repetition of identical or near identical floor plans and elevations throughout a neighborhood or subdivision with little distinct differentiation.
- The use of low quality/grade materials that do not wear well and contribute to a sense of permanence.
- Roof-mounted heating and air conditioning units.
- Keyhole entries (primary entrance hidden from view on the side or within deep recess of the building) should be avoided.

5.6 PORCHES, ENTRIES AND COURTS

A clear sense of entry and design interest to a home is provided through the inclusion of porches, verandas and other architectural elements that contribute to a sense of place and activity.

Encourage:

- Fronts of houses and entries that face the street. Each house should have a clearly identified entry and have active use of windows (i.e. living room, kitchen) facing the street.
- Front porches, when included as part of the building architecture, shall be large enough to accommodate chairs, allow for protection from weather, and provide an opportunity for increased interaction among neighbors (minimum dimension of 6'x6' or 5'x7', plus circulation area).
- Entries that incorporate railings, short walls, trellises and roofs to add architectural detail and character and visual interest to the homes.

Figure 5.3 - Example Varied Roof Forms and Entry



Discourage:

- Small entries not seen from the street.
- Locating the porch or entryway in a location obstructed by the garage or side of the house.
- Locating entryways and windows that are small and oriented to the interior or side of the site.

5.7 GARAGE FRONTAGE AND PLACEMENT

Conventional suburban development typically places the garage in a prominent location on the lot closer to the street with the house back farther from the street. The effects of garage-forward placement are to obstruct the view of the street from inside the house, to make the garage the most important feature of the house, to encourage the driver to enter the house through the garage door and prevent interaction with neighbors, and to decrease the appeal of the street. Safety is decreased and the general appeal of the street also declines.

The following measures are suggested to minimize the visual impact of garages:

Encourage:

- For garages accessed from the street, the garage face should be recessed a minimum of five feet from the primary living area façade.
- Attached garages should be designed to de-emphasize the garage door by techniques such as recessing the garage door 12"-18", by providing pillars or substantial trellis accents and utilizing upgraded garage doors.

Figure 5.4 – Reduced Garage Frontage



Discourage / Avoid:

- For garages accessed from the street, garage frontage comprising 50 percent or more of building frontage.

Driveways can consume a substantial amount of lot area. A typical automobile is approximately seven feet wide and one to two feet of space is needed on either side to allow access to car doors. In order for the house to relate to the street and to allow observation of the street from inside the house, the width of the lot helps dictate the width of driveway access from the street (one- or two-car approach) or whether the garage should be accessed from an alley at the rear of the lot.

Encourage:

- Different paving treatment to driveways, including colored concrete, stamped concrete patterns, paver insets, etc.
- Single-car width driveways that widen to two-car aprons at recessed or detached garage.
- Placement of driveways and garages within the development, as well as narrower driveway aprons, to maximize on-street parking.

5.8 PARKING

Two enclosed off-street parking spaces will be required for each housing unit. In addition, one on-street parking space will be required for each dwelling. The placement of driveways and garages within the development, as well as narrower driveway aprons/ shall be utilized to maximize on-street parking.

5.9 FENCES AND ENTRY FEATURES

Residences on the perimeter of new development should be oriented to existing streets, where applicable, minimizing the extent of sound walls or rear yard walls, except where necessary due to acoustical requirements. The design of fences, as well as the materials used, should be consistent with the overall development's design. Fence and wall color should be compatible with the development and adjacent properties.

The proposed Lot "B" (Oakdale Irrigation District facilities lot) located on the eastern portion of the project will install a wrought iron fence with access gates on the east and west side of the lot. A standard good neighbor fence consistent with the rest of the development will be installed on the north and south side of the lot.

Encourage:

- Periodic entries to minimize walking distances and integrate bike paths along the major roads.
- Additional landscape setbacks, street trees and accent trees at entries to improve the appearance of sound-walls.
- Fences visible from streets should be architecturally integrated with adjacent buildings and are encouraged as a means of visually tying buildings together.
- Fences (3'-4' high) at front or side yard patios where desired in lieu of porch railings, provided the fence design is compatible with the architectural style of the house.
- Accent landscaping and trellises to set off development entries are desirable.

5.10 LANDSCAPING

New single-family Planned Developments design similar to Low Density Residential projects typically have generous amounts of landscaping due to the larger front and rear yards. Landscape design

guidelines are intended to improve the appearance of the streetscape with landscaping and street trees to diminish the impact of the development and provide a softer appearance.

A dual-use storm drainage park and basin facility is proposed for the project. The side slopes of the basin range from a 10:1 to 5:1 slope for ease of accessing the basin. An upland area is proposed within the park which is over one-quarter of an acre. All landscaping will be installed in strict accordance with City of Riverbank landscape and street tree standards. Furthermore, landscaping improvements will be installed in accordance with local and state water efficient landscape ordinances. Finally, the proposed park will include site specific amenities to enhance the community which will include possible park landscaping improvements, bar-b-que areas, picnic tables and park benches.

Encourage:

- Encourage landscaping within the project to harmonize with the established theme and existing agrarian surroundings.
- Street trees or yard trees, both deciduous and evergreen, shall be approximately 20' to 25' on center along each side of the street (minimum 1 per lot, 2 per corner lot one on each street frontage).
- Separated sidewalks with limited lawn areas (min. 7' wide) (i.e. "parkways").
- Due to drought conditions, keep water intensive landscape elements to high visibility and high use areas.
- Plant materials designated for the open space/park shall be drought tolerant ground cover where possible.
- A minimum of 15 gallon tree specimens for all street and yard trees (consult the Public Works Department, regarding tree selection).
- Tree species which attain a height in excess of 25 feet and develop a minimum canopy of 20 feet at maturity.
- A variety of planting palettes for proposed front yard landscaping should be implemented to soften the development, reinforce the home design, and add variety to the streetscape.
- Accent trees at special locations within the neighborhood.
- Front yard landscaping which reinforces other design elements of the home such as vines on trellises, hedges or low fences and walls.

Discourage / Reduced

- Due to its relatively high water demand, turf should be used only in selected landscape areas.

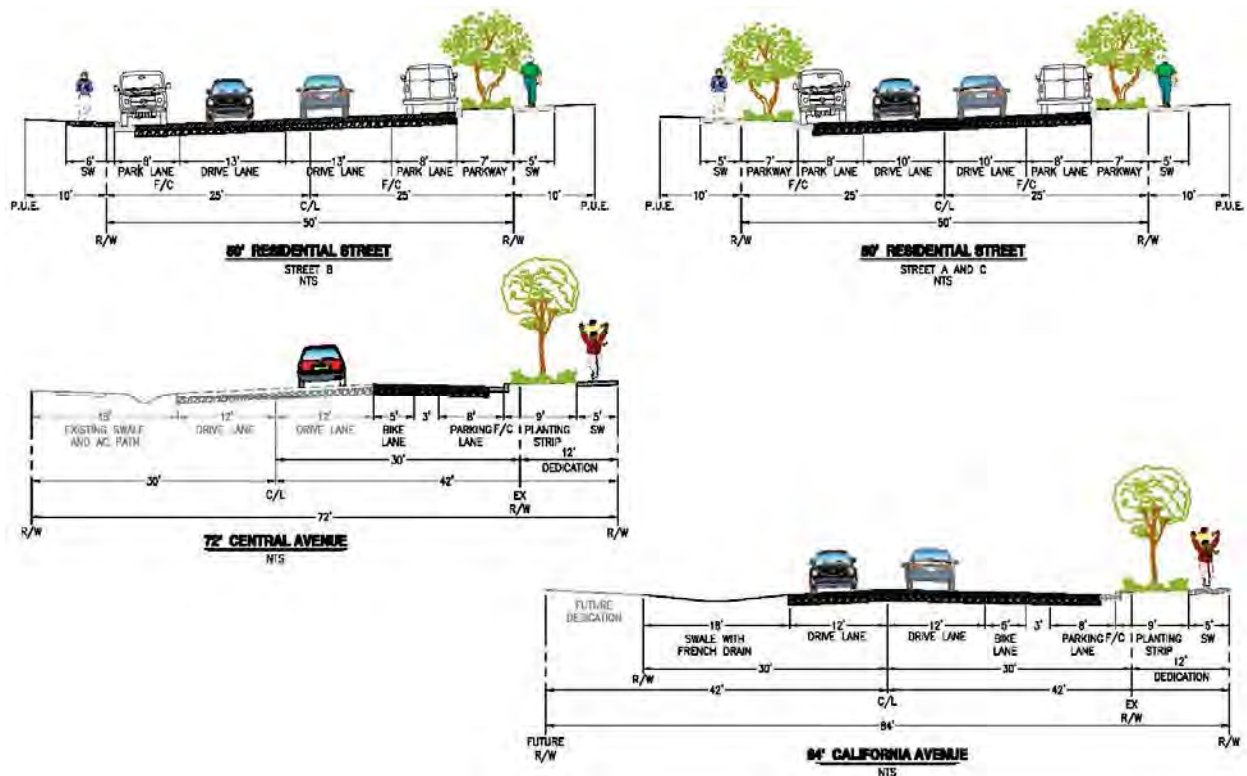
5.11 STREET DESIGN ELEMENTS AND ACCESS

The proposed streets serve as more than a place to drive or park a car. Besides its most basic function as a transportation conduit for bicyclists and pedestrians, as well as for cars, a street serves architectural and social functions. Houses relate to the street on which they are located; streets serve to formalize the street edge and demarcate public and private space. Streets are where neighbors meet informally and neighborhoods are created. Minimal street connections within a subdivision and to the external street network increase the need to drive, the number of miles driven, discourage walking, and bicycling, and reduce emergency access. The site shall be designed to provide accessibility for emergency vehicles.

Figure 5.5 – Typical Street Scene and Landscape



Figure 5.6 – Typical Street Sections



5.13 LIGHTING

Lighting should relate to the pedestrian scale of residential neighborhoods and should be considered a design element, rather than simply utilitarian.

Encourage:

- Light standards less than 15 feet in height. Decorative Visco VI-X-1-0F standard or equivalent standard with the same bulb type as the Visco are encouraged.
- Proposed LED lighting to be at 3,000K or less.
- Bollard lighting is encouraged along walkways.
- Metal halide luminaries should be utilized.
- Shielded light fixtures that minimize light "throw" off-site.
- Residentially scaled street lights.

Discourage / Avoid:

- "Cobra head" street lights
- Sidewalks adjacent to street.
- Large-radius corner.
- Cul-de-sac and dead-end streets.

Figure 5.7 – Example Decorative Light and Mailbox Frame



5.12 MAILBOXES

Mailboxes should be located in highly visible, heavy use areas for convenience, to allow for casual social interaction, and to promote safety.

Encourage:

- Incorporate design features, such as a built frame, consistent with the development's architectural style.

Discourage:

- Pedestal-mounted cluster mailbox units.

5.14 UTILITIES, INFRASTRUCTURE & EASEMENTS

Any and all private infrastructure shall be constructed to City standards. Public Utility Easements shall be provided for all public utility connections, in compliance with City Standards. To the maximum extent feasible, utility boxes, transformers, etc. shall be located in a manner to reduce their visual impact on the streetscape, which may include undergrounding or appropriate screening as determined by the City.

5.15 COMMUNITY FACILITIES DISTRICT (CFD) ANNEXATION AND OUTLOT PARCELS

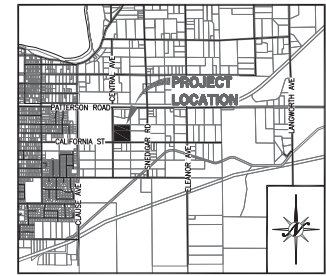
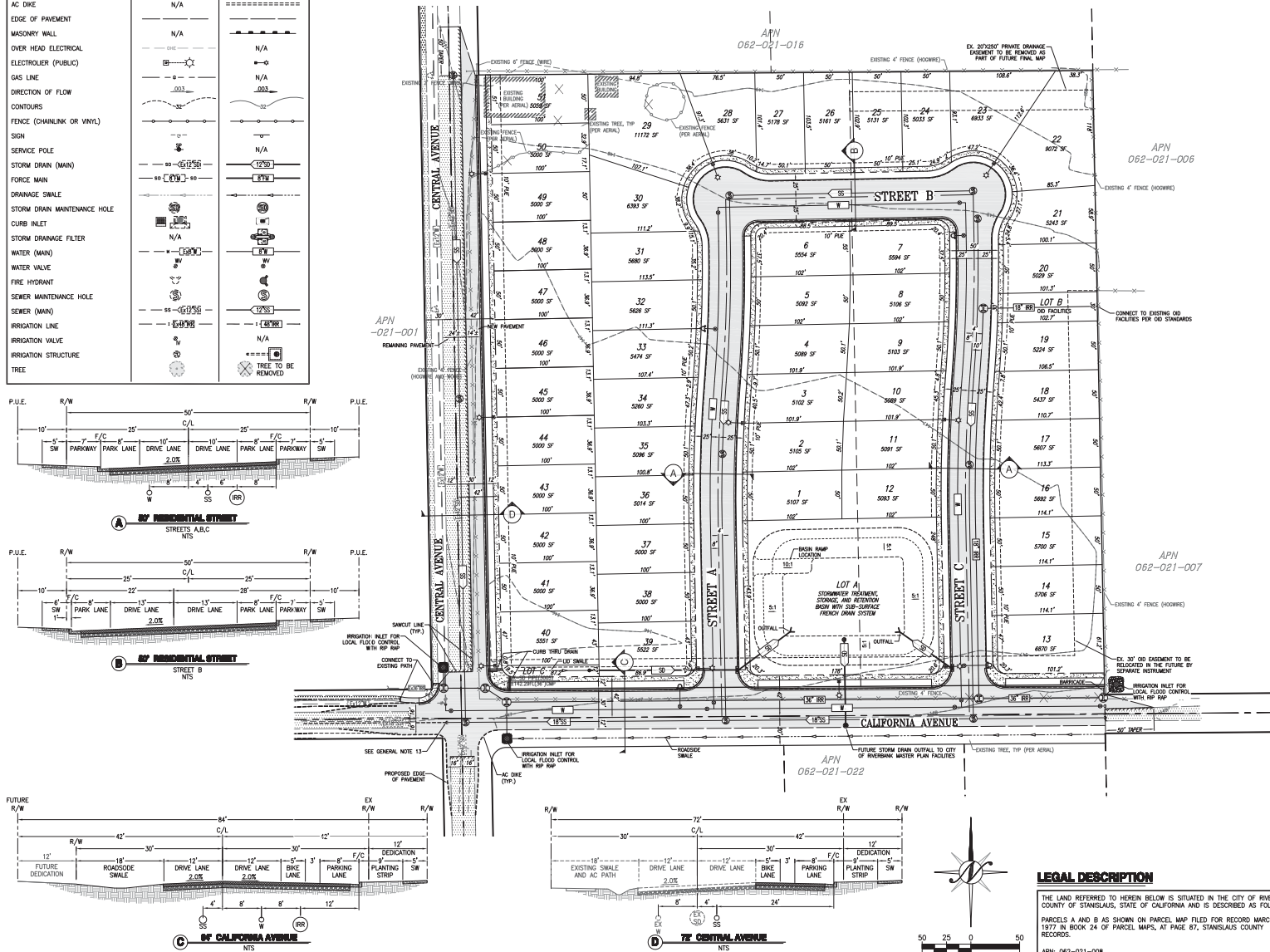
The proposed project will be required to annex into the existing City of Riverbank's Community Facilities Department (CFD) for the general maintenance of public facilities which includes, but is not limited to, streets, landscaping, lighting and open space lots. There are three non-residential open space lots within the development. Lot A serves as a neighborhood park, and retention basin. Lot A will be owned and maintained by the City of Riverbank, and included in the City's existing citywide CFD. Lot B will be owned by the Oakdale Irrigation District, but will be maintained by the City of Riverbank, and included in the citywide CFD. This lot will be overlaid with low maintenance base rock/gravel cover to minimize the required maintenance. There will be drought resistant landscaping between the wrought iron fence and street that will be maintained by the CFD. Lot C serves as a LID bioswale used to infiltrate and treat a portion of the stormwater runoff. The stormwater from this swale will be conveyed to the retention basin by means of underground piping. Lot C will be owned and maintained by the City of Riverbank, and included in the City's existing citywide CFD.

Appendix A: Proposed Tentative Subdivision Map

LEGEND

	EXISTING	PROPOSED
BOUNDARY LINE		
CENTERLINE		
RIGHT-OF-WAY		
PARCEL LINE		
CURB, GUTTER AND SIDEWALK		
AC DIKE	N/A	=====
EDGE OF PAVEMENT		
MASONRY WALL	N/A	-----
OVER HEAD ELECTRICAL		
ELECTROUTER (PUBLIC)		
GAS LINE		
DIRECTION OF FLOW		
CONTOURS		
FENCE (CHAINLINK OR VINYL)		
SIGN		
SERVICE POLE		
STORM DRAIN (MAIN)		
FORCE MAIN		
DRAINAGE SWALE		
STORM DRAIN MAINTENANCE HOLE		
CURB INLET		
STORM DRAINAGE FILTER		
WATER (MAIN)		
WATER VALVE		
FIRE HYDRANT		
SEWER MAINTENANCE HOLE		
SEWER (MAIN)		
IRRIGATION LINE		
IRRIGATION VALVE		
IRRIGATION STRUCTURE		
TREE		

RIVER RUN TENTATIVE MAP RIVERBANK, CALIFORNIA



VICINITY MAP
NOT TO SCALE

PROJECT INFORMATION

A. REGULATORY AGENCY:	CITY OF RIVERBANK 1811 THIRD STREET RIVERBANK, CA 95367 T. (209) 868-7129 CONTACT: PLANNING DEPARTMENT
B. APPLICANT:	R & K ROD LOWE 1997 REVOCABLE TRUST 3112 BUCKINGHAM COURT MODESTO, CA 95350 T. (209) 523-4223 CONTACT: ROD LOWE
C. OWNER :	WHITE PROPERTY MANAGEMENT, LLC 3001 ANDERSON STREET RIVERBANK, CA 95367 CONTACT: JANE WHITE
D. ENGINEER:	NORTHSTAR ENGINEERING GROUP, INC. 620 12th STREET MODESTO, CA 95354 T. (209) 524-3525 CONTACT: TONY DE MELO, P.E.
E. EXISTING LAND USE:	AGRICULTURE
F. EXISTING OF LAND USE:	MEDIUM DENSITY RESIDENTIAL
G. PROPOSED OF LAND USE:	LOW DENSITY RESIDENTIAL
H. EXISTING ZONING:	SINGLE FAMILY RESIDENTIAL (LDR)
I. PROPOSED ZONING:	PLANNED DEVELOPMENT (PD)
J. TOTAL PROJECT SIZE:	9.14 ACRES
K. TOTAL NUMBER OF LOTS:	51
L. GROSS DENSITY:	5.6 UPA
M. CONTOURS:	1.0-FOOT INTERVALS
N. RETURNS:	PER CITY OF RIVERBANK STANDARDS
O. UTILITIES:	WATER SYSTEM - CITY OF RIVERBANK SEWER SYSTEM - CITY OF RIVERBANK STORM DRAINAGE - CITY OF RIVERBANK GAS - PUBLIC TELEPHONE - SBC SCHOOL DISTRICT - RIVERBANK ELEMENTARY

GENERAL NOTES

- ALL IMPROVEMENTS SHALL BE CONSTRUCTED AS PER THE CITY OF RIVERBANK STANDARD PLANS AND SPECIFICATIONS EXCEPT AS NOTED.
- STORM DRAINAGE TO BE CONVEYED TO AN ON-SITE STORM DRAINAGE RETENTION BASIN WHICH WILL UTILIZED FOR STORMWATER TREATMENT. ALL IMPROVEMENTS TO BE CONSTRUCTED TO THE CITY OF RIVERBANK STANDARDS AND THE STORM DRAINAGE MASTER PLAN.
- ALL STORM DRAINAGE IMPROVEMENTS AS PART OF FUTURE IMPROVEMENTS PLANS AND STUDIES SHALL CONFORM TO THE REQUIREMENTS SET FORTH IN NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT 2013-001-002 AND THE MULTI-AGENCY POST-CONSTRUCTION STORMWATER STANDARDS MANUAL APPROVED OR ADOPTED PRIOR TO THE TIME OF THIS TENTATIVE MAP APPLICATION BEING DEEMED COMPLETE.
- SANITARY SEWER TO BE CONSTRUCTED TO THE CITY OF RIVERBANK STANDARDS.
- WATER SYSTEM TO BE CONSTRUCTED TO THE CITY OF RIVERBANK STANDARDS.
- STREET LIGHTING SHALL BE INSTALLED PER CITY OF RIVERBANK STANDARD SPECIFICATIONS.
- PUBLIC UTILITIES ARE TO BE INSTALLED UNDERGROUND IN EASEMENTS.
- THE SUBMITTER HEREBY RESERVES THE RIGHT TO FILE MULTIPLE SUBDIVISION MAPS AS SET FORTH BY THE SUBDIVISION MAP ACT, ARTICLE 4, SECTION 66454.1, AND FILE PARCEL MAPS FOR REASON OF SALE. ALL PARCEL LINES SHALL CONFORM TO THIS TENTATIVE MAP.
- PUBLIC UTILITY EASEMENTS WILL BE PROVIDED ALONG ALL STREET FRONTS.
- ALL EXISTING STRUCTURES ARE TO BE REMOVED. SEPTIC TANKS, LEACH FIELDS, AND WELLS ON SITE WILL BE REMOVED OR ABANDONED AS PER CITY OF RIVERBANK REQUIREMENTS. BUILDING, DEMOLITION, WELL ABANDONMENT, AND SEPTIC ABANDONMENT ALL REQUIRE PERMITS THROUGH THE CITY.
- APPLICANT SHALL PROVIDE ACCESS AGREEMENT IN PERPETUITY FOR CITY TO INSPECT ALL POST-CONSTRUCTION BMP'S INSTALLED ON PRIVATE PROPERTY.
- ALL LOT SETBACK REQUIREMENTS ARE TO BE IN ACCORDANCE WITH THE PROJECT DESIGN GUIDELINES PACKAGE.
- THE PROPOSED PROJECT IS TO CONNECT TO THE EXISTING 18" SANITARY SEWER EXTENSION IN CALIFORNIA AVENUE. IF THE 18" SANITARY SEWER EXTENSION HAS NOT BEEN COMPLETED AT THE TIME OF CONSTRUCTION, THE RIVER RUN PROJECT WILL CONSTRUCT THE EXTENSION AND COORDINATE FEE CREDITS AND/OR REIMBURSEMENT WITH THE CITY OF RIVERBANK.
- ALL EXISTING TREES ARE TO BE REMOVED PER CITY OF RIVERBANK STANDARDS AND SPECIFICATIONS. IF ANY OF THE TREES ARE OAK, AN ASSESSMENT BY A LICENSED ARBORIST SHALL BE SUBMITTED, LISTING AND DISCUSSING EACH TREE TO ENSURE CONFORMANCE WITH RMC 156.12 (D)(1) OAK AND LANDMARK TREE CONSERVATION, MAJOR TREE CONSERVATION FORM.
- DRIVEWAY ACCESS TO CALIFORNIA AVENUE IS RESTRICTED TO LOTS 13, 39, AND 40.
- LOT 8 TO BE CONVEYED TO OED, THERE WILL BE DROUGHT RESISTANT LANDSCAPING BETWEEN THE FENCE AND STREET. LOTS A AND C TO BE DEDICATED TO THE CITY OF RIVERBANK. ALL LOTS A-C TO BE MAINTAINED BY CDE.

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RIVERBANK COUNTY OF STANISLAUS, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:
PARCELS A AND B AS SHOWN ON PARCEL MAP FILED FOR RECORD MARCH 30, 1977 IN BOOK 24 OF PARCEL MAPS, AT PAGE 87, STANISLAUS COUNTY RECORDS.

APN: 062-021-008

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Appendix B: Entitlement Reference Exhibits

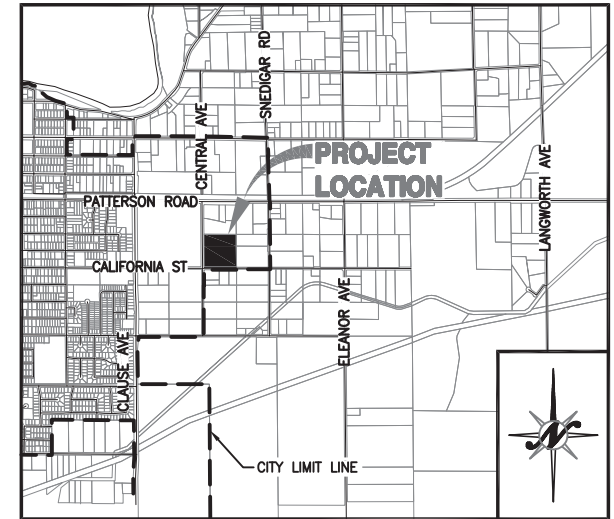
RIVER RUN SUBDIVISION EXISTING GENERAL PLAN EXHIBIT

CENTRAL AVENUE

MDR
(MEDIUM DENSITY RESIDENTIAL)

CALIFORNIA AVENUE

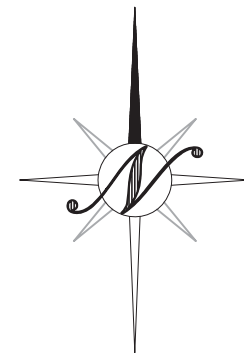
EX. CITY LIMIT LINE



VICINITY MAP

NOT TO SCALE

 MDR (MEDIUM DENSITY RESIDENTIAL)



150 75 0 150

1" = 150'

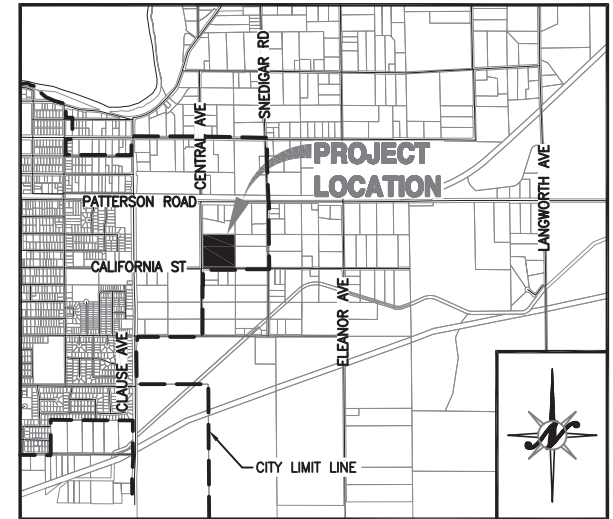
RIVER RUN SUBDIVISION PROPOSED GENERAL PLAN EXHIBIT

CENTRAL AVENUE

LDR
(LOW DENSITY RESIDENTIAL)

CALIFORNIA AVENUE

EX. CITY LIMIT LINE

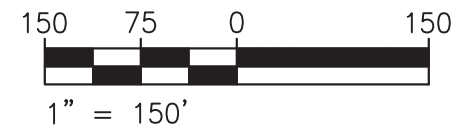
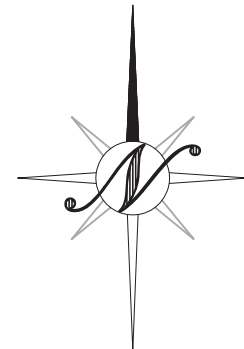


VICINITY MAP

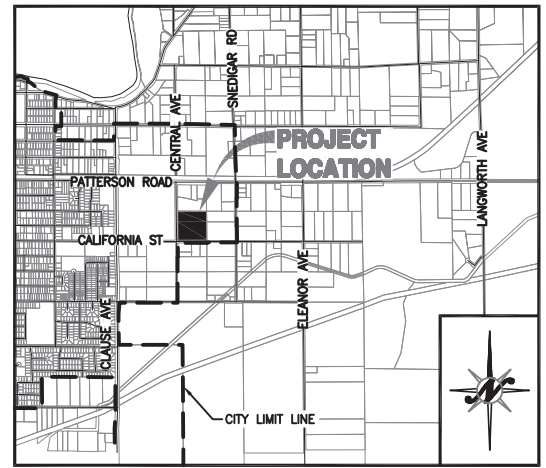
NOT TO SCALE



LDR (LOW DENSITY RESIDENTIAL)

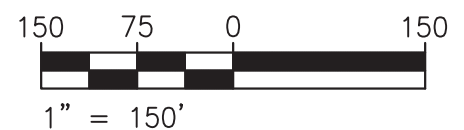


RIVER RUN SUBDIVISION AERIAL EXHIBIT



VICINITY MAP

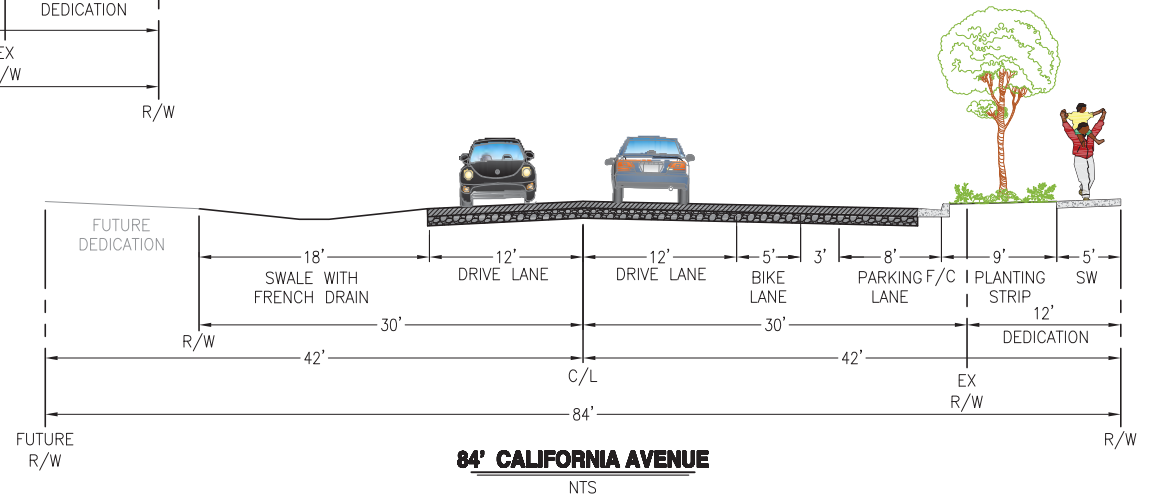
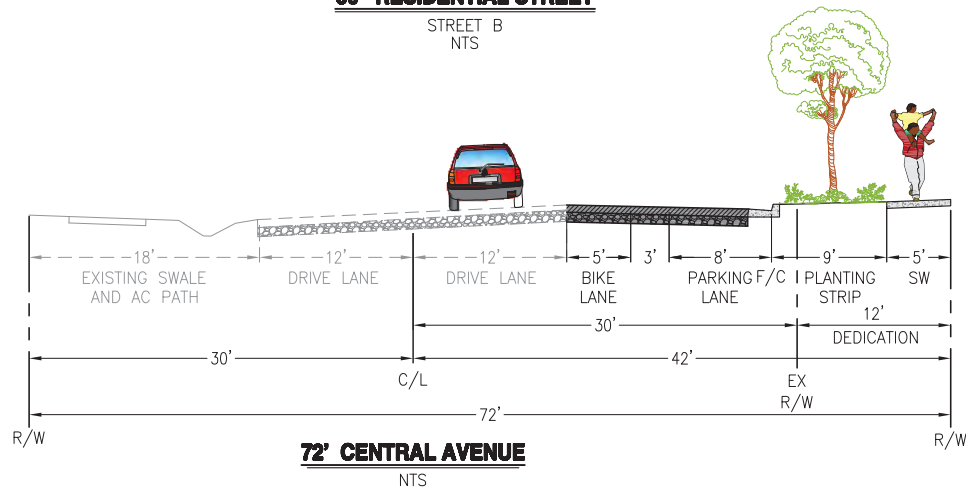
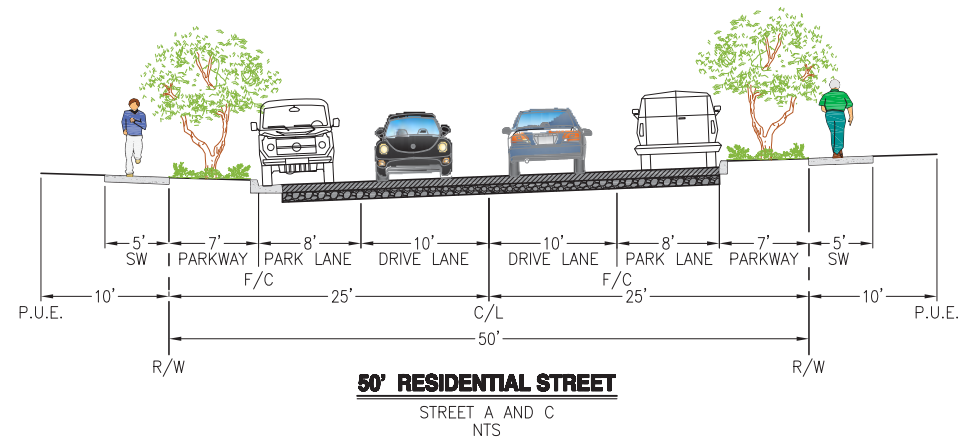
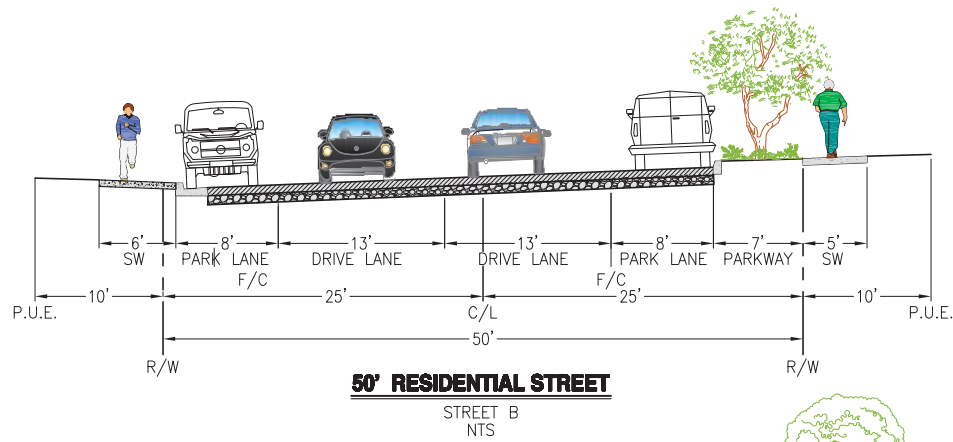
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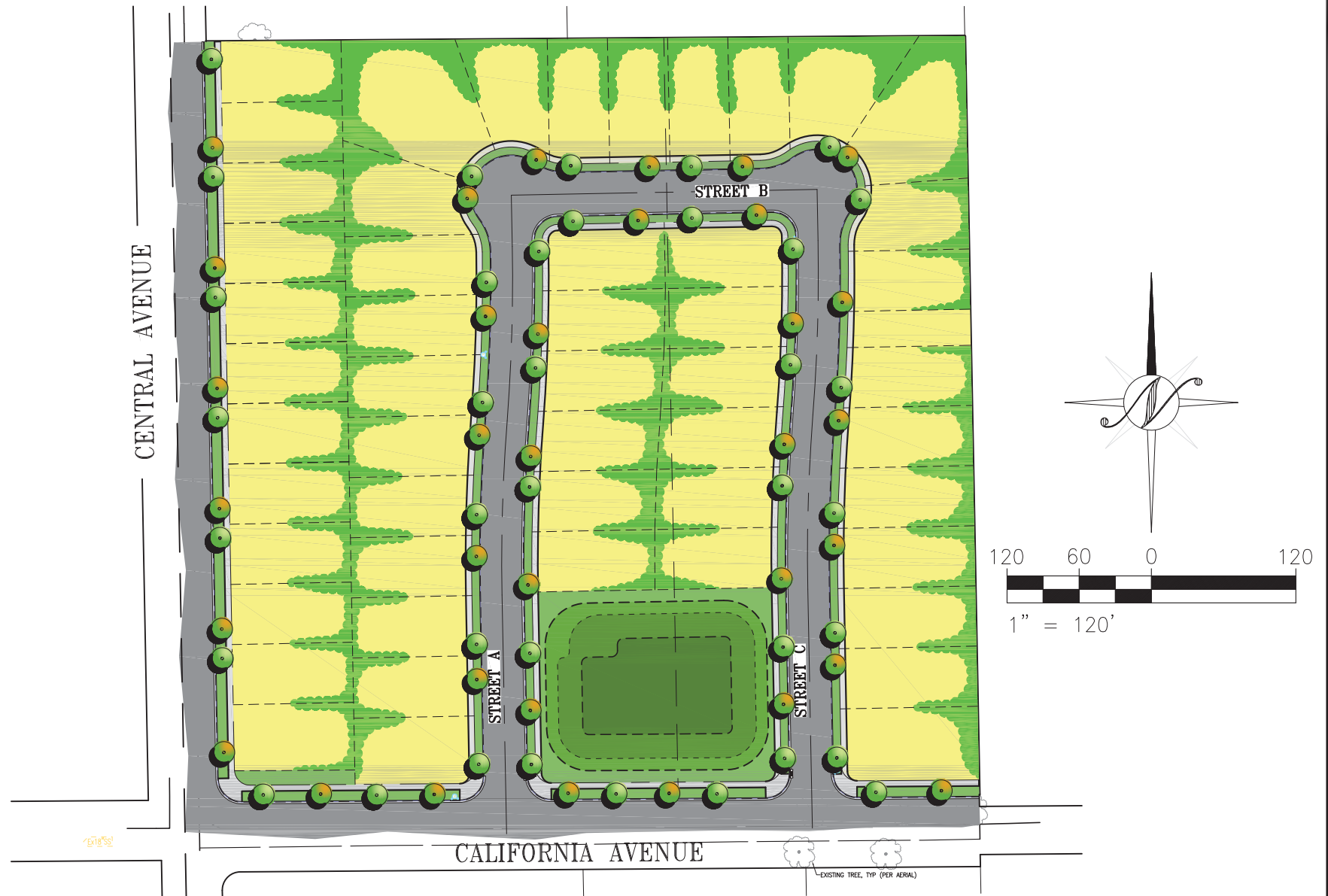
RIVER RUN SUBDIVISION PROJECT DEVELOPMENT PLAN



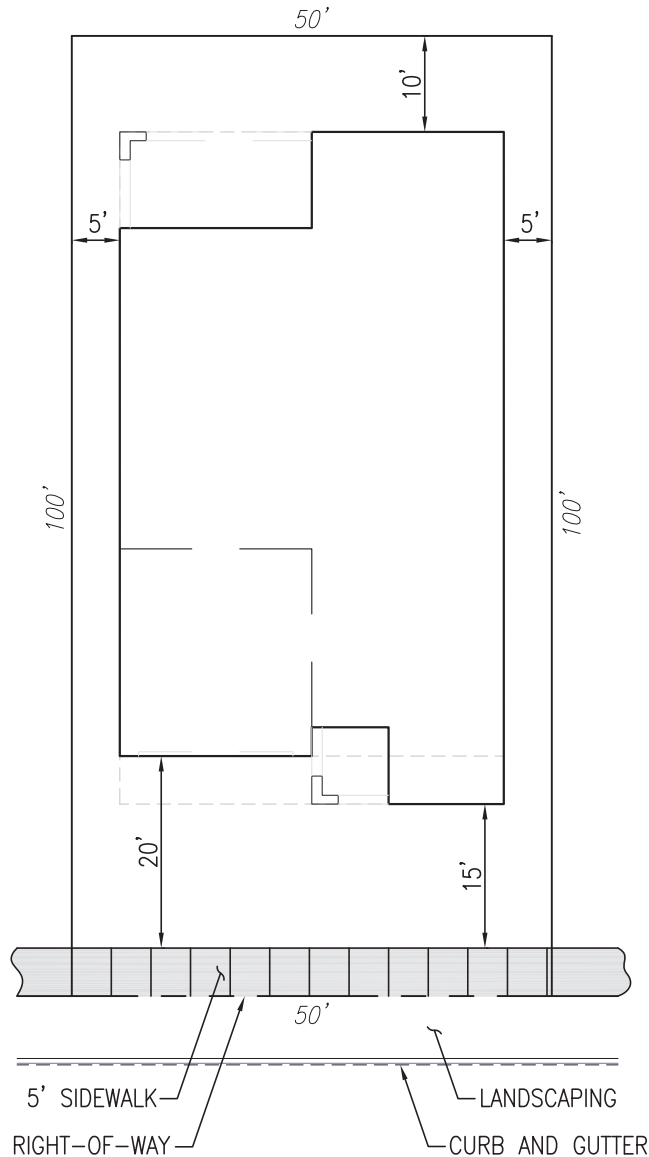
RIVER RUN SUBDIVISION STREET CROSS SECTIONS



RIVER RUN SUBDIVISION LANDSCAPE PLAN



RIVER RUN SUBDIVISION LOT SETBACK EXHIBIT



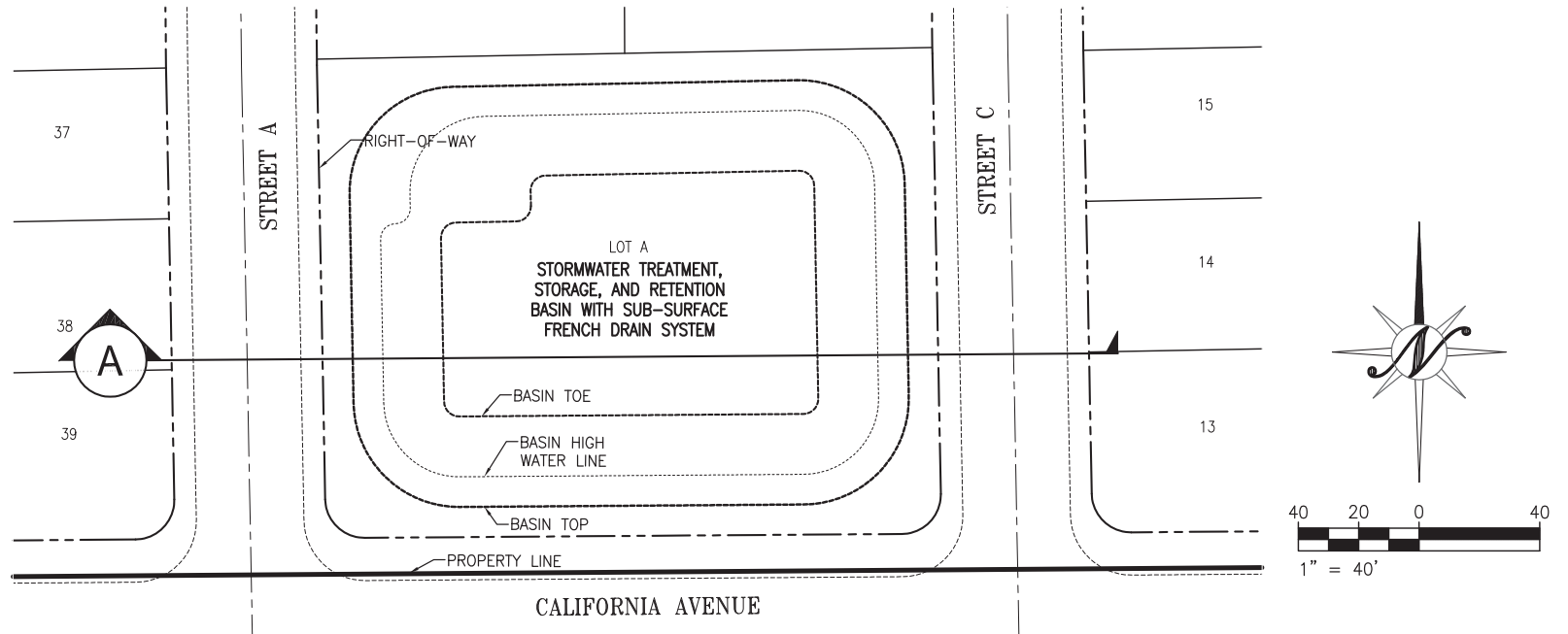
LOT SIZES	DESIGN GUIDELINES	CITY MUNICIPAL CODE
	5,000 sq. ft. min	5,000 sq. ft. min
Minimum Width (mid-block/corner) [a]	50' / 55'	50' / 55'
Minimum Frontage (knuckles)	35'	35'
FRONT SETBACKS [b]		
Garage [c]	20'	20'
Living Area (1st floor) [c]	15'	10'
Living Area (2nd floor) [c]	15'	10'
Porches [c]	10'	-
REAR SETBACKS		
Living Area	10'	5'
Patio Covers [d] [e]	5'	-
SIDE SETBACKS [b] [h]		
Living Area first floor (interior side) [e]	5'	5'
Living Area (corner side) [e]	10'	10'
LOT COVERAGE		
Total Lot Coverage	50%	50%

- [a] Minimum frontage for lots fronting cul-de-sacs and knuckles to be 35' minimum along the right of way.
- [b] Dwelling unit & wall/fencing shall be located outside the "clear vision triangle" at street intersections.
- [c] Setback measured from the back of sidewalk and a minimum of 5' from side property line except on corner lots where 10' is required.
- [d] Patio covers should not exceed 30 percent of the size of the usable private open space. Setback is measured from support structures. Up to 24" overhang is permitted. No part of the structure shall be closer than 5' to property line not including building eaves.
- [e] Includes attached garages and patio covers.
- [f] Minor architectural projections, such as fireplaces and bay windows, may project into a setback or separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length, minimum 3' clearance, excluding A/C units.
- [g] Fragments less than 10' will not be counted toward the common open space area.
- [h] Detached garages may be attached to the main house by a breezeway so long as the breezeway is open, post supported and the garage and house meet 1 hour fire wall ratings as stipulated by the UBC.

Appendix C: Storm Drainage Basin Design Calculations

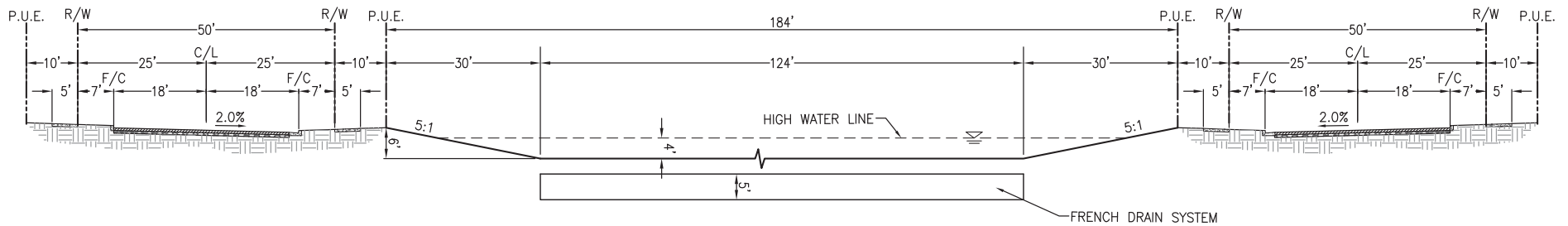
RIVER RUN SUBDIVISION

PRELIMINARY BASIN CROSS-SECTION



STORMWATER DRAINAGE BASIN PLAN VIEW

NTS



A STORMWATER DRAINAGE BASIN CROSS SECTION

NTS



River Run Stormwater Storage Design

Composite "C" Calculations

Date: 11/16/2016

Designer: APD

Sht: 1 of 3

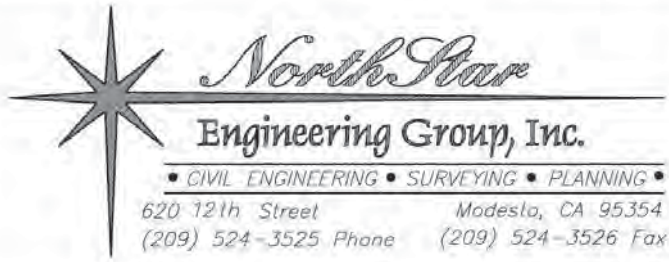
Composite "C" Calculations

Per City of Riverbank Design Standards

DESCRIPTION	ID	DESCRIPTION	"C" PER / UNIT AC
Low Density Residential	LDR	5 DU/AC	0.55
Basin Area (below High Water Elevation)	BASIN	-	1.00
Park Area (above High Water Elevation)	PARK	-	0.20

Total Project Site Area					
DESCRIPTION		SUB AREA DESC.	AREA (ac)	"C"	C*A
Low Density Residential	LDR	1A	9.26	0.55	5.09
Basin Area (below High Water Elevation)	BASIN	1B	0.43	1.00	0.43
Park Area (above High Water Elevation)	PARK	1C	0.32	0.20	0.06
			10.01		5.59

Weighted Basin "C" Value ==> 0.56



River Run Stormwater Storage Design

Basin Design Calculations

Date: 11/16/2016

Designer: APD

Sht: 2 of 3

BASIN - Design Calculations

Per City of Riverbank Design Standards

Volume Requirements:

Design Frequency = 100 Year 24 Hr
 Runoff, R = 3.4 inches 0.28 ft. Urbanized Areas

	C	R (ft.)	A (ac)	V (ac-ft.)
Total Project Site Runoff	0.56	0.28	10.01	1.58
	Total		10.01	1.58

Required Volume of Storage (100%) = 2,554 cy 1.58 ac-ft. 68,955 cf.

Effect to site 0.16 ft.

Volume Calculations: STORM

Lowest T.C. = 146.0 Assumed
 Basin H.W.L. = 144.0 Water Surface Area = 18,786 sf
 Basin Toe Elev. = 140.0 Bottom Surface Area = 9,443 sf
 Basin Low Point = 140.0 Low Point Surface Area = 0 sf
 Water Depth = 4.0 ft. Average Area = 14,115 sf

Basin Volume = 2,091 cy 1.30 ac-ft. 56,458 cf.

General Requirements:

Max Water Surface Elev: 6" below lowest inlet
 Freeboard: 2 feet
 Dual Use Basin Requirements 5 to 1 Side Slopes
 Landscaping
 2% Basin bottom to outlet
 Depth of Basin: Maximum depth of 6 ft.
 Depth of Water: Maximum depth of 4 ft.
 Time: Empty within 48 hrs



River Run Stormwater Storage Design

Sub-Drain Design Calculation

Date: 11/16/2016

Designer: APD

Sht: 3 of 3

SUB-DRAIN - Design Calculations

Per City of Riverbank Design Standards

Total Basin Stormwater Storage Required: cy ac-ft. cf.

Total Above Ground Storage Available: cy ac-ft. cf.

Total Sub-Drainage Storage Required: cy ac-ft. cf.

Total Storage In Pipe:

Length	380.00	ft.
Pipe Size	5.00	ft.
Pipe Area	19.63	sf

Volume in Pipe cy ac-ft. cf.

Total Storage in Rock:

Depth Rock	8.00	ft.
Height Rock	8.00	ft.
Trench Area	64.00	sf.
Trench Area Less Pipe	44.37	sf.
Rock Voids	0.30	

Volume in Rock cy ac-ft. cf.

Total Volume in Sub-Drain System: cy ac-ft. cf.
OK OK OK

Appendix D: Utility System Map

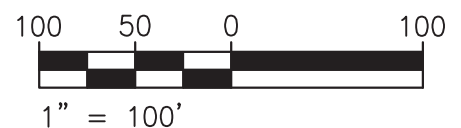
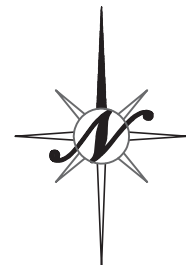
RIVER RUN

PRELIMINARY UTILITY LAYOUT



LEGEND

STORM DRAIN CURB INLET	N/A	
STORM LINE AND MANHOLE	N/A	
SANITARY SEWER LINE AND MANHOLE	N/A	
WATER VALVE		
FIRE HYDRANT		
WATER LINE		
IRRIGATION LINE AND MANHOLE		



RIVER RUN

PRELIMINARY UTILITY LAYOUT



LEGEND

STORM DRAIN CURB INLET	N/A	
STORM LINE AND MANHOLE	N/A	
SANITARY SEWER LINE AND MANHOLE	N/A	
WATER VALVE		
FIRE HYDRANT		
WATER LINE		
IRRIGATION LINE AND MANHOLE		

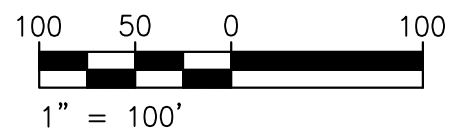
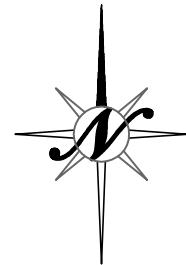


EXHIBIT H

Assumption and Assignment Agreement

DRAFT

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

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

Recording fees exempt (Gov. Code §§ 6103, 27383) (Space above line for recorder's use only)

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") shall be deemed effective as of _____, 20__ ("Effective Date"), by and between _____, a _____ ("Assignor") and _____, a _____ ("Subsequent Landowner").

R E C I T A L S

A. Assignor has entered into a Development Agreement with the City of Riverbank, dated _____, 20__, which was recorded on _____, 20__ as Document No. _____ in Book ____, Page ____ of the Official Records of Stanislaus County, California (the "Development Agreement").

B. Assignor has agreed to develop property pursuant to the Development Agreement, which is now proposed for assignment pursuant to this Agreement, and is more particularly described as _____, as set forth in more detail in the Legal Description attached and incorporated hereto as **Exhibit A** (the "Assigned Parcels").

C. Subsequent Landowner desires to assume [all of Assignor's rights, duties and obligations under the Agreement] [a portion of Assignor's rights, duties and obligations as set forth in this Agreement] with respect to the Assigned Parcels and Assignor seeks to be relieved of said assigned rights, duties and obligations in reference to the Assigned Parcels.

NOW, THEREFORE, Assignor and Subsequent Landowner hereby agree as follows:

A G R E E M E N T

1. Assignor hereby assigns, effective as of [the Effective Date or Assignor's conveyance of the Assigned Parcels to Subsequent Landowner], [all of] *or* [if only a portion of, describe] the rights, interests, burdens and obligations of Assignor under the Agreement with respect to the Assigned Parcels. Assignor retains all of the rights, interests, burdens and obligations

under this Agreement with respect to all property other than the Assigned Parcels within the Subject Property owned by Assignor.

2. Subsequent Landowner hereby assumes all of the rights, interests, burdens and obligations of Assignor under this 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 Assigned Parcels. It is the express intention of both Assignor and Subsequent Landowner that, upon the Effective Date, Subsequent Landowner shall become substituted for Assignor as a "Developer" under the Development Agreement with respect to the Assigned Parcels. Assignor acknowledges that Assignor shall remain subject to the duties and obligations of the Development Agreement if Assignor retains any portion of the Subject Property subject to the Development Agreement.

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

4. Subsequent Landowner's address for all notices, as described in Section ____ of the Development Agreement, shall be as follows:

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

ASSIGNOR:

_____, a _____

SUBSEQUENT LANDOWNER:

_____, a _____

APPROVED:

City Manager

EXHIBIT A

Assigned Parcels

[Provide legal description of assigned parcels]

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	March 24, 2020
Subject:	A Resolution to Adopt a \$1 Application Fee for a Sidewalk Vending Permit in the City of Riverbank
From:	Sean Scully, City Manager
Submitted by:	Donna Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution to approve a \$1 application fee for sidewalk vending permits.

BACKGROUND

On September 17, 2018, then State of California Governor Jerry Brown signed Senate Bill 946, the Safe Sidewalk Vending Act, which established statewide governance of vending in the public right-of-way and in public parks. SB 946 took effect on January 1, 2019. Local authorities would only have the ability to regulate and enforce street vending if they adopted ordinances which were consistent with SB 946. On October 8, 2019 the City Council approved Ordinance No. 2019-006 regulating sidewalk vending within the City of Riverbank. The Council discussed keeping the fee nominal (\$1) so as not to discourage our citizens from vending but did not adopt a fee at that meeting.

FINANCIAL IMPACT

The financial impact to the sidewalk vendor is minimal - \$1 in addition to the normal Business License fees. The financial impact to the City is unknown at this time and includes permit processing by Public Works and possible permit enforcement by Neighborhood Improvement.

STRATEGIC PLAN

This report has been prepared to accomplish the City's Vision, reinforced at the February 25, 2019 Strategic Planning Session: "The City of Riverbank is a regional leader in sustainable development offering a unique, culturally diverse, safe, and welcoming community with a thriving downtown, recreational opportunities for all ages and sustainable economy that supports our growing population."

ATTACHMENT

Proposed Resolution

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO ADOPT A \$1 APPLICATION FEE FOR SIDEWALK VENDING PERMITS IN THE CITY OF RIVERBANK

WHEREAS, on September 17, 2018, California Governor Edmund G. Brown signed Senate Bill 946 ("SB 946") into law, which added Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the California Government Code to regulate sidewalk vendors throughout the state, including within the City of Riverbank ("City"); and

WHEREAS, SB 946 took effect January 1, 2019 and limits the authority of cities and counties in the state to regulate sidewalk vendors, except as otherwise specifically and expressly provided; and

WHEREAS, on October 8, 2019 the City Council of the City of Riverbank adopted Ordinance No. 2019-006 to regulate sidewalk vending in the City, including the establishment of a permit process; and

WHEREAS, the City Council adopted this Ordinance in accordance with the authority granted by SB 946; and

WHEREAS, the regulation of sidewalk vending will benefit the City as a whole by leading to orderly commerce, encouraging entrepreneurship, and providing economic opportunity for the citizens of the City; and

WHEREAS, the City Council declared that the regulations enacted by this Ordinance are intended to promote and protect the health, safety, and welfare of the City's residents, businesses, and visitors and are in furtherance of the City's police powers; and

WHEREAS, the City Council declared that the provisions of the Ordinance are intended to regulate the time, place, and manner of sidewalk vending directly relating to public health, safety, and welfare objectives and concerns; and

WHEREAS, the City Council further declared that sidewalk vendors shall apply for a Sidewalk Vending Permit when they apply for their City Business License; and

WHEREAS, the City Council recommended that a one-dollar (\$1) fee would be sufficient for this Permit.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves and establishes a \$1 fee for a Sidewalk Vending Permit, to be paid at Business License application.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 24th day of March, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARING

Meeting Date: March 24, 2020

Subject: First Reading by Title Only and Introduction of a Proposed **Ordinance** Amending Section 92.28: Issuance of Permit; Non-Transferability; Duration, Under the Fireworks Sales and Discharge Subsection, and Section 92.43: Administrative Fines, and Section 92.44: Administrative Appeal Hearing Under Fireworks Regulations and Enforcement Subsection, of Chapter 92: Fire Protection and Prevention Under Title IX: General Regulations of the City of Riverbank Code of Ordinances

From: Sean Scully, City Manager

Submitted by: Annabelle Aguilar, City Clerk/Elections Official

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 initiates the second reading of the ordinance to consider its adoption at the regular City Council meeting on April 14, 2020.

SUMMARY

The City Council adopted Ordinance No. 2018-007 repealing Chapter 92 of Title IX of the Riverbank Municipal Code ("RMC") and replaced it with a new Chapter 92 to provide Code enforcement of the sale of "safe and sane fireworks" as well as for the use of illegal fireworks classified as "dangerous fireworks".

The City of Riverbank provides the opportunity for eligible Riverbank nonprofit or tax-exempt organizations to sell safe and sane fireworks during the 4th of July Holiday as a fundraising opportunity to support their respective activities that benefit the Riverbank community. In addition, the City Council desired to address the community's concerns of the serious threat of fire and injury posed by the use of illegal fireworks during the 4th of July Holiday and therefore adopted Ordinance No. 2018-007.

City staff had anticipated that after the enforcement of the new ordinance during the first 4th of July Holiday of 2019, amendments to the Code would be made. The proposed amendments to Chapter 92: Fire Protection and Prevention and its subsections are as follows:

- The amended Code will increase the time allowed for the sale of fireworks by one hour, changing the time to cease the sale of fireworks from 9:00 p.m. to 10:00 p.m., which is beneficial for the nonprofit organizations as well as the community's enjoyment of the 4th of July Holiday season; and
- The amended Code will assist with payment of fines imposed, by allowing the ability to request payments to be made under a payment plan, if deemed feasible; and
- The amended Code will assist with the payment of the deposit for an appeal hearing by reducing the deposit amount to half of the amount of the citation fine; and
- The amended Code will reflect the language to conduct the appeals hearing process as conducted for nuisance abatement; formalizing the process to be under the oath of sworn testimony and evidence,

FINANCIAL IMPACT

There is no financial impact.

ATTACHMENT

1. Proposed Ordinance Amendments

CITY OF RIVERBANK

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AMENDING SECTION 92.28: ISSUANCE OF PERMIT; NON-TRANSFERABILITY; DURATION, UNDER THE FIREWORKS SALES AND DISCHARGE SUBSECTION, AND SECTION 92.43: ADMINISTRATIVE FINES, AND SECTION 92.44: ADMINISTRATIVE APPEAL HEARING UNDER FIREWORKS REGULATIONS AND ENFORCEMENT SUBSECTION, OF CHAPTER 92: FIRE PROTECTION AND PREVENTION UNDER TITLE IX: GENERAL REGULATIONS OF THE CITY OF RIVERBANK CODE OF ORDINANCES

WHEREAS, Chapter 92 of Title IX of the Riverbank Municipal Code (“RMC”) was repealed in its entirety and replaced with a new Chapter 92 by passage of Ordinance No 2018-007 to provide for the enforcement of the sale of “safe and sane fireworks” as well as enforcement for the use of illegal fireworks classified as “dangerous fireworks”; and

WHEREAS, the City provides the opportunity for eligible Riverbank nonprofit or tax-exempt organizations to sell safe and sane fireworks during the 4th of July Holiday as a fundraising opportunity to support their respective activities that benefit the Riverbank community; and

WHEREAS, the City Council further desired to address the community’s concerns of the serious threat of fire and injury posed by the use of illegal fireworks, which affects the public’s health, safety, and welfare; and

WHEREAS, it was anticipated that after the enforcement of the new ordinance during the first 4th of July Holiday of 2019, amendments to the Code would be proposed; and

WHEREAS, the amended code will increase the time allowed for the sale of fireworks by one hour, changing the time from 9:00 p.m. to 10:00 p.m., which is beneficial for the nonprofit organizations as well as the community’s enjoyment of the 4th of July Holiday season; and

WHEREAS, to assist with payment of fines imposed, the City would allow for the ability to request payments be made under a payment plan, if feasible; and

WHEREAS, to assist with payment of the deposit to request for an appeal hearing, the deposit would be reduced to half of the amount of the citation fine; and

WHEREAS, enforcement of the Code for fireworks is administered by the City's Code Enforcement Division, with the assistance of Police Services, and other Departments as needed, the language to conduct the appeals hearing process is amended to best reflect the language of the appeals hearing process conducted for nuisance abatement.

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

SECTION 1: Riverbank Municipal Code Section 92.28: Issuance of permit; Non-Transferability; Duration, Section 92.43: Administrative Fines, and Section 92.44: Administrative Appeal Hearing of Chapter 92: Fire Protection and Prevention of Title IX: General Regulations, shall be amended as follows:

§ 92.28 ISSUANCE OF PERMIT; NON-TRANSFERABILITY; DURATION.

[...]

(H) The sale of fireworks may begin no earlier than 12 noon and end by 10:00 p.m. on June 28th, and may be sold daily thereafter from 9:00 a.m. to 10:00 p.m., and shall cease by 10:00 p.m. on July 4th. All unsold stock shall be removed from the location no later than 12 noon July 5th.

[...]

§ 92.43 ADMINISTRATIVE FINES.

[...]

(E) The administrative fine(s) for violations of any of the above provisions shall be due and payable to the City of Riverbank within 30 calendar days from the date of issuance of the administrative citation. Failure to pay the penalties in full within that time, shall have a late charge imposed in the amount as set forth above, and shall begin accruing interest at the prevailing established rate until fully paid. Late charges may be suspended if the City has agreed to a payment plan, however, will be reinstated upon failure to make a payment.

(1) *Payment Plan.* The Citee may request to pay a fine through a payment plan. The Director of Finance or designee will have the discretion to determine if it is feasible to do so, and may request documentary evidence to make a determination if paying the fine in full would cause undue financial hardship. A payment plan will include a payment processing fee to cover costs for this special service. The processing fee will be set by resolution, and is subject to change from time to time by the City Council.

[...]

§ 92.44 ADMINISTRATIVE APPEAL HEARING.

(A) Requesting an Appeal Hearing.

(1) Any Citee may contest the violation(s) and the issued administrative citation by filing an appeal hearing request form with the City Clerk within 30 days of the date of the citation. A filing fee, if established by City Council resolution, shall be charged.

(2) *Deposit.* The Citee must pay a deposit equal to half of the full amount of the fine indicated on the citation on or before the request for a hearing is filed; failure to deposit half of the amount of all fines appealed within the 30-day filing period, shall constitute the request for an appeal hearing incomplete and untimely and therefore not accepted.

(3) Failure to timely file an appeal hearing request form with the City Clerk, along with the filing fee, if required, and deposit shall constitute a waiver of the right to any appeal hearing, and the citation shall be deemed confirmed and final.

(4) *Hardship waiver.* If within the 30-day filing period, the appealing party establishes to the satisfaction of the Director of Finance or designee, by means of tax returns, pay stubs or other similar documentary evidence, and submits a declaration under penalty of perjury that paying the filing fee and/or deposit amount would cause undue financial hardship to the appealing party, the Director of Finance or designee may grant a waiver of the filing fee, and/or waiver or reduction of the deposit amount required. The Director of Finance's determination is not appealable and shall be final as to the hardship waiver request.

(B) *Hearing body.* The appeal shall be heard by an Appeals Board. The Planning Commission, in accordance with § 32.35 (F) of this Code of Ordinances, shall act as the Appeals Board. Members of the Appeals Board shall not have had any responsibility for the investigation, prosecution or enforcement of nuisances under this chapter and shall not have any personal involvement with the appellant or with the appeal to be heard.

(C) Setting the appeal hearing.

(1) The Appeals Board hearing shall be set in accordance with the regularly scheduled Planning Commission meeting, but shall be opened as a separate and distinct body.

(2) At least 10 calendar days prior to the hearing, the City Clerk will notify all persons in writing indicating the date, time, and place to appear for their scheduled appeal hearing, and include a notice to their right to appeal to the City Council and the number of days to so. First Class Mail or email service of this notice is deemed complete at the time sent.

(3) The failure of an appellant to receive a properly addressed notice shall not invalidate the citation or any hearing, city action or proceeding, which is conducted pursuant to this chapter.

(4) The City Clerk shall notify the Code Enforcement staff of the filed appeal request; who shall then submit copies of any documentation to the City Clerk of the administrative citation(s), fines, and reasons for issuance.

(5) The hearing will be conducted within sixty (60) days of the date that a timely and complete appeal request is received by the City Clerk. However, this time may be extended due to the constraints posed by the Planning Commission's meeting schedule.

(D) *Appeal Hearing Procedures.* The Appeals Board shall hear all requests for administrative appeal hearings in accordance with the procedures established herein.

(1) *Testimony at the hearing.* At the time set for the appeal hearing, the Appeals Board shall proceed to hear testimony from the City's representative, the appellant, and any other competent persons or witnesses.

(2) *Oath of sworn testimony.* The Appeals Board shall consider sworn testimony. The Chairperson or Clerk of the Board shall administer the oath or affirmation to anyone testifying or providing any evidence for the Board to consider.

(3) *Evidence rules.* Cal. Gov't Code § 11513(a), (b), and (c) shall apply to all administrative hearings. At the sole discretion of the Appeals Board Chair, other relevant evidence may be admissible and hearsay evidence may be used for the purpose of supplementing and explaining other evidence.

(4) *Continuances.* Hearings may be continued once for extreme or unusual cause at the request of City staff, the appellant, or upon the Appeals Board's own motion.

(5) *Record of oral evidence at hearing.* The proceedings at the hearing shall be recorded by video and audio or by audio recording. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the requesting party's own expense.

(6) *Burden of proof.* The accuracy of the notice and order containing the description of the violations and/or public nuisance and the actions required to abate such nuisance or violation is deemed a rebuttable presumption and the burden is on the appellant to provide such facts and information to overcome such presumption by a preponderance of the evidence.

(E) *Rights of parties.*

(1) Each party shall have the following rights among others: To call and examine witnesses on any matter relevant to the issues of the hearing; to introduce documentary and physical evidence; to cross-examine opposing witnesses on any matter relevant to the issues of the hearing; to impeach any witness regardless of which party first called that witness to testify; to rebut the evidence against him or her; to represent himself or herself or to be represented by anyone of his or her choice.

(2) *Use of interpreter.* If a party does not proficiently speak or understand the English language, that party may provide an interpreter, at that party's own cost, to translate for the party. An interpreter shall be:

- (a) At least 18 years of age;
- (b) Shall not have been a resident of the premises at issue;
- (c) Shall not have had any personal relationship with or involvement in the party's case prior to the hearing; and
- (d) Shall have the ability to translate the Oath of Sworn Testimony.

(F) *Official notice.* In reaching a decision, the Appeals Board may take official notice, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or county or any of their departments.

(G) *Hearing Decision.*

(1) After consideration of all testimony and evidence submitted at the hearing, the Appeals Board shall issue a decision to uphold or reverse the notice of violation and citation imposed by the city, and shall state the reasons therefore. The Appeals Board may not reduce, waive or conditionally reduce the fines established by the City.

(2) The City Clerk shall affirm in writing the Appeals Board's decision and reasons, within seven (7) business days to the appellant, and include the ability to exercise appeal rights before the City Council. Notice of the decision will also be provided to the Code Enforcement Division and the Finance Department. Failure of the appellant to receive a properly addressed written decision shall not invalidate any hearing, action, or proceeding conducted pursuant to this chapter.

(3) *Refund.* If the decision of the administrative citation is reversed, a refund of the deposit shall be made by the City in accordance with the City's customary refund and payment process.

(4) *Payment of fine.* If the decision of the administrative citation is upheld, full payment by the appellant is due by the 11th calendar day following the date of the Appeal's Board decision. If a complete and timely appeal hearing request before the City Council has been filed with the City Clerk, the payment shall be suspended until a final decision by the Council has been made. Full payment is not required if a payment plan has been agreed upon with the City. Late charges may be suspended with an agreed upon payment plan, however, will be reinstated upon failure to make a payment.

(a) *Payment Plan.* The appellant may request to pay a fine through a payment plan. The Director of Finance or designee will have the discretion to determine if it is feasible to do so, and may request documentary evidence to make a determination if paying the fine in full would cause undue financial hardship. A payment plan will include a payment processing fee to cover costs for this special service. The processing fee will be set by resolution, and is subject to change from time to time by the City Council.

(H) *Finality of appeal's decision.*

(1) If an appellant is not satisfied with the action of the Appeals Board a request for an appeal hearing before the City Council may be made by filing an appeal request form, and a filing fee established by resolution, with the City Clerk within (10) calendar days following the date of the Board's decision.

(2) If the Appeals Board's decision is not appealed in a timely manner as required, the decision shall be deemed confirmed and final. Full payment of the fine shall immediately be due, unless a payment plan with the City has been agreed upon.

(3) *Setting the appeal hearing.* The process to set an appeal hearing before the City Council will be process as set for an appeal hearing under Section 92.44 (C) of this Chapter.

(4) *Appeal Hearing Procedures.* The City Council shall hear all requests for administrative appeal hearings in accordance with the procedures established under Section 92.44 (D), (E), (F), and (G) of this Chapter; except for the right to appeal the matter further. The term Appeal's Board shall be replaced by the term City Council where applicable.

(5) The City Council of the City of Riverbank is the final reviewing authority and an appeal of the City Council's final decision is not appealable to the Superior Court.

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, 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. 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 (), 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 March 24, 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 24th day of March, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and moved said ordinance by a City Council roll call 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

PROPOSED

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date: March 24, 2020

Subject/ Title: **2019 General Plan and Housing Element Annual Progress Reports.** A **Resolution** to Adopt the 2019 General Plan and Housing Element Annual Progress Reports (APRs) as well as authorizing Staff to submit said Reports to the California Office of Planning and Research and California Department of Housing and Community Development

From: Sean Scully, City Manager

Submitted by: Donna M. Kenney, Planning and Building Manager
Gabriel Salazar, Associate Planner

RECOMMENDATION

Staff recommends approval of the City's 2019 General Plan and Housing Element Annual Progress Reports (APR) and to authorize Staff to submit said reports to the California Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD).

SUMMARY

Section 65400(a)(2) of the Government Code requires each jurisdiction to prepare and submit an annual progress report on its General Plan by April 1 of each year. The annual report is required to contain the following: status of the City's General Plan and progress in its implementation, progress in meeting the City's regional housing need, and any actions taken by the City toward completion of Programs identified in the City's Housing Element.

This report is required to be reviewed and considered by the City's legislative body (City Council), and subsequently submitted to the California Office of Planning and Research, and the California Department of Housing and Community Development. The annual report does not require approval by these State Agencies.

The 2019 General Plan and Housing Element APRs are attached to this Staff Report as Attachment 2, Exhibits A and B. The purpose of these documents is to:

- 1) Remain compliant with Government Code Section 65400(a)(2) and Housing Element Law;
- 2) To update City Council on housing development and implementation of general plan programs, including the Housing Element; and
- 3) Ensure eligibility for State grant funding, such as the Housing-Related Parks Program.

For the City to be eligible for State funding for a variety of housing and park grants, the State typically requires the City's Housing Element to be in compliance with State Housing Law (certified) and for the City to make Annual Progress Reports OPR and HCD annually (by April 1 of each year). The City's 2014-2023 Housing Element was adopted in February, 2016 and received State certification in December, 2015. The proposed Annual Progress Reports ensure that the City will remain up-to-date in regards to the requirements imposed by future grant opportunities.

Grants that the City might pursue include:

- **Home Investment Partnership Program** – Provides decent and affordable housing, particularly for low- and very low-income households. Approximately \$26 million in federal funds for the HOME Program.
- **Community Development Block Grant** – Funds local community development activities such as affordable housing, anti-poverty programs, and infrastructure development. In Fiscal Year 2017, the largest categories of CDBG spending were public infrastructure (36%) and housing (24.7%).

A variety of other grant programs intended to improve communities, provide access to housing and rental/mortgage relief is available for the City to pursue.

In the 2019 Annual General Plan Report, progress was made on the following:

- 1) LAND-3 – Grants
- 2) LAND-5 – Zoning Amendments
- 3) ED-4 – Job Training Program

Progress Towards RHNA Goals

The RHNA table for the current Housing Cycle has been updated to reflect progress made towards the City's RHNA goal, and is presented in the Attachment to this Staff Report. In Summary the City has completed:

- o Ten (10) percent of the Very Low Income goal;
- o Fourteen (14) percent of the Low Income goal;
- o Zero (0) percent of the Moderate Income goal; and
- o Twenty (20) percent of the Above Moderate Income goal

New Home Construction

The City of Riverbank issued building permits for twenty-three (23) above moderate residential units in 2019, all of which were single-family residences. The majority of the building permits were issued in East Riverbank (California Estates, Diamond Bar West and Elmwood Estates). No building permits were issued for very low-, low-, and/or moderate-income categories.

PLANNING COMMISSION

A presentation on the 2019 General Plan and Housing Element Annual Progress Reports was presented to the Planning Commission at their regular meeting of March 17, 2020.

ENVIRONMENTAL DETERMINATION

Not applicable.

FINANCIAL IMPACT

City Staff prepared the 2019 General Plan and Housing Element Annual Progress Reports.

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 years. The proposed Resolution adopting the City's 2019 General Plan and Housing Element Annual Progress Reports is not part of these goals.

ATTACHMENTS

1. City Council Resolution No. 2020-XXX
2. City of Riverbank 2019 General Plan Annual Progress Report, dated March 16, 2020
Exhibit A - 2019 General Plan Annual Implementation Report
Exhibit B - 2019 Housing Element Annual Progress Report

CITY OF RIVERBANK

RESOLUTION NO. 2020-XXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, ADOPTING THE 2019 ANNUAL GENERAL PLAN AND HOUSING
ELEMENT ANNUAL REPORTS (APRs) AND AUTHORIZING STAFF TO SUBMIT
SAID REPORTS TO THE CALIFORNIA OFFICE OF PLANNING AND RESEARCH
AND CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT**

WHEREAS, the City of Riverbank is required by Government Code Section 65400 to provide an Annual Progress Report on the General Plan for the preceding year; and

WHEREAS, the Annual General Plan Progress Report must be transmitted to the City Council, the California Office of Planning and Research, and the California Department of Housing and Community Development; and

WHEREAS, the Annual General Plan Progress Report must include all of the following: a) the status of the General Plan and progress in its implementation, b) the progress in meeting its share of the regional housing needs and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing, the degree which its approved General Plan complies with the guidelines adopted pursuant to Section 65040.2 as well as the date of the last revision to the General Plan; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby adopts the City's 2019 Annual General Plan Progress Report and 2019 Housing Element Annual Progress Report and authorizes staff to submit said report to the California Office of Planning and Research and California Department of Housing And Community Development.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 10th day of March, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	March 24, 2020
Subject:	Utility Billing Discussion and Feedback
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager/Director of Finance

RECOMMENDATION

It is recommended that the City Council provide feedback on the implementation of any one or combination of options presented regarding utility billing during the coronavirus ("COVID-19") pandemic.

SUMMARY

City Hall lobby closures have limited resident's ability to make payments in person. In addition, it is anticipated that residents may face layoffs or work schedule reductions during this time in certain economic segments hindering their ability to make payment. It is requested that Council provide feedback on potential options regarding payment of utility bills which are due by March 31, 2020.

BACKGROUND

The transmission of COVID-19 has occurred at an accelerated pace since its introduction into the United States just weeks ago. With the rate of transmission only increasing, it is imperative that local jurisdictions do everything in their power to prepare for, respond to, mitigate, and recover from COVID-19.

On March 16, 2020, the Assistant Director of Emergency Services issued a Proclamation of Existence of a Local Emergency. Proclaiming a local emergency is a prerequisite for requesting and receiving any available federal or state funding. By declaring a local emergency, the City can obtain additional resources, establish an immediate plan, and respond quickly to urgent situations. This will minimize disruptions and allow the City to focus on day-to-day operations while addressing the spread of COVID-19 as effectively and efficiently as possible.

As part of the COVID-19 response, the City has closed all City buildings in an effort to protect the public and employees. This has hindered our residents' ability to make in-person payment on the utility bill that is currently due on March 31, 2020. As of the writing

of this report, the City had yet to determine the length of time that City offices will be closed. The City has publicized the various alternative payment options available to the public such as:

- Online via Xpress Bill Pay
- Online via residents online banking service
- Phone via Xpress Bill Pay (1-800-720-6847)
- Check/Money Order in City Drop Box at City Hall South

On March 16, 2020 Governor Newsom issued an Executive Order which authorizes local governments to halt evictions for renters and homeowners, slows foreclosures, and utility bills. The Governor has asked the CPUC to monitor measures undertaken by public and private utility providers to implement customer service protections for critical utilities, including electric, gas, water, internet, landline telephone, and cell phone service on a weekly basis.

The City Hall South Lobby area where the Finance Department is located is not currently conducive towards ensuring that we are complying with the social distancing guidelines suggested. Given the guidance from the Governor, and in an effort to avoid having a large amount of residents appear at City Hall South on March 31, 2020 to make payment prior to the deadline, we are presenting the following options for feedback:

1. Status Quo: Continue with March 31, 2020 due date. Application of penalties occurs on April 1, 2020.
2. Delay the due date on the utility bill until April 16, 2020.
3. Do not apply penalties for delinquent bills after the March 31, 2020 due date.
4. Do not perform shut-offs for delinquent billings during the month of April.

It is requested that Council provide feedback on the implementation of any one or combination of options presented.

STRATEGIC PLAN

This report is indirectly related to the City Council's Strategic Plan Goal to "Improve Public Safety" and "Maintain a High Quality of Life".

FINANCIAL IMPACT

- Option 1: No financial impact to the City
- Option 2: Delays the cash flow to the City
- Option 3: Loss of approximately \$30,000 in fees
- Option 4: Delays in cash flow to the City

ATTACHMENT

There are no attachments to this item.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.3

SECTION 6: NEW BUSINESS

Meeting Date:	March 24, 2020
Subject:	General Local Public Health COVID-19 Update
Submitted by:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council receive an update, discuss the matter, and provide any direction to staff as deemed necessary.

SUMMARY

As Council is aware, the spread of the COVID-19 virus has reached Stanislaus County. At the time this staff report was published there were three (5) confirmed cases within Stanislaus County. The local Emergency Operations Center (EOC) has been activated and moved to level 1 response (7 day a week coverage). Staff has participated in updates and information sharing with the EOC, Stanislaus County and all 9 Stanislaus Cities. Staff have worked to create a response plan to limit public access to City offices as well as cancelling many different routine classes and events. On Monday March 16th Management authorized closure of City offices to the public effective 12:00 Noon, per Council direction that order will remain in place through April 30th. In addition, Council as part of their ratification of the Local Emergency Declaration have issues a shelter in place advisory where possible (not mandatory). Staff have worked to create a bifurcated staffing model to minimize exposure of staff to ensure that City Departments can continue to function if an infection occurs, this model is in place and active. The primary goal is to ensure that all City services remain generally intact for the community.

The Council should consider any additional measures that are appropriate to continue to manage this crisis. One such request from the community was to explore an eviction moratorium. Staff will continue to research options available to the City for Council action. Additional information will be provided at the time of the meeting as the situation continues to develop.

FINANCIAL IMPACT

Unknown at this time.