



**RIVERBANK CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY
BOARD MEETINGS**

**SPECIAL NOTICING OF MEETING PROCEDURES FOR
Tuesday, April 14, 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 AVOID 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, 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, via email, or by other platforms. 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 make reasonable modifications or accommodations from individuals with disabilities. Contact 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.

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.

ACCESS FOR PUBLIC "LIVE" 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 **no later than 5:00 p.m.** of the day of the meeting, and they will be provided to the Council for consideration and made part of the record.
- Emails during the meeting: 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. Comments received during this time will be made part of the record
- The time allotted and the number of emails read will be at the discretion of the Mayor.

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.

Other Platforms used: At the preparation of this meeting the use of the ZOOM Video Conferencing platform was currently being tested. If it is used and made available to the public, information to join will be posted and disseminated for public participation.

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 24-48 hours of the adjournment of the meeting, and 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, April 14, 2020.



(BY TELECONFERENCE ONLY)

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

AGENDA

TUESDAY, APRIL 14, 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.
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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 or other platforms posted.**

3. CONSENT CALENDAR

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

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

Item 3.B: Approval of the March 10, 2020, City Council and Local Redevelopment Authority Board Minutes.

Item 3.B-1: Approval of the March 18, 2020, Special City Council Minutes.

Item 3.C: Recommend Approval of **Resolution** Adopting a List of Projects for Fiscal Year 2020-2021 Funded by SB 1: The Road Repair and Accountability Act of 2017.

Item 3.D: A **Resolution** to Approve and Adopt the Revised 2020 City of Riverbank Expenditure Plan Project List for Measure L Funds.

Item 3.F: Re-adoption of **Ordinance No. 2020-004** Approving a Development Agreement No. 02-2019 for the River Run Subdivision Residential Project (APN: 062-021-008)

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

4. UNFINISHED BUSINESS

Item 4.1: **Second Reading by Title Only and Adoption of Proposed Ordinance No. 2020-005 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 second reading by title only of proposed Ordinance No. 2020-005 and consider its adoption by roll call vote.

5. PUBLIC HEARINGS

The public notice for Item 5.1. was published in the Riverbank News on April 1, 2020. The 300 ft. property owner notice of the public hearing was mailed out via US Postal Service on April 2, 2020.

Item 5.1: **First Reading and Introduction by Title Only of a Proposed Ordinance Approving Development Agreement No. 01-2020 for the Diamond Bar East Residential Project (APN 062-020-0210 AND 062-020-025)**

Extending the Life of Tentative Map 04-2014 – It is recommended that the City Council approve the proposed Ordinance for a Development Agreement which extends the life of approved Diamond Bar East Tentative Map 02-2014 relating to real property located at 4424 Santa Fe Street (APNs 062-020-010 and 062-020-025), and initiates the second reading of this ordinance and consideration of its adoption at the regular City Council meeting on April 28, 2020.

Item 5.2: **Waive Reading and Introduce by Title Only Urgency Ordinance No. 2020-006 of the City Council Of The City of Riverbank: (1) Adopting The Stanislaus County Health Officer's March 31, 2020, Order Directing All Individuals Living In The County To Shelter At Their Place Of Residence; (2) Adopting The Governor's Executive Order N-33-20, Directing All Individuals In The State To Shelter At Their Place Of Residence; (3) Adopting Any Subsequent Orders That The Stanislaus County Health Officer Or Any Official Of The State Of California May Issue To Limit The Spread Of COVID-19; And (4) Ordering All Individuals In The City of Riverbank To Shelter At Their Place Of Residence And Setting Forth Enforcement Rules** – Motion to waive reading and introduction of Urgency Ordinance No. 2020-006, reading by title only, waiving further reading, and adoption of an Urgency Ordinance of the City Council of the City of Riverbank: (1) adopting the Stanislaus County Health Officer's March 31, 2020 Order; (2) adopting the Governor's Executive Order N-33-20, directing all individuals in the State to shelter at their place of residence; (3) adopting any subsequent orders that the Stanislaus County Health Officer or any official of the State of California may issue to limit the spread of COVID-19; and (4) ordering all individuals in the City of Riverbank to shelter at their place of residence and setting forth enforcement rules (the "Ordinance").

6. NEW BUSINESS

Item 6.1: **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.

Item 6.2: **Regarding Medicare for All – A Resolution in Support of the Medicare for all Act of 2019** – It is recommended that the City Council consider whether or not to adopt a resolution declaring support for the Medicare for All Act of 2019.

7. COMMENTS/REPORTS

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

Item 7.1: Staff

Item 7.2: Council/Authority Member

Item 7.3: Mayor/Chair

8. CLOSED SESSION

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

Item 8.1: **CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code § 54957.6

Agency representative: City Manager Sean Scully

Employee organizations:

Riverbank Miscellaneous Employees Bargaining Unit

Riverbank Mid-Management Bargaining Unit

Item 8.2: **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: 062-031-005, 062-031-006, 062-031-007

Agency Negotiator: Sean Scully, City Manager

Property Negotiator: Aemetis, Inc.

Under Negotiation: Price, terms of payment, or both

Item 8.3: **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 on Closed Session on Item 8.1: **CONFERENCE WITH LABOR NEGOTIATORS** – Riverbank Miscellaneous Employees and Mid-Management Bargaining Units

Item 9.2: Report from Closed Session on Item 8.2: **CONFERENCE WITH REAL PROPERTY NEGOTIATIONS** – Aemetis, Inc.

Item 9.1: Report from Closed Session on Item 8.3 – **Threat to Public Services or Facilities.**

ADJOURNMENT (The next regular City Council meeting – Tuesday, April 28th @ 6:pm)

AFFIDAVIT OF POSTING
I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours prior to the meeting in accordance to the California Ralph M. Brown Act. Posted this 10 th day of April, 2020 <i>/s/ Annabelle Aguilar, C.M.C. City of Riverbank</i>

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	April 14, 2020
Subject:	Waiver of Readings
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

It is recommended that the City Council / LRA Board approve the waiver of readings of any proposed ordinances and resolutions for consideration, except by title.

SUMMARY

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

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

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENTS

There are no attachments to this report.

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	April 14, 2020
Subject:	Approval of the March 10, 2020, City Council and Local Redevelopment Authority Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the March 10, 2020, regular City Council and the Local Redevelopment Authority Board meetings have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. March 10, 2020, Draft City Council and LRA Minutes



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

MINUTES OF
TUESDAY, MARCH 10, 2020



Verbatim proceedings may be viewed on-line at www.riverbank.org or a copy may be obtained for a fee.

CALL TO ORDER

The City Council and Local Redevelopment Authority Board of the City of Riverbank met at 6:01 p.m. on this date at the Riverbank City Council Chambers, 6707 Third Street, Suite B, Riverbank, California, with Mayor/Chair Richard D. O'Brien presiding.

FLAG SALUTE

Mayor/Chair Richard D. O'Brien

INVOCATION

Pastor Chuck Woods, Riverbank Ministerial Association

ROLL CALL

Present:

Mayor/Chair Richard D. O'Brien
Vice Mayor/Chair (CM-D4) Luis Uribe
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member District 3 Cal Campbell
Council/Authority Member District 4 Darlene Barber-Martinez

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

CONFLICT OF INTEREST

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

No one declared a conflict.

1. PRESENTATIONS

Item 1.1: Recognition of Chief Erin Kiely.

Mayor O'Brien presented Chief Kiely with a plaque to recognize his years of service with the City of Riverbank.

Item 1.2: Update on Stanislaus Sheriff's Department by Sheriff Jeff Dirkse.

Sheriff Dirkse presented the update.

Item 1.3: California Department of Transportation District 10 Update Presentation by Dan McElhinney.

Dan McElhinney, Caltrans District Director, Arvinder Bajwa, Caltrans Deputy District Director, and Wuthy Seng, Caltrans Project Manager presented project updates.

Item 1.4: Riverbank Representative Update by Chad Homme of the Stanislaus County Fire Protection District Board of Directors.

Director Chad Homme presented an update on the Board's activities.

2. PUBLIC COMMENTS (No Action Can Be Taken)

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

No one spoke.

3. CONSENT CALENDAR

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

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

Item 3.B: Approval of the February 25, 2020, City Council and Local Redevelopment Authority Board Minutes.

Item 3.C: Award Bid for the Eight Street Overlay Project to George Reed, Inc. and Authorize Execution of Future Change Orders.

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

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

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

NAYS: None / ABSENT: None / ABSTAINED: None

4. UNFINISHED BUSINESS

There were no items to consider.

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 2/26/2020, and the 300 ft. letter to property owners was mailed on 02/27/2020. The public notice for Item 5.2 was published on 02/12/2020, and a Continuance Notice was posted within 24 hours on 02/26/2020.

Item 5.1: **First Reading and Introduction by Title Only of a Proposed Ordinance [No. 2020-004] Approving a Development Agreement No. 02-0219 for the River Run Subdivision Residential Project (APN: 062-021-008)** – 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 at the March 24, 2020, regular City Council meeting to consider its adoption. Approval of the Development Agreement by adoption of this ordinance will extend the life of approved River Run Tentative Map 02-2016 relating to real property located at 6272 Central Avenue (APN 062-021-008). The Planning Commission conducted a public hearing to consider the project during their meeting on February 18, 2020, and by a unanimous vote of 5-0, the Commission recommended the approval of the River Run Development Agreement to the City Council.

Planning and Building Manager Donna Kenney presented the budget report.

Mayor O'Brien opened the public hearing at 7:01 p.m.

· *Cary Pope, Project Representative, commented on a few challenges of the project.*

Mayor O'Brien closed the public hearing at 7:03 p.m.

ACTION: *By motion moved and seconded (Uribe / Campbell / passed 5-0) to approve the first reading and introduction of Ordinance No. 2020-004, and to conduct the second reading to consider its adoption at the regular meeting of March 24, 2020. Motion carried by unanimous City Council roll call vote.*

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

NAYS: None / ABSENT: None / ABSTAINED: None

LRA Item 5.2: **A Resolution [No. 2020-001] Approving the Local Redevelopment Authority Fiscal Year 2019-2020 Mid-Year Budget Amendments** – It is recommended that the Local Redevelopment Authority Board of Directors conduct the public hearing, and adopt the resolution approving mid-year budget adjustments to the Fiscal Year 2019/2020 Local Redevelopment Authority Budget.

Assistant City Manager/Finance Director Marisela Garcia presented the staff report in the absence of LRA Administrative Analyst II Melissa Holdaway.

City Council and Staff discussed the item. Mayor O'Brien opened the public hearing at 7:10 p.m.; no one spoke, the hearing was closed.

ACTION: *By motion moved and seconded (Barber-Martinez / Fosi / passed 5-0) to adopt LRA Resolution No. 2020-001 as presented.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: None / ABSENT: None / ABSTAINED: None

6. NEW BUSINESS

Item 6.1: Stanislaus County Urban County Fiscal Years 2020-25 Consolidated Plan, FY 2020-2021 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice Community Meeting – Request to Table to April 14, 2020 – It is recommended that the City Council accept public comment on this item and table the Community Meeting until April 14, 2020.

ACTION: *By motion moved and seconded (Uribe / Barber-Martinez / passed 5-0) to table Stanislaus County Urban County Fiscal Years 2020-25 Consolidated Plan, FY 2020-2021 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice Community Meeting until April 24, 2020, as presented.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: None / ABSENT: None / ABSTAINED: None

Item 6.2: Regional Recycled Water Project and WWTP Master Planning Studies Planning Grant – Authorization to Award – It is recommended that the City Council authorize staff to award contract for Regional Recycled Water Project and WWTP Master Planning Study to Kjeldsen, Sinnock, & Neudeck (KSN).

City Manager Sean Scully and Public Works Director Michael Riddell presented the staff report. City Council and Staff discussed the item.

ACTION: *By motion moved and seconded (Fosi / Campbell / passed 5-0) authorize staff to award the contract for Regional Recycled Water Project and WWTP Master Planning Study to Kjeldsen, Sinnock, & Neudeck (KSN) as presented.*

Motion carried by unanimous City Council roll call vote.

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

NAYS: None / ABSENT: None / ABSTAINED: None

7. COMMENTS/REPORTS

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

Item 7.1: Staff – *There were no comments.*

Item 7.2: Council/Authority Member

- *Council/Authority Member Barber-Martinez announced that International Women's Day celebrated on March 8th and recognized all women.*
- *Vice Mayor/Chair Uribe announced the next meeting of the Stanislaus Homeless Alliance.*

Item 7.3: Mayor/Chair

Mayor/Chair O'Brien requested plans be made for the resolution of the Urban Growth Boundary to have it approved by May for submission to the Registrar of Voters for a ballot measure.

8. CLOSED SESSION

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

Item 8.1: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code § 54956.9(a)

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

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

Mayor/Chair O'Brien announced the Closed Session Item(s) and opened the Item(s) for public comment; no one spoke. The meetings were recessed and City Council and LRA Board went into Closed Session at 7:32 p.m.

9. REPORT FROM CLOSED SESSION

Mayor/Chair O'Brien reconvened the meetings at 7:47 p.m.

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

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

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 7:48 p.m.

ATTEST: (*Adopted 4/14/2020*)

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor / Chair

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.B-1

SECTION 3: CONSENT CALENDAR

Meeting Date:	April 14, 2020
Subject:	Approval of the March 18, 2020, Special City Council Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the March 18, 2020, Special City Council meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. March 18, 2020, Special City Council Minutes



**CITY OF RIVERBANK
SPECIAL CITY COUNCIL MEETING
MINUTES OF
WEDNESDAY, MARCH 18, 2020**

Verbatim proceedings may be viewed on-line at www.riverbank.org or a copy may be obtained for a fee.

Notice: *This meeting was held in accordance with the Governor's Executive Order N-25-20, issued on March 12, 2020, the Ralph M. Brown Act (California Government Code Section 54950, et seq.), and the Federal Americans With Disabilities Act.*

CALL TO ORDER:

The City Council of the City of Riverbank met at 6:04 p.m. on this date at the Riverbank Community Center, 3600 Santa Fe Street, Riverbank, California, with Mayor O'Brien presiding.

Mayor O'Brien announced the new meeting procedures in accordance with the Executive Order.

ROLL CALL: Mayor Richard D. O'Brien
Present: Vice Mayor Luis Uribe (CM-D1)
Councilmember District 2 Cindy Fosi (via teleconference)
Councilmember District 3 Cal Campbell (via teleconference)
Councilmember Dist. 4 Darlene Barber-Martinez (via teleconference)

CONFLICT OF INTEREST
Any Council Member and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict at this time.

No one declared a conflict.

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

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

Written public comments will be received via email before and during the time the item being considered is open for comments by the Mayor. Email cityclerk@riverbank.org and indicate Item Number in the subject line. Public comment via phone call 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 may be received). If you are unable to get through via phone, please email.

Mayor O'Brien opened the public comment period for five minutes; no comments were received.

2. BUSINESS

Item 2.1: Adoption of Resolution No. 2020-009 of the City Council of the City of Riverbank, California, Ratifying the Assistant Director of Emergency Services Proclamation of Existence of a Local Emergency – It is recommended that the City Council adopt a resolution ratifying the Assistant Director of Emergency Services proclamation of Existence of a Local Emergency signed on March 16, 2020.

Mayor O'Brien requested consensus to waive the reading of the resolution by roll call vote.

ACTION: By motion moved and seconded (Uribe / Barber-Martinez / passed 5-0) to approve waiver of the reading of Resolution No. 2020-009.

Motion carried by unanimous City Council roll call vote.

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

NAYS: None / ABSENT: None / ABSTAINED: None

City Manager Sean Scully proceeded with the presentation of the Item.

Public Comment was made by Ms. Chris Austin, salon business owner, who inquired about continuing to provide services versus stopping all business. Mayor O'Brien suggested practice the protection of employees and clients through the social distancing and other protective measures, and work through the Small Business Administration, Opportunity Stanislaus, State programs such as Unemployment, and visit the City's website for updates.

Discussion of amending the resolution to add a fourth provision to cover guidance for "shelter in place" ensued.

ACTION: By motion moved and seconded (Uribe / Campbell / passed 5-0) to adopt Resolution No. 2020-009 ratifying the Assistant Director of Emergency Services proclamation of Existence of a Local Emergency signed on March 16, 2020, with an amendment by adding a fourth provision (to be numbered as #3 on the list) to state: "Recommends the public to shelter in place when possible, however, it is not mandatory."

Motion carried by unanimous City Council roll call vote.

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

NAYS: None / ABSENT: None / ABSTAINED: None

Item 2.2: 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.

City Manager Sean Scully presented the update on current coronavirus cases in the County, inadequate test kit availability, local emergency response was at Level-1 implementing 7 days a week coverage, constant staff communication on the matter with various agencies and all nine cities in the County, staff developed a response plan to limit public access to City offices as well

as recreation program cancellations, Monday, March 16th Management authorized closure of all offices to the public effective 12:00 noon and would continue until Friday, March 20th, each City department created a response plan with three stages to mitigate increasing exposure risk levels; including a recently authorized step to divide staff into two teams A and B to minimize any potential exposure to an entire department; all measures are with the goal of minimizing risk to be able to continue providing services. In anticipation of any statewide lockdown, a list of essential staff has been prepared and city identification badges will be issued in order to provide identification for the need to travel to and from work, staff working remotely or in the office will be able to generally provide the same services, and staff that are working in the office one week and home the next week will be on paid administration leave while at home provided that they are available for phone calls during normal business hours and can be order to come into work upon request at any time. This plan will reduce internal and external face-to-face contact to minimize exposure.

City Council and Staff discussed the matter and measures taken to-date; providing their suggestions and support of the plan of work for essential and nonessential classified employees, including consideration of use of office space at the LRA [Riverbank Industrial Complex]. City Manager Scully clarified that the LRA offices would be closed to the public.

*Mayor O'Brien suggested closing the City Offices until April 30th.
Public comment period by phone or email was opened by Mayor O'Brien for five minutes.*

City Manager Scully reported that according to Chief Ridenour the Sheriff's Department lobbies are still open since they have protective barriers and emergency services are still active, and the City's on-call staff are active.

No comments were received and the comment period was closed.

By unanimous consent, City Council directed that City offices be closed through April 30th and approve or agree with the City Manager's staffing plan as presented.

ADJOURNMENT

There being no further business, Mayor O'Brien adjourned the meeting at 6:44 p.m.

ATTEST: (Adopted 4/14/2020)

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONCENT CALENDAR

Meeting Date:	April 14, 2020
Subject:	Recommend Approval of Resolution Adopting a List of Projects for Fiscal Year 2020-2021 Funded by SB 1: The Road Repair and Accountability Act of 2017
From:	Sean Scully, City Manager
Submitted by:	Kathleen Cleek, Development Services Administration Manager

RECOMMENDATION

It is recommended that the City Council approve a Resolution adopting a list of projects for fiscal Year 2020-21 funded by SB 1: The Road Repair and Accountability Act of 2017.

SUMMARY

On April 28, 2017, Governor Brown signed Senate Bill (SB) 1, which is known as the Road Repair and Accountability Act of 2017. The primary focus of the Bill is to address basic road maintenance, rehabilitation, and critical safety needs on both the state highways and local streets and roads system. Prior to receiving new Fiscal Year apportionments of Road Maintenance and Rehabilitation Account (RMRA) funds from the California State Controller, the city must adopt a list of projects proposed to be funded with these funds by resolution and submitted to the State by May 1st of each year.

On April 23, 2019 the Council approved a project list for Fiscal Year 2019-2020. The streets identified in the April 24, 2019 are scheduled to be completed with the new 2020 Pavement Restoration Project (Slurry Seal/Double Fiber Slurry Seal) that will be going out to bid in May 2020. The reconstruction of Santa Fe Street between Claus Road to 300 ft. East is planned for June 2020 before the new school year begins.

For Fiscal Year 2020-2021, the City is projecting to receive \$480,000. The City plans to use \$240,508 of these funds to reconstruct/overlay Topeka Street from Third Street to Fifth Street (in front of fire station). A detailed project list for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 is attached as Exhibit "A".

FINANCIAL IMPACT

In January 2018, the City began receiving funds from the State Controller's Office, which were deposited into the newly created Road Maintenance and Rehabilitation Account (RMRA). The funding the City of Riverbank received in Fiscal year 2017-2018 was \$92,043.07. The City used \$38,770.00 to crack seal 43 road segments from the initial Fiscal Year 2017-2018 list. The City spent \$252,647 in 2019 to crack seal 34 road segments from the Fiscal Year 2018-2019 list. The current SB-1 funds available for projects is \$508,392. The City plans to spend \$394,486 in 2020 for the 2020 Pavement Restoration Project and Rehabilitation of Santa Fe Road, which is from the Fiscal Year 2019-2020 list and \$240,508 to rehabilitate Topeka Street from the new Fiscal Year 2020-2021 list.

The City continues to receive monthly installments averaging around \$40,000 a month. Funds to be received for Fiscal Year 2020-2021 are estimated at \$480,000.

The RMRA funds do require a Maintenance of Effort (MOE) from the City based on General Fund spending for street, road and highway purposes. City staff is continuing to work with the State to comply with the MOE requirements.

STRATEGIC PLAN

Recommendation for approval of the Fiscal Year 2020-2021 list of roads to be maintained is in line with the 2020-2025 Riverbank Strategic Plan goal to Improve Public Safety by maintaining safe and well-lit streets and roads.

RECOMMENDATION

It is recommended that the City Council approve a Resolution accepting the Fiscal Year 2020-2021 list of projects to be funded with Senate Bill (SB) 1 "The Road Repair and Accounting Act of 2017".

ATTACHMENT

1. Resolution
2. Exhibit "A"

CITY OF RIVERBANK

RESOLUTION

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2020-21 FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of the City of Riverbank are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City of Riverbank must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvements; and

WHEREAS, the City of Riverbank will receive an estimated \$480,000 in RMRA funding in Fiscal Year 2020-21 from SB 1; and

WHEREAS, this is the fourth year in which the City of Riverbank is receiving SB 1 funding which will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City of Riverbank used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City of Riverbank to continue to maintain and rehabilitate streets/roads, add active transportation infrastructure throughout the City for this year and similar projects into the future; and

WHEREAS, the 2019 California Statewide Local Streets and Roads Needs Assessment found that the City of Riverbank's streets and roads are in good condition

and this revenue will help us increase the overall quality of our road system and over the next decade will continue to sustain the quality of our roads as good condition; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of the City of Riverbank, State of California, as follows:

1. The foregoing recitals are true and correct.
2. The following list of proposed projects will be funded in-part or solely with fiscal year 2020-21 Road Maintenance and Rehabilitation Account revenues:

Reconstruct/Overlay

Topeka Street from Third Street to Fifth Street (in front of fire station)

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of April, 2020; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

EXHIBIT "A"

SB 1 Summary of Proposed Project List FY 2019/2020 & FY 2020/2021

Project No.	Project Title	Project Description	Project Location	Estimated Completion Date (mm/yyyy)		Estimated Useful Life (# of yrs)	
				Pre- Construction	Construction	Min.	Max.
PP63	Santa Fe Street	Double Fiber Slurry	4th Street to 5th Street	03/2020	06/2020	7	10
PP63	Santa Fe Street	Double Fiber Slurry	7th Street to 8th Street	03/2020	06/2020	7	10
PP64	Stanislaus Street	Double Fiber Slurry	3rd Street to 6th Street	03/2020	06/2020	7	10
PP65	Sierra Street	Double Fiber Slurry	1st Street to 8th Street	03/2020	06/2020	7	10
PP66	Aspen Lane	Double Fiber Slurry	S. Rosebrook to Green Oaks Drive	03/2020	06/2020	7	10
PP67	Aspen Court	Double Fiber Slurry	S. Rosebrook to End	03/2020	06/2020	7	10
PP68	Green Oaks Drive	Double Fiber Slurry	S. Rosebrook to South End	03/2020	06/2020	7	10
PP69	Green Oaks Court	Double Fiber Slurry	S. Rosebrook to End	03/2020	06/2020	7	10
PP70	South Rosebrook	Double Fiber Slurry	Roselle Avenue to Pierce Lane	03/2020	06/2020	7	10
PP71	Santa Fe Street	Road Reconstruction/Overlay	Claus Road to 300 Ft. East	04/2020	06/2020	15	20
PP72	Topeka Street	Road Reconstruction/Overlay	Third Street to Fifth Street	07/2020	10/2020	15	20

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.D

SECTION 3: CONSENT CALENDAR

Meeting Date: April 14, 2020

Subject: A **Resolution** to Approve and Adopt the Revised 2020 City of Riverbank Expenditure Plan Project List for Measure L Funds

From: Sean Scully, City Manager

Submitted By: Kathleen Cleek, Development Services Administration Manager

RECOMMENDATION

It is recommended that the City Council consider adopting the proposed changes to the City of Riverbank's Measure L Expenditure Plan Project List for local streets and roads, traffic management, and bike and pedestrian improvement projects.

SUMMARY

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

The City of Riverbank entered into a Master Funding Agreement with the Stanislaus Council of Governments (StanCOG) and within that agreement the City agrees to provide StanCOG with a detailed project list for local streets and roads, traffic management and bicycle/pedestrian projects that are scheduled to be constructed with Measure L Funding. The projects identified on the Expenditure Plan Project List detail a comprehensive list of infrastructure improvements that the City has identified as priority projects. The last update to the list was approved by the City Council at the June 25, 2019 meeting. At that meeting it was stated that the project list would be reviewed annually and any changes or adjustments to the List would be brought before the City Council for approval. Also, all improvements or projects on this List will require City Council review and approval prior to construction.

LOCAL STREETS AND ROADS

Recognizing that streets are the backbone of our transportation system, the Plan provides funds to local cities and Stanislaus County, distributed primarily based

on 2015 population to support local roads. These funds are used exclusively for repair and maintenance – no new road construction will be funded. These funds must be used to augment current transportation spending and cannot be used to replace a local agency's general fund expenditures. The City of Riverbank's projected annual funds from the proposed ½ cent sales tax measure for road maintenance is \$795,878.

The City currently has approximately \$759,242 in Measure L funding and an additional \$730,000 expected through the end of the year for a total of \$1,489,242. The projects slated for this year utilizing these funds are as follows:

Pavement Restoration Project 2020	\$ 256,157
Eight Street Overlay – Match	\$ 50,000
Second Street – Reconstruct/Overlay	\$ 327,880
First Street @ Patterson Road Intersection Improvements – Match	\$ 50,000
Pavement Restoration Project – 2020 Fall	<u>\$ 400,000</u>
Total	\$1,084,037

Projected End of Year Reserve	\$ 405,205
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TRAFFIC MANAGEMENT

Traffic management projects can include upgrades to local intersections, road widening, signalization, bridge replacements and/or traffic calming methods. The City is projected to receive \$159,000 annually for these types of projects. Of specific relevance to the Council and community is the Callandar Ave sidewalk, crosswalk and complete street project. Funds have been budgeted for this year as positive progress has been made with Cal Trans in moving this project forward. The right-of-way acquisition process has already begun.

The City currently has approximately \$286,687 in Measure L funding and an additional \$145,700 expected through the end of the year for a total of \$432,387. The project slated for this year utilizing these funds are as follows:

Callandar Avenue Pedestrian Project (Phase I)	\$ 380,217
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Projected End of Year Reserve	\$ 52,170
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BIKE AND PEDESTRIAN IMPROVEMENTS

Bike and pedestrian improvements can include connectivity between communities, local schools, trails and recreation facilities. The City is projected to receive \$79,584 annually for these types of projects.

The City currently has approximately \$9,164 in Measure L funding and an additional \$73,000 expected through the end of the year for a total of \$82,164. The projects slated for this year utilizing these funds are as follows:

Jackson @ Topeka ADA Improvements	\$ 50,000
Rapid Flashing Beacons	<u>\$ 30,000</u>
Total	\$ 80,000

Projected End of Year Reserve	\$ 2,164
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FISCAL IMPACT THROUGH THE END OF 2020:

Measure L – Streets & Roads:	\$1,084,037
Measure L – Traffic Management	\$ 380,217
Measure L – Bike & Pedestrian	\$ 80,000

ATTACHMENTS

1. Resolution
2. City of Riverbank Expenditure Plan Project List 3/24/2020

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING AND ADOPTING THE REVISED 2020 CITY OF RIVERBANK EXPENDITURE PLAN PROJECT LIST FOR MEASURE L FUNDS

WHEREAS, The Riverbank City Council has reviewed the revised 2020 Expenditure Plan Project List for Measure L Funds presented by staff; and

WHEREAS, the ½ cent sales tax measure approved by the voters to fund local and regional transportation projects and programs is expected to generate approximately \$795,878 for the City of Riverbank's local streets and roads; and

WHEREAS, the ½ cent sales tax measure approved by the voters to fund local and regional transportation projects and programs is expected to generate approximately \$159,000 for the City of Riverbank's traffic management projects; and

WHEREAS, the ½ cent sales tax measure approved by the voters to fund local and regional transportation projects and programs is expected to generate approximately \$79,584 for the City of Riverbank's bicycle/pedestrian projects; and

WHEREAS, each project on the revised 2020 Expenditure Plan Project List for Measure L Funds will require City Council review and approval prior to construction; and

WHEREAS, each year a comprehensive review of proposed Expenditure Plan Project List for Measure L Funds will be conducted and any changes presented to Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the City of Riverbank's revised 2020 Expenditure Plan Project List for Measure L Funds.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14TH day of April, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of _____ :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

PROPOSED

City of Riverbank Expenditure Plan Project List (Revised 3/24/2020)

Type	Projects	Description	Budget	Start	Complete
Local Streets and Roads (50%)					
Pavement Restoration Project 2017	Slurry Various Local Roads	Slurry Local Roads identified in Pavement Management Plan	\$130,000	FY 2017	FY 2017
Pavement Restoration Project 2018	Slurry Various Local Roads	Slurry Local Roads identified in Pavement Management Plan	\$321,826	FY 2018	FY 2018
Pavement Restoration Project 2019	Slurry Various Local Roads	Slurry Local Roads identified in Pavement Management Plan	\$437,424	FY 2019	FY 2019
Overlay	Claus Road Overlay	Overlay Claus Road between Townsend to Claribel	\$298,429	FY 2018	FY 2019
Overlay (Match Monies)	Eighth Street Overlay	Patterson Road to Kentucky Avenue	\$50,000	FY 2020	FY 2020
Pavement Restoration Project 2020	Slurry Various Local Roads	Slurry Local Roads identified in Pavement Management Plan	\$256,157	FY 2020	FY 2020
Reconstruct/Overlay	Second Street	Reconstruct/Overlay Second Street from Atchison to Sierra Street	\$327,880	FY 2020	FY 2020
Intersection Improvements (Match Monies)	First Street @ Patterson Road	Intersection Improvements - Right turning lane from Patterson Road to First Street	\$50,000	FY 2020	FY 2020
Pavement Restoration Project - Fall 2020	Slurry Various Local Roads	Slurry Local Roads identified in Pavement Management Plan	\$400,000	FY 2020	FY 2020
Traffic Management (10%)					
Pedestrian & Road Improvements	Callander Avenue Pedestrian Project (Phase I)	Preliminary Engineering & Design	\$100,000	FY 2018	FY 2020
Pedestrian & Road Improvements	Callander Avenue Pedestrian Project (Phase I)	Improvements - Calendar Avenue between Topeka & Santa Fe Streets	\$380,217	FY 2020	FY 2020/2021
Bike/Ped (5%)					
Pedestrian Crosswalk Safety Improvements	Rapid Flashing Beacons	Santa Fe Street between 3rd & 4th Streets	\$15,000	FY 2019	FY 2019
Jacob Meyers Park Entryway	Entryway and ADA Improvements	Entryway and ADA Improvements	\$154,813	FY 2017	FY 2020
ADA Improvements for Pedestrians	Jackson @ Topeka	Install ADA Ramps & Sidewalk	\$50,000	FY 2020	FY 2020
Pedestrian Crosswalk Safety Improvements	Rapid Flashing Beacons	Locations to be determined	\$30,000	FY 2020	FY 2020

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.F

SECTION 3: CONSENT CALENDAR

Meeting Date:	April 14, 2019
Subject:	Re-adoption 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:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

It is recommended that the City Council re-adopt Ordinance No. 2020-004 by roll call vote.

SUMMARY

At the regular City Council meeting on March 24, 2020, Council conducted the second reading of Ordinance No. 2020-004, and after consideration, unanimously voted to adopt the Ordinance.

According to State law, an 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 City Clerk prepares the summary of the adoption of an ordinance with the votes, and emails it to the Oakdale Leader for its legal publication in the next Wednesday issue of the Riverbank News, which is within the 15-day period. Unfortunately, when this task was completed technology failed. It was recently discovered that the transmission of the emails of communication were inadvertently lost, and as a result the summary of Ordinance No. 2020-004 was not published.

To remedy this, City Council must re-adopt the Ordinance, and the City Clerk will then complete the required legal publication of its adoption. River Run Representative Mr. Cary Pope has been informed of this matter.

FINANCIAL IMPACT

There is no financial impact.

ATTACHMENT

1. Ordinance 2020-004 and DA

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 (05/15/2020), 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 14th day of April, 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**

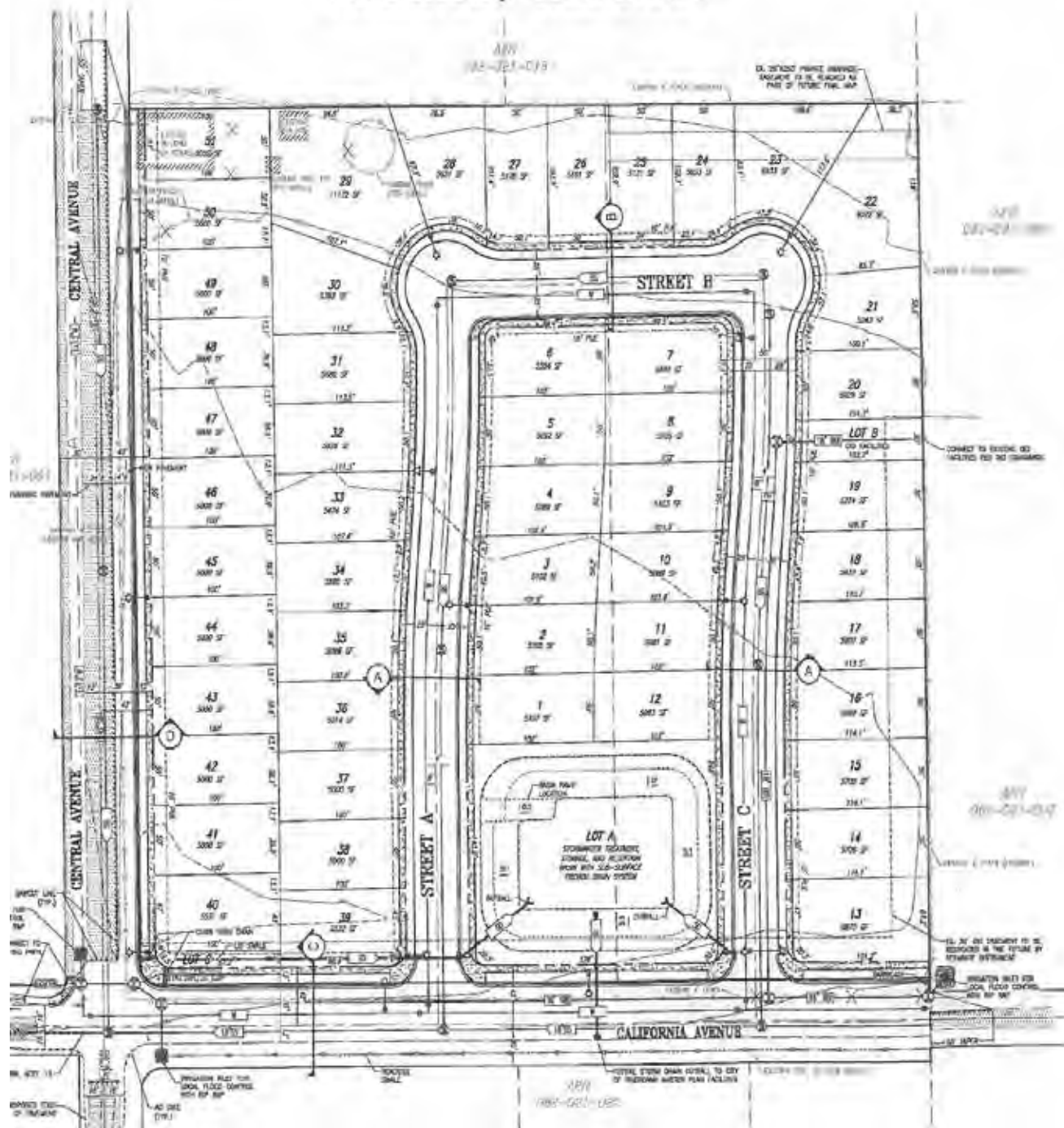


EXHIBIT B

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

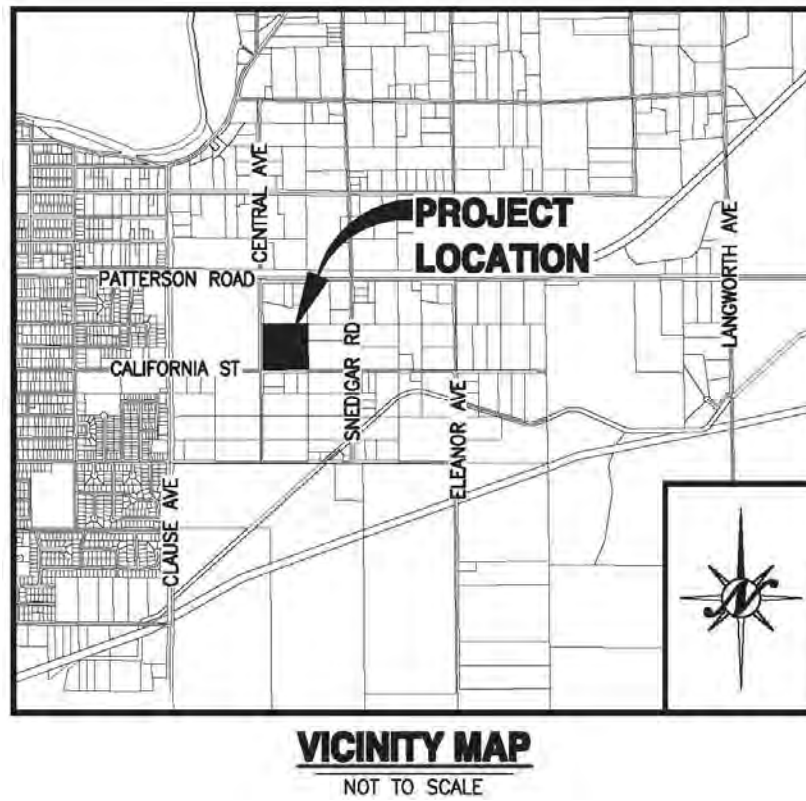


Figure 1.2 – Existing Parcel Aerial



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

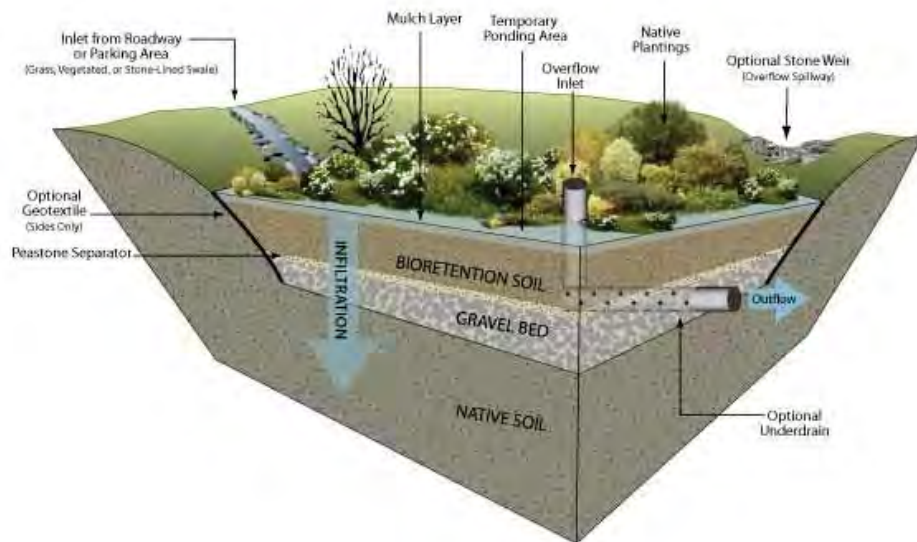
This project is part of the South Bruinville storm drain system which will have a regional storm drain basin, pump stations, and outfall improvements for the entire tributary area. These Master Plan improvements may not be in place for number of years. A temporary solution will be to retain and percolate 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:

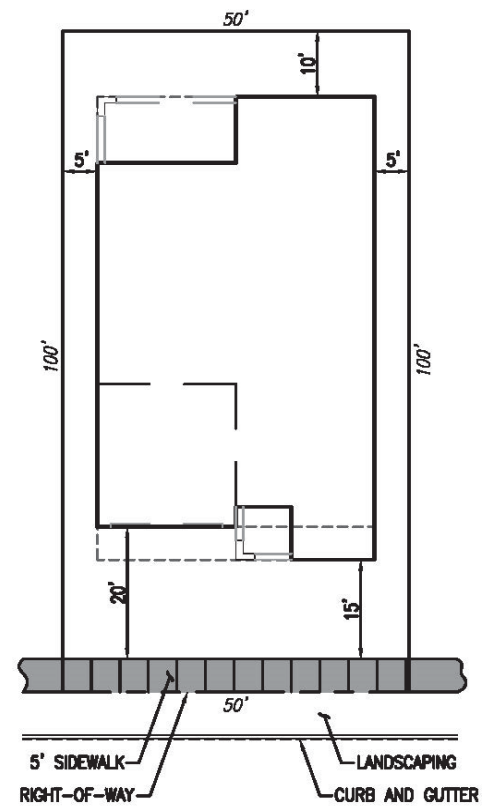
- The rear yard is where most outdoor activity occurs within the private opens space elements of each residence. The siting of the homes is encouraged to promote large back yards for family enjoyment

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.

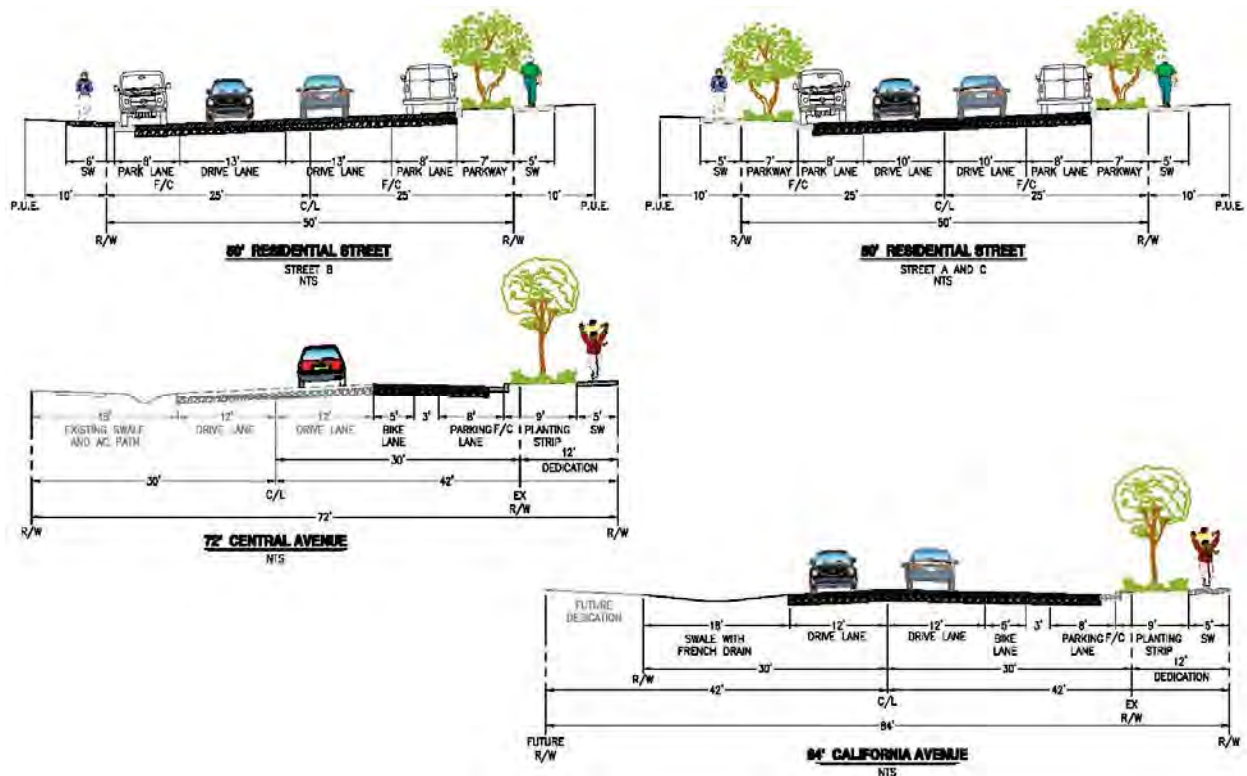
5.11 STREET DESIGN ELEMENTS AND ACCESS

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.

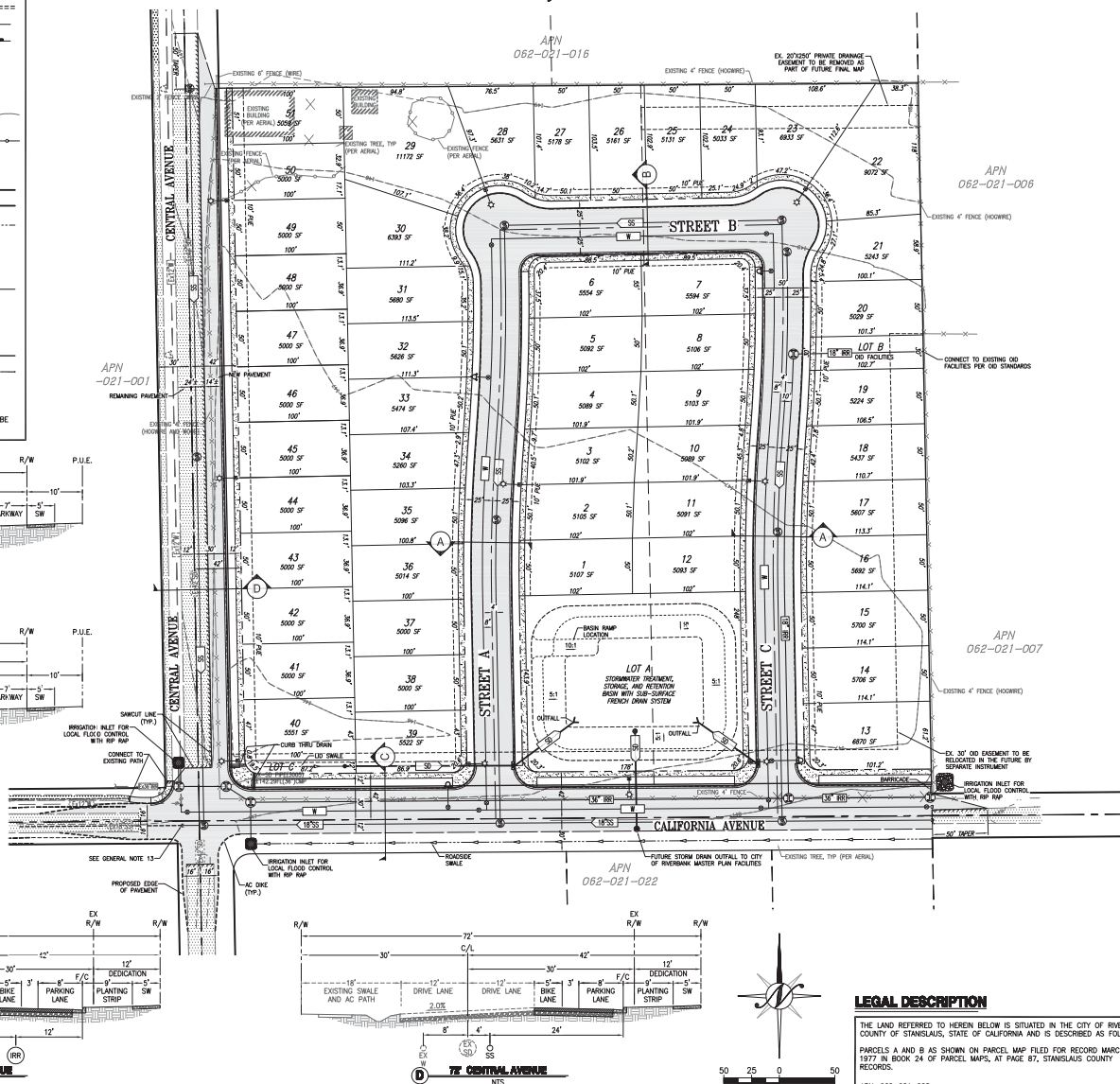
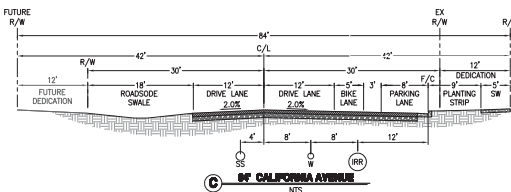
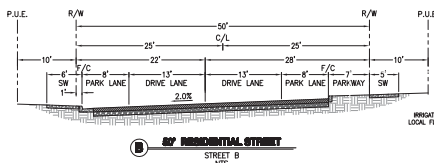
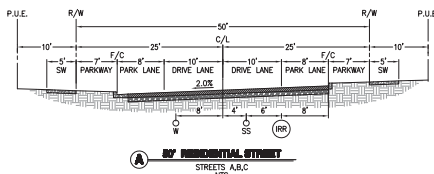
5.15 COMMUNITY FACILITIES DISTRICT (CFD) ANNEXATION AND OUTLOT PARCELS

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

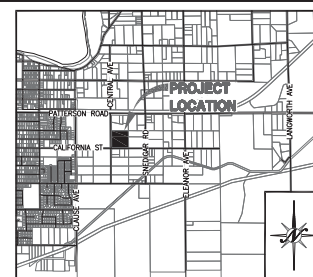
	EXISTING	PROPOSED
BOUNDARY LINE	_____	_____
CENTERLINE	_____	_____
RIGHT-OF-WAY	_____	_____
PARCEL LINE	_____	_____
CURB, GUTTER AND SIDEWALK	=====	=====
AC DICE	N/A	=====
EDGE OF PAVEMENT	_____	_____
MASONRY WALL	N/A	=====
OVER HEAD ELECTRICAL	_____	N/A
ELECTROFLUOR (PUBLIC)		
GAS LINE	— 2 —	— 2 —
DIRECTION OF FLOW	003	003
CONTOURS		
FENCE (CHAINLINK OR VINYL)	— 1 —	— 1 —
SIGN		N/A
SERVICE POLE		N/A
STORM DRAIN (MAN)		
FORCE MAIN	— 12 —	— 12 —
DRAINAGE DIMALE		
STORM DRAIN MAINTENANCE HOLE		
CURB INLET		
STORM DRAINAGE FILTER	N/A	
WATER (MAN)		
WATER VALVE		
FIRE HYDRANT		
SEWER MAINTENANCE HOLE		
SEWER (MAN)	— 12 —	— 12 —
IRRIGATION LINE		
IRRIGATION VALVE		N/A
IRRIGATION STRUCTURE		
TREE		



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



VICINITY MAP
NOT TO SCALE

A. REGULATORY AGENCY:	CITY OF RIVERBANK 6617 THIRD STREET RIVERBANK, CA 95367 T: (209) 869-1128 CONTACT: PLANNING DEPARTMENT															
B. APPLICANT:	R & K ROD LOWE 1997 REVOCABLE TRUST 3112 BUCKINGHAM COURT DUNSTREE, CA 95350 T: (209) 523-4223 CONTACT: ROD LOWE															
C. OWNER :	WHITE POPEY MANAGEMENT, LLC 3001 AITCHISON STREET RIVERBANK, CA 95367 CONTACT: DAVE WHITE															
D. ENGINEER:	NORTHSTAR ENGINEERING GROUP, INC. 600 J ST. STREET MODESTO CA, 95354 T: (209) 504-3026 CONTACT: TONY DE MELO, P.E.															
E. EXISTING LAND USE:	AGRICULTURE															
F. EXISTING GP LAND USE:	MEDIUM DENSITY RESIDENTIAL															
G. PROPOSED GP LAND USE:	LOW DENSITY RESIDENTIAL															
H. EXISTING ZONING:	SINGLE FAMILY RESIDENTIAL (SFR)															
I. PROPOSED ZONING:	PLANNED DEVELOPMENT (PD)															
J. TOTAL PROJECT SIZE:	9.16 ACRES															
K. TOTAL NUMBER OF LOTS:	51															
L. GROSS DENSITY:	56 UPA															
M. RETURNS:	1.00-FOOT INTERVALS															
N. COUNTERPARTS:	PER CITY OF RIVERBANK STANDARDS															
O. UTILITIES:	<table border="0"> <tr> <td>WATER SYSTEM -</td> <td>CITY OF RIVERBANK</td> </tr> <tr> <td>SANITARY SEWER -</td> <td>CITY OF RIVERBANK</td> </tr> <tr> <td>STORM DRAINAGE -</td> <td>CITY OF RIVERBANK</td> </tr> <tr> <td>GAS -</td> <td>POPE</td> </tr> <tr> <td>ELECTRIC -</td> <td>POPE</td> </tr> <tr> <td>TELEPHONE -</td> <td>POPE</td> </tr> <tr> <td>SCHOOL DISTRICT -</td> <td>RIVERBANK ELEMENTARY</td> </tr> </table>		WATER SYSTEM -	CITY OF RIVERBANK	SANITARY SEWER -	CITY OF RIVERBANK	STORM DRAINAGE -	CITY OF RIVERBANK	GAS -	POPE	ELECTRIC -	POPE	TELEPHONE -	POPE	SCHOOL DISTRICT -	RIVERBANK ELEMENTARY
WATER SYSTEM -	CITY OF RIVERBANK															
SANITARY SEWER -	CITY OF RIVERBANK															
STORM DRAINAGE -	CITY OF RIVERBANK															
GAS -	POPE															
ELECTRIC -	POPE															
TELEPHONE -	POPE															
SCHOOL DISTRICT -	RIVERBANK ELEMENTARY															

1. ALL IMPROVEMENTS SHALL BE CONSTRUCTED AS PER THE CITY OF RIVERSHANK STANDARD PLANS AND SPECIFICATIONS EXCEPT AS NOTED.
2. STORM DRAINAGE TO BE CONVEYED TO AN ON-SITE STORM DRAINAGE RETENTION BASIN WHICH WILL UTILIZED FOR STORMWATER TREATMENT. ALL IMPROVEMENTS TO BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF RIVERSHANK STANDARD PLANS AND SPECIFICATIONS.
3. ALL STORM DRAINAGE IMPROVEMENTS AS PART OF FUTURE IMPROVEMENTS PLANS SHALL BE SUBJECT TO THE CITY OF RIVERSHANK STANDARD PLANS AND SPECIFICATIONS. POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT 2011-0001-000 AND THE MULTI-AGENCY POST-CONSTRUCTION STORMWATER MANAGEMENT MANUAL, APPROVED PRIOR TO THE TIME OF THIS TENTATIVE MAP APPLICATION BEING DEEMED COMPLETE.
4. SANITARY SEWER TO BE CONSTRUCTED TO THE CITY OF RIVERSHANK STANDARD SPECIFICATIONS.
5. WATER SYSTEM TO BE CONSTRUCTED TO THE CITY OF RIVERSHANK STANDARDS.
6. STREET LIGHTING SHALL BE INSTALLED PER CITY OF RIVERSHANK STANDARD SPECIFICATIONS.
7. PUBLIC UTILITIES SHALL BE TO BE INSTALLED UNDERGROUND IN EASEMENTS.
8. THE SUBGRANTEE HEREBY RESERVES THE RIGHT TO FILE "MULTIPLE SUBORDINATIONS" WITH THE COUNTY CLERK OF RIVERSHANK COUNTY, WASHINGTON, AND FILE PARCEL MAPS FOR REASON OF SALE. ALL PARCEL LINES SHALL CONFORM TO THIS TENTATIVE MAP.
9. PUBLIC UTILITY EASEMENTS WILL BE PROVIDED ALONG ALL STREET FRONTAGES.
10. ALL EXISTING STRUCTURES ARE TO BE REMOVED. SEPTIC TANKS, LEACH FIELDS, AND ALL OTHERS WILL BE REMOVED. ALL EXISTING UTILITIES SHALL BE REMOVED. CITY REQUIREMENTS, BUILDING, DEMOLITION, WELL ABANDONMENT, AND SEPTIC ABANDONMENT ALL REQUIRE PERMITS THROUGH THE CITY.
11. APPLICANT SHALL PROVIDE ASSESSMENT AGREEMENT IN PERPETUITY FOR CITY TO CONDUCT POST-CONSTRUCTION MONITORING OF ALL PROJECT PROPERTY.
12. ALL LOT SETBACK REQUIREMENTS ARE TO BE IN ACCORDANCE WITH THE PROJECT DESIGN GUIDELINES PACKAGE.
13. THE PROPOSED PROJECT IS TO BE CONNECT TO THE EXISTING 15" SANITARY SEWER EXTENSION IN CALIFORNIA AVENUE. IF THE 15" SANITARY SEWER EXTENSION HAS NOT BEEN INSTALLED AT THE TIME OF CONSTRUCTION, THE POWER GRID PROJECT WILL CONSTRUCT THE EXTENSION AND COORDINATE FEE CREDITS AND/OR AGREEMENT WITH THE CITY OF RIVERSHANK.
14. ALL EXISTING TREES ARE TO BE REMOVED PER CITY OF RIVERSHANK STANDARDS AND SPECIFICATIONS. IF ANY OF THE TREES ARE, AN ASSESSMENT BY A LICENSED ARBORIST SHALL BE SUBMITTED, LISTING AND DISCUSSING EACH TREE TO ENSURE PROTECTION OF THE TREE. THE CITY OF RIVERSHANK HAS A TREE AND LANDSCAPE TREE CONSERVATION, MAJOR TREE CONSERVATION PERMIT.
15. DRIVEWAY ACCESS TO CALIFORNIA AVENUE IS RESTRICTED TO LOTS 13, 39, AND 40.
16. LOT B TO BE CONVEYED TO TWO OWNERS WILL BE ADOPTED RESIDENTIAL LANDSCAPING BETWEEN THE FENCE AND STREET. LOTS A AND C TO BE DELEGATED TO THE CITY OF RIVERSHANK.

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[illegible]

ANALYSIS

TENTATIVE MAP

RIVER RUN

HYPERBANK

HYPERBANK



JOB #: server\n
DATE: 10/19/2017
SCALE: AS SHOWN
DRAWN: CRV
DESIGN: APD
CHK'D: APD

SHEET
NUMBER

TM1.1

Appendix B: Entitlement Reference Exhibits

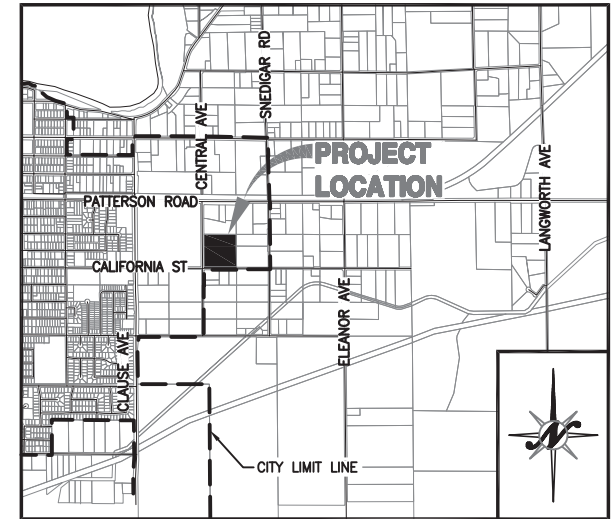
RIVER RUN SUBDIVISION EXISTING GENERAL PLAN EXHIBIT

CENTRAL AVENUE

MDR
(MEDIUM DENSITY RESIDENTIAL)

CALIFORNIA AVENUE

EX. CITY LIMIT LINE

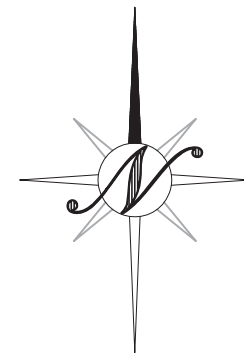


VICINITY MAP

NOT TO SCALE



MDR (MEDIUM DENSITY RESIDENTIAL)



1" = 150'

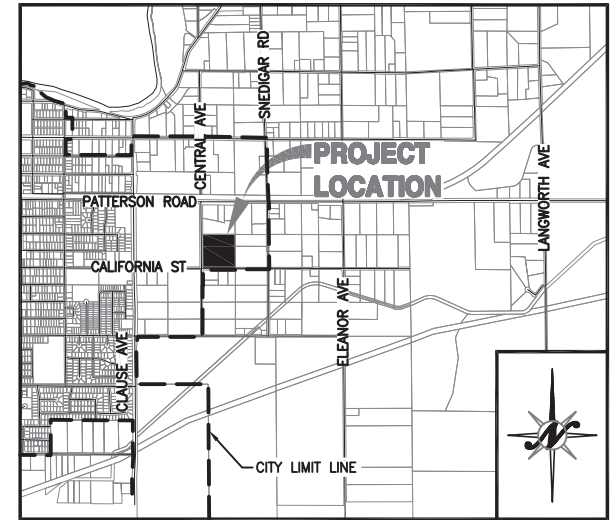
RIVER RUN SUBDIVISION PROPOSED GENERAL PLAN EXHIBIT

CENTRAL AVENUE

LDR
(LOW DENSITY RESIDENTIAL)

CALIFORNIA AVENUE

EX. CITY LIMIT LINE

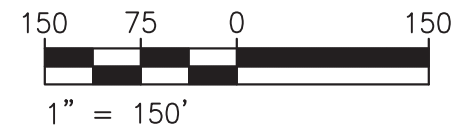
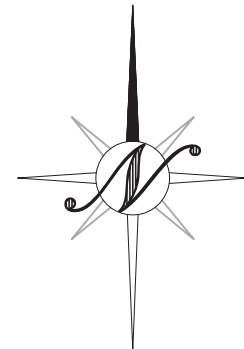


VICINITY MAP

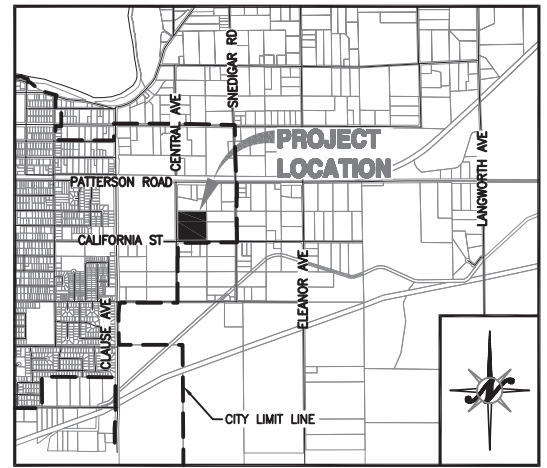
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LDR (LOW DENSITY RESIDENTIAL)

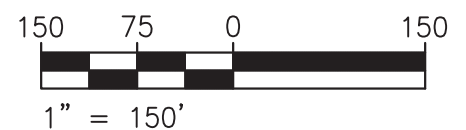


RIVER RUN SUBDIVISION AERIAL EXHIBIT



VICINITY MAP

NOT TO SCALE

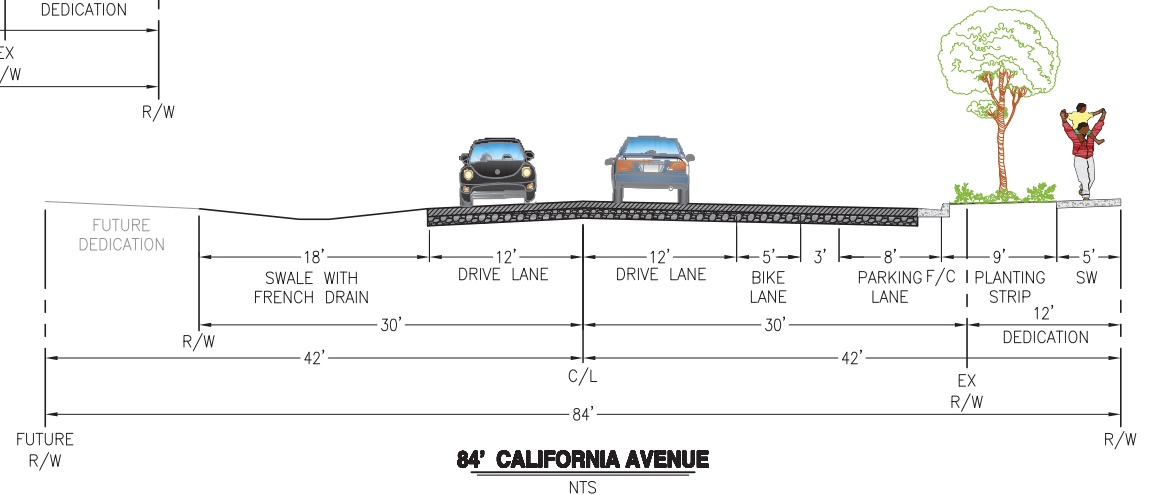
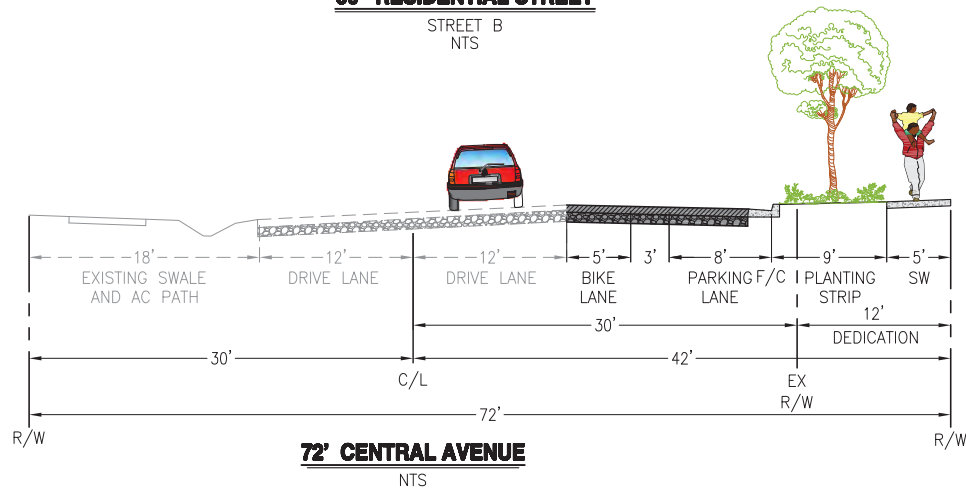
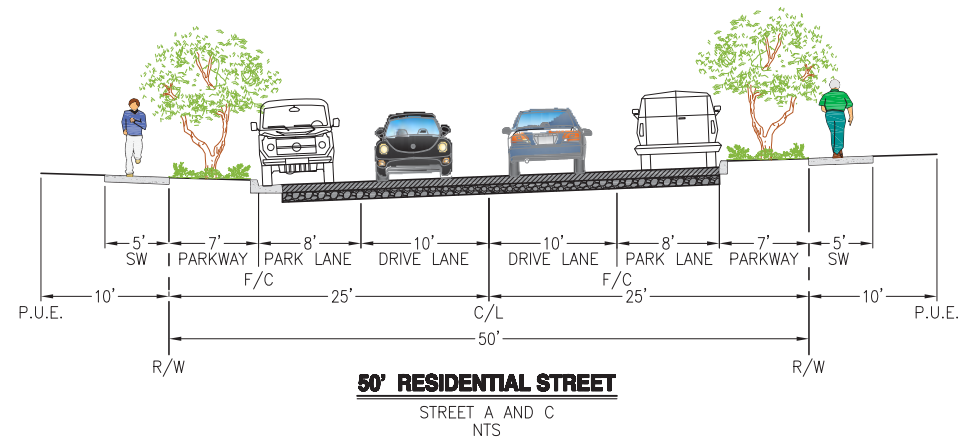
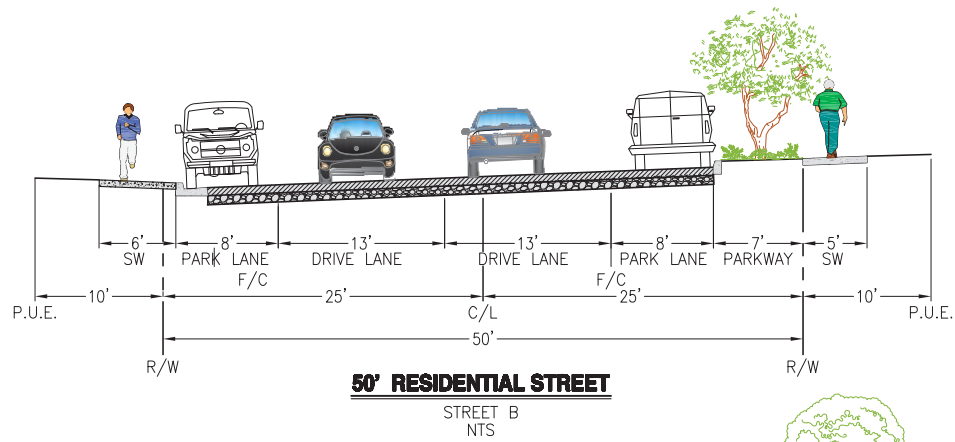


RIVER RUN SUBDIVISION PROJECT DEVELOPMENT PLAN

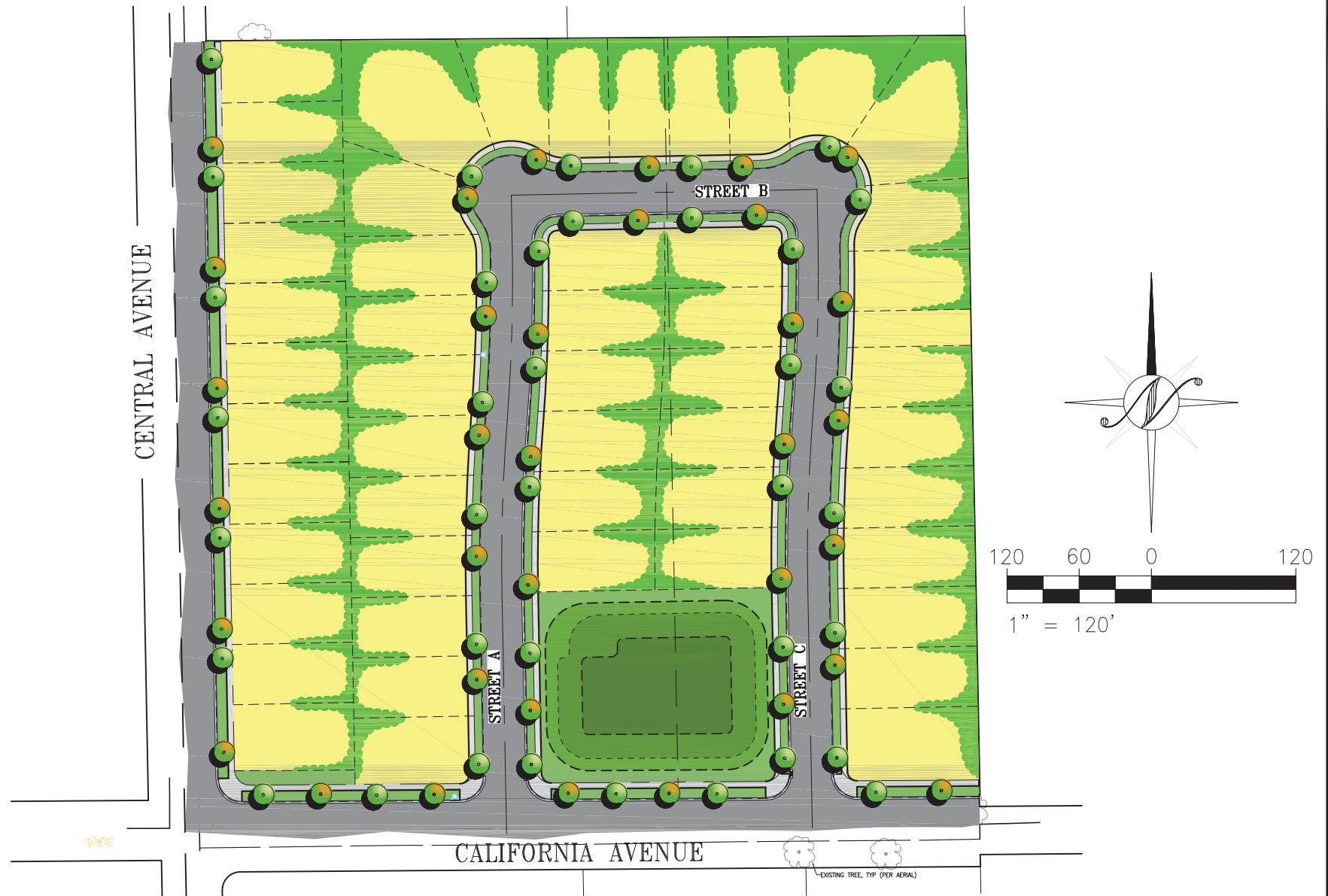


RIVER RUN SUBDIVISION

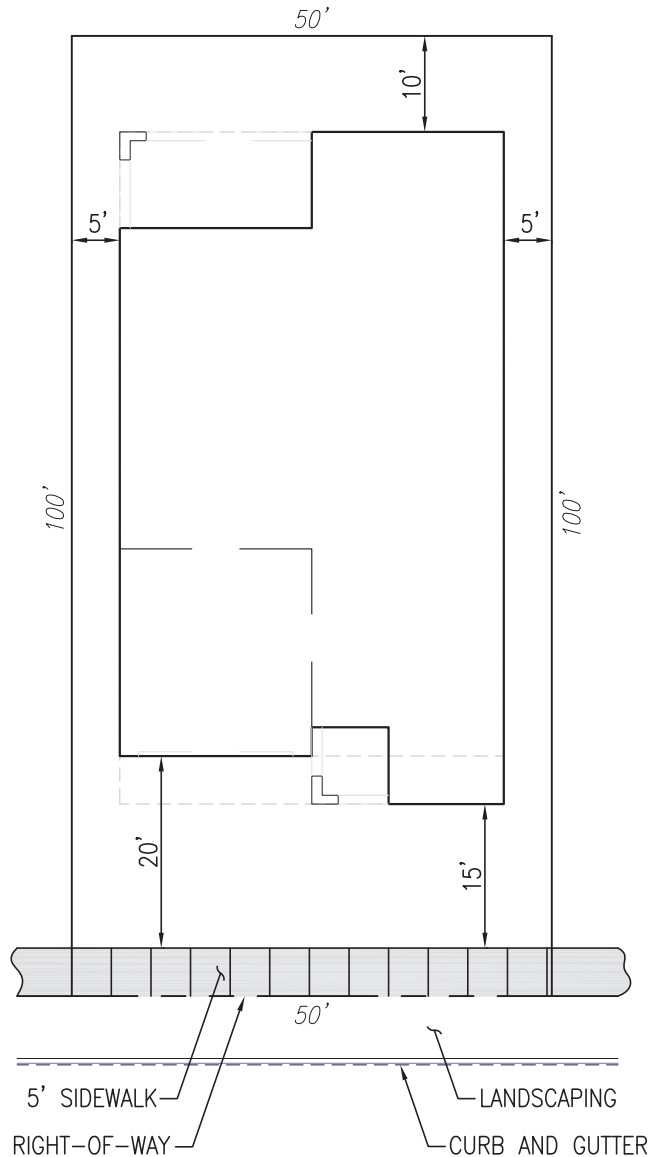
STREET CROSS SECTIONS



RIVER RUN SUBDIVISION LANDSCAPE PLAN



RIVER RUN SUBDIVISION LOT SETBACK EXHIBIT



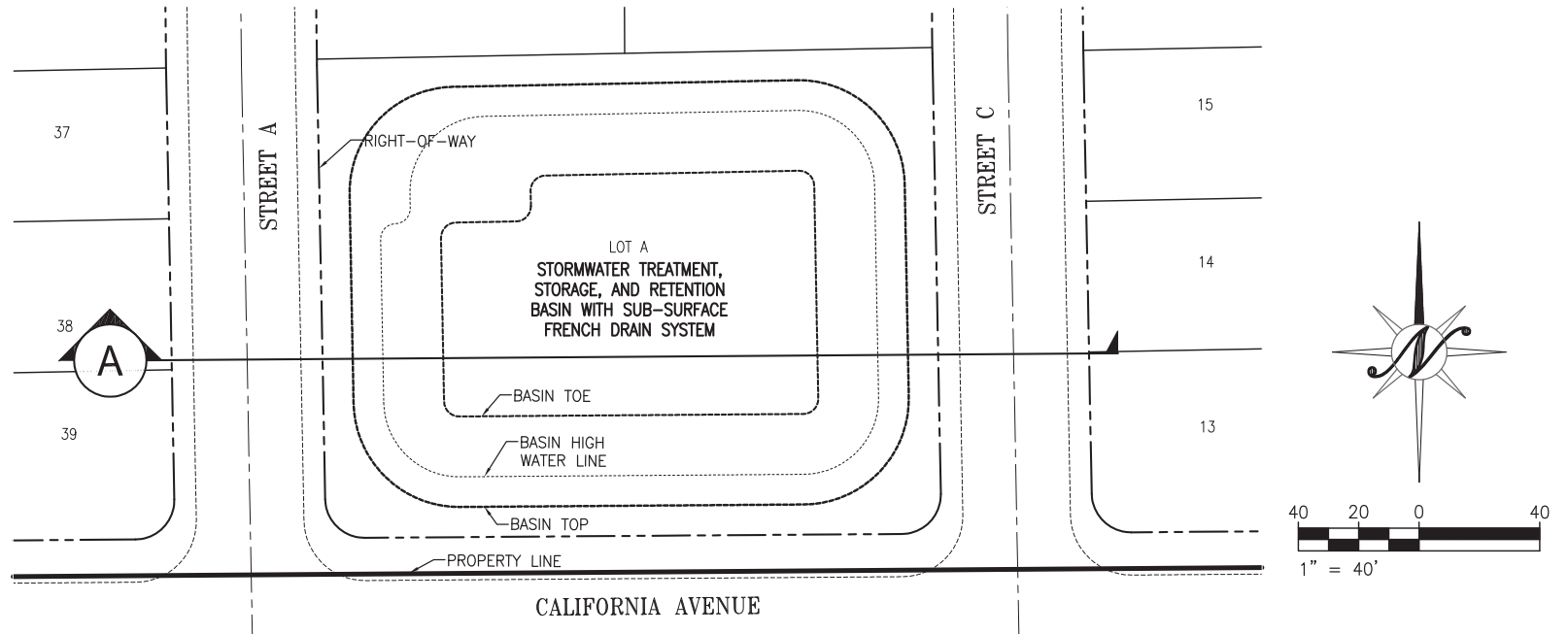
LOT SIZES	DESIGN GUIDELINES	CITY MUNICIPAL CODE
	5,000 sq. ft. min	5,000 sq. ft. min
Minimum Width (mid-block/corner) [a]	50' / 55'	50' / 55'
Minimum Frontage (knuckles)	35'	35'
FRONT SETBACKS [b]		
Garage [c]	20'	20'
Living Area (1st floor) [c]	15'	10'
Living Area (2nd floor) [c]	15'	10'
Porches [c]	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

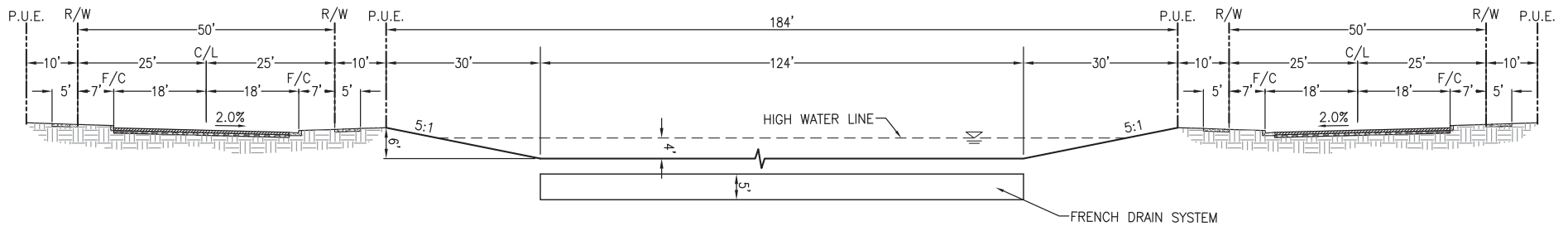
RIVER RUN SUBDIVISION

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

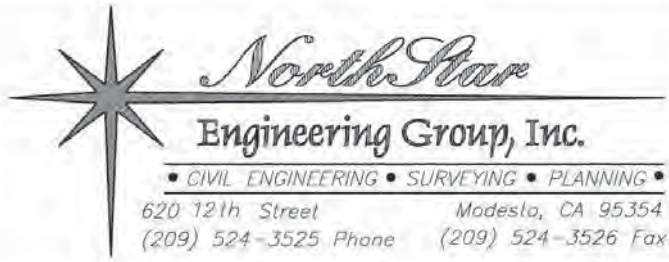
Composite "C" Calculations

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: 2,554 cy 1.58 ac-ft. 68,955 cf.

Total Above Ground Storage Available: 2,091 cy 1.30 ac-ft. 56,458 cf.

Total Sub-Drainage Storage Required: 463 cy 0.29 ac-ft. 12,497 cf.

Total Storage In Pipe:

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

Volume in Pipe 276 cy 0.17 ac-ft. 7,461 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 187 cy 0.12 ac-ft. 5,058 cf.

Total Volume in Sub-Drain System: 464 cy 0.29 ac-ft. 12,519 cf.
OK OK OK

Appendix D: Utility System Map

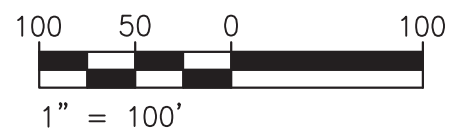
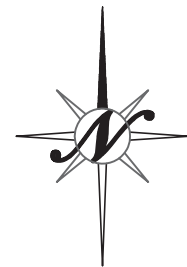
RIVER RUN

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		

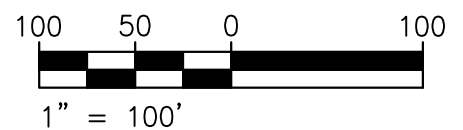
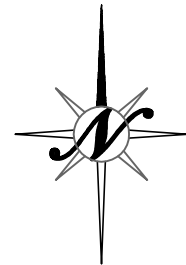


EXHIBIT H

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. 4.1

SECTION 4: UNFINISHED BUSINESS

Meeting Date: April 14, 2020

Subject: Second Reading by Title Only and Adoption of Proposed **Ordinance No. 2020-005** 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, CMC, City Clerk

RECOMMENDATION

It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2020-005 and consider its adoption by roll call vote.

INTRODUCTION

A Public Hearing was conducted at the regular City Council meeting on March 24, 2020, to receive public opinions or evidence for or against the proposed Ordinance. The City Council approved the first reading and introduction of the proposed ordinance (now titled Ordinance No. 2020-005), which moved said Ordinance to the April 14, 2020, regular City Council meeting for its second reading by title only and consideration for adoption.

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 2020-005

CITY OF RIVERBANK

ORDINANCE NO. 2020-005

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 14th day of April, 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. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	April 14, 2020
Subject:	First Reading and Introduction by Title Only of a Proposed Ordinance Approving Development Agreement No. 01-2020 for the Diamond Bar East Residential Project (APN 062-020-0210 AND 062-020-025) Extending the Life of Tentative Map 04-2014
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council approve the proposed Ordinance for a Development Agreement which extends the life of approved Diamond Bar East Tentative Map 02-2014 relating to real property located at 4424 Santa Fe Street (APNs 062-020-010 and 062-020-025), and initiates the second reading of this ordinance and consideration of its adoption at the regular City Council meeting on April 28, 2020.

SUMMARY

The proposed project consists of a Development Agreement ("DA"), which extends the life of TM 02-2014, a ninety-six (96) lot single-family residential subdivision. The developer intends to reduce the number of lots to eighty-five (85) to provide a larger dual park/storm water basin. The City Engineer has determined the reduction in the number of lots is a minor change which does not affect the validity of the map. The project site currently has a General Plan Land Use designation of Low Density Residential (LDR) and is currently zoned Planned Development (R-1). The Planning Commission, with a vote of 4-0 at their regular meeting of March 17, 2020, recommended that the City Council approve the Development Agreement.

BACKGROUND

The proposed project is located in Riverbank and bounded by rural residential parcels and Santa Fe Street to the North; rural residential and Snedigar Road to the East; railroad tracks, Patterson Road, and rural residential to the South; and rural residential parcels to the West. The formal address of the proposed project site is 4424 Santa Fe Street. The project site is comprised of a pasture with no improvements of value. The site is surrounded by lands in transition to urban uses but consists primarily of ranchette parcels. Riverbank High School is located southwest of the site across the railroad tracks and Patterson Road.

A. Tentative Map 02-2014

Tentative Map 02-2014 is a small lot single-family residential subdivision. The proposed lot sizes drop below the R-1 standard size of 6,000 square feet; therefore, the property was rezoned to PD which accommodates the proposed 5,000+ square foot lots. All streets have been 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 two (2) out lots. Lot A (158,762 sf right-of-way plus 151,859 sf basin = 310,621 sf) is the public streets and a dual use stormwater basin. Lot B (2,147 sf) is at the Snedigar Road entrance into the subdivision and will contain a swale, landscaping, and signage as well as having curb, gutter, and sidewalk on its north and east sides.

Tentative map 02-2014 proposed ninety-six (96) buildable single-family residential lots. McRoy Wilbur Communities plans to reduce the number of lots to eighty-five (85) in order to create a larger dual use basin. The City Engineer has determined the reduction in the number of lots is a minor change which does not affect the validity of the map. 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. An example is Sierra Street, which is a continuation of the street from Diamond Bar West and ultimately Estelle Avenue.

Tentative Map 02-2014 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 February 2015 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 Santa Fe Street and Snedigar Road, including the project's frontage, to be consistent with the City's Circulation Element Street Design Standards. These improvements include installing new railroad crossing safety features on Snedigar Road just north of Patterson Road and a fair share payment towards a future signal at Snedigar and Patterson Roads.

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 02-2014 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 all the waters collected within the boundaries of the map. 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 is Low Density Residential (LDR) which allows the project to be built at 0-8 dwelling units per net acre. The tentative map is eighty-five (85) dwelling units on 10.7± net acres for a total of 7.6 dwelling units per net acre ("net" means

excluding the basin and public 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 McRoy Wilbur Communities, to ensure these requirements are implemented.*

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 McRoy Wilbur Communities, Inc. 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 7.2 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	7.6 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	5 feet minimum
Lot Coverage	50% maximum	50% maximum
Accessory Height	15 feet maximum	15 feet maximum
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 requests 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 not yet proposed any amenities; therefore staff will be working with them to develop a list.

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 vacant parcel which surrounds a rural residential property located on Snedigar Road on the eastern side of the site. A new subdivision will reduce*

any blighted conditions around that 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. *Possible amenities could include: electric vehicle charging outlets in garages, picnic tables, grills and trash cans, playground equipment, enhanced signage (concrete sign) and landscaping at the subdivision entrance, upgraded garage doors, French doors instead of sliding doors, brick crosswalks, colored pavement, upgraded landscaping, and similar.*
4. The principles incorporated in the proposed 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 pay a Park-in-lieu Fee or dedicate park land. Park-in-lieu calculations show the obligation for this project is 0.62 acres to be paid based on values of land at the time the Final Map is recorded if no land is dedicated for parkland. The developer has set aside 3.5 acres for a dual use basin. Park plans will be submitted to assist staff in determining how much of the basin will be used for storm water and how much will be used as park land to determine the developer's requirements.

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 Diamond Bar East subdivision on March 24, 2015 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.

PUBLIC NOTICE

On April 2, 2020, public notices for the City Council hearing were mailed to interested parties and property owners within 300 feet of the project location. The City Council hearing notice was published in the Riverbank News and on the City's website on April 1, 2020. It was also posted at City Hall North, South, the post office and sent to the library on April 1, 2020. The subject property was posted on March 6, 2020.

ATTACHMENTS

Attachment 1 – Draft Ordinance No. 2020-XXX

Exhibit A – DBE Development Agreement with Exhibits A1 – H

Attachment 2 – Planning Commission Resolution No. 2020-003

Attachment 1

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
APPROVING DEVELOPMENT AGREEMENT NO. 01-2020 FOR THE DIAMOND BAR
EAST RESIDENTIAL PROJECT (APN 062-020-010 and 062-020-025) EXTENDING
THE LIFE OF TENTATIVE MAP 04-2014**

WHEREAS, McRoy Wilbur Communities, LLC, which proposes to develop 85 residential lots in the City of Riverbank ("City") and related public improvements, is requesting to extend by Development Agreement the life of Tentative Map 04-2014, a subdivision known as Diamond Bar East (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 March 24, 2015, the City Council adopted Resolution No. 2015-017, approving a general plan amendment redesignating 17.9 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 March 24, 2015, the City Council adopted Resolution No. 2015-018, approving Tentative Map 02-2014 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 85 residential lots on 17.9 acres; and

WHEREAS, On March 24, 2015, the City Council adopted Ordinance No. 2015-007, approving a rezone of 17.9 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, March 17, 2020 to consider the Diamond Bar East Development Agreement and provided their recommendation to the City Council; and

WHEREAS, the City and McRoy Wilbur Communities, Inc. 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 April 14, 2020 to consider the introduction of the Diamond Bar East Development Agreement for first reading; and

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on April 28, 2020 to consider the approval of the Diamond Bar East 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:

1. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank; and
2. The City Council finds that the Diamond Bar East 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 McRoy Wilbur Communities, LLC. and the City of Riverbank relating to the development known as “Diamond Bar East” located on the following APNs: 062-020-010 and 062-020-025.

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 April 1, 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 April 2, 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 March 24, 2015, 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 and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the 14th day of April, 2020; motioned by Council Member _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

**RECORDING REQUESTED BY
AND WHEN RECORDED 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: 062-020-010 and 062-020-025

DEVELOPMENT AGREEMENT BY AND BETWEEN THE

CITY OF RIVERBANK

AND

MCROY – WILBUR COMMUNITIES, INC.

RELATING TO THE DEVELOPMENT KNOWN AS THE
“DIAMOND BAR EAST”

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 MCROY – WILBUR COMMUNITIES, INC. (“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 17.9 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 March 24, 2015, the City Council adopted Resolution No. 2015-017, approving a general plan amendment redesignating 17.9 acres to low density residential (LDR) which allows for a net density of zero to eight (0-8) dwelling units per acre;

(ii) On March 24, 2015, the City Council adopted Resolution No. 2015-018, approving tentative subdivision map 02-2014 (the “Diamond Bar East Tentative Map”) and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 96 residential lots on 17.9 acres;

(iii) On March 24, 2015, the City Council adopted Ordinance No. 2015-007, approving a rezone of 17.9 acres to Planned Development and allowing for a net density of zero to eight (0-8) dwelling units per acre;

E. On March 24, 2015, the City Council approved an Initial Study/Mitigated Negative Declaration in connection with its adoption of Ordinance No. 2015-007 approving the Rezone.

F. Developer has proposed to develop the Property into 82 residential lots (from 96 lots to increase the basin size) 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 “Diamond Bar East”.

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. 2015-017 and 2015-018.

1.06. “Developer” shall mean, McRoy – Wilbur Communities, Inc., 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 Diamond Bar East 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 17.9 acres of real property located north of Patterson Road, east of Central Avenue, west of Snedigar Road, and south of Santa Fe Street, in the City of Riverbank and the County of Stanislaus, State of California, as shown on the Diamond Bar East Tentative Map in **Exhibit A**.

1.16. “Diamond Bar East Tentative Map” shall refer to the Tentative Subdivision Map for the Project, as approved by the City Council on March 24, 2015 by Resolution No. 2015-018, 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: Diamond Bar East Tentative Map
- Exhibit B: Legal Description of Property
- Exhibit C: Consolidated Conditions of Approval
- Exhibit D: Draft System Development Fee Reimbursement Agreement
- Exhibit E: Diamond Bar East SDF
- Exhibit F: Draft Subdivision Improvement Agreement
- Exhibit G: Diamond Bar East 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 Diamond Bar East 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 Diamond Bar East 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. 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 shown on **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 shown in **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. 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 Diamond Bar East 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.

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]

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	McRoy Wilbur Communities, Inc, a California corporation
By: _____ Richard O'Brien, Mayor	_____ Mark Wilbur, President On behalf of McRoy–Wilbur Communities, Inc
Date: _____	
APPROVED AS TO FORM:	
By: _____ Tom Hallinan, City Attorney	
ATTEST:	
By: _____ City Clerk	

EXHIBIT A

Diamond Bar East Tentative Map

EXHIBIT A

Diamond Bar East Tentative Map 02-2014 - Revised

[illegible][illegible]

Project Engineer: R CHRISTENSEN			
Project Number: 10310300			
File Name: site_map_rev.dwg			
RFC	RFC	RFC	06.10.19
Des.	Chkd.	Desn.	MM.DD.YY
Sheet No.			

EXHIBIT B

Legal Description of Property

LEGAL DESCRIPTION

Real property in the City of Riverbank, County of Stanislaus, State of California, described as follows:

PARCEL A:

ALL OF LOTS 267, 268 AND 272 OF RIVERBANK IRRIGATION FARMS, AS PER MAP FILED JANUARY 15, 1913 IN BOOK 7 OF MAPS, AT PAGE 23 STANISLAUS COUNTY RECORDS.

EXCEPTING FROM LOTS 268 AND 272 THE FOLLOWING DESCRIBED PARCEL, TO WIT:

BEGINNING AT THE NORTHEAST CORNER OF LOT 268; THENCE WEST ALONG THE NORTH LINE OF SAID LOT, 111 FEET; THENCE SOUTH AND PARALLEL WITH THE EAST LINE OF SAID LOTS 268 AND 272, A DISTANCE OF 366 1/2 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF LOT 268, A DISTANCE OF 111 FEET TO A POINT ON THE EAST LINE OF LOT 272; THENCE NORTH ALONG THE EAST LINE OF SAID LOTS 268 AND 272, 366 1/2 FEET TO THE POINT OF BEGINNING.

PARCEL B:

PARCEL 2 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD ON JANUARY 27, 2006, IN BOOK 54 OF PARCEL MAPS, AT PAGE 29, STANISLAUS COUNTY RECORDS.

APN: 062-020-010 and 062-020-025

EXHIBIT C

Consolidated Conditions of Approval

Exhibit C

Consolidated Conditions of Approval

1. Applicant shall comply with the City of Riverbank Standard Conditions as contained in Planning Commission Resolution 2013-014 and/or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project.
2. The project is subject to the recommendations of the Bruinville Public Facilities Master Plan pursuant to City Council Resolutions 2006-115 and 2006-116, including the requirement to form and annex into a Public Services Community Facilities District for Police Protection services; maintenance of storm drainage and street lighting systems; and long-term maintenance of public roads.
3. Applicant shall work with the City Engineer and the Riverbank Unified School District to design, fund and construct improvements to adequately address the issue of safe routes to schools as documented by the Riverbank Unified School District in their letter of August 18, 2014.
4. Applicant shall address the concerns expressed by the Oakdale Irrigation District (OID) with the Marrs and Santa Fe Pipelines to the satisfaction of OID. This condition is based on the OID letter dated July 24, 2014.
5. The project is required to comply with all Special Conditions discussed by the Stanislaus County Consolidated Fire District in their letter dated July 17, 2014.
6. If a final map reflecting these conditions of approval is not approved by the City Council within two years of the approval of this Tentative Map, this Tentative Map shall lapse and the applicant shall reapply to the City of Riverbank for a new Map. Applicant may not rely on this approval to begin construction of structures on parcels illustrated on the submitted map until all public improvements are inspected and accepted by the City. Notwithstanding, the Applicant may commence all on and off site work upon issuance of a grading and construction permit. Reapplications for a tentative map shall state the reasons why the applicant was unable to gain approval of a final map and why within two years from the approval of a new tentative map the project is expected to be able to file a final map, if so granted. Reapplications for tentative maps may include information submitted in the initial application by reference. The zoning will not expire, nor will any associated applications (except tentative maps and vacation and abandonment applications), unless otherwise stated in the conditions of approval. The application(s) will expire in two years at 5:00 p.m. on the expiration date (holidays and weekends will not extend the expiration day). Any extension of time must be applied for prior to 5:00 p.m. on the expiration date.
7. If a final map reflecting the conditions of the approved tentative map is not completed within the timeframe provided by state law from the date of the granting of this approval, the City may reexamine its approval and impose

Exhibit C

additional terms or conditions to respond to significant changes in circumstances which may have occurred during that time period.

8. That a Mitigated Negative Declaration with mitigation measures has been prepared for this project in accordance with the California Environmental Quality Act and the applicant hereby agrees to incorporate all mitigation measures into the design and construction of the project. The Owners have executed a Mitigation Agreement for the project which will be recorded against the subject property to memorialize the mitigation commitments.
9. All improvements including future homes will be required to comply with the Design Guidelines for Diamond Bar Estates East and West dated February 2015.
10. Riverbank General Plan Policy CONS-5.7 states: A mitigation plan shall be prepared and reviewed and approved by the appropriate regulatory agencies for the projects where avoidance of adverse effects to special-status species is not feasible, and authorization for take of listed species shall be obtained, if necessary. The mitigation plan shall include measures to minimize potential for effects during project construction (e.g., pre-construction surveys and timing of construction) and measures to compensate for loss of special-status species habitat. Loss of Swainson's Hawk foraging habitat shall be compensated for by preservation and management of foraging habitat of at least a similar quality at an appropriate location. Mitigation plans shall identify an appropriate mitigation site, compensation acreage, performance criteria, and monitoring and management of foraging habitat of at least a similar quality at an appropriate location. Mitigation plans shall identify an appropriate mitigation site, compensation acreage, performance criteria, and monitoring and management requirements to ensure the site provides suitable habitat for the applicable species. Long-term protection of mitigation lands shall be ensured through fee title acquisition, conservation easement, or other suitable mechanisms. Long-term management of mitigation lands shall be ensured by establishing a management endowment or other suitable funding source. Alternatively, it may be appropriate to contribute funds to existing mitigation programs. Use of such a program shall be approved by the appropriate regulatory agencies.
11. Lots 76 and 77 as illustrated on the tentative map will be considered non-buildable lots until "C" Street is designed, funded, constructed and accepted by the City Council westerly to its intersection with Central Ave. These are future street improvements contemplated by the development of the property to the west of the subject property. Lots 76 and 77 shall have a temporary cul-de-sac constructed on the front portion of the parcels for emergency turn-a-round purposes.
12. Special Conditions as expressed by the City Engineer.

Streets

Exhibit C

- a. The streets shall be designed to conform to the dimensions shown on the approved tentative map.
- b. A safe route to the Riverbank elementary and Riverbank High School is required. A plan indicating safe access, including ADA compliance, sidewalks, ramps, striping and signage is to be designed and constructed.
- c. When half streets are constructed the design needs to include a half street section and a 12-foot paved lane.
- d. A slurry seal and traffic striping shall be applied to all public streets after the Notice of Completion and prior to the release of the one-year maintenance bonds at the discretion of the City.
- e. All concrete, asphalt, signs, striping or utility system damaged during construction must be replaced prior to acceptance by the City of the one-year warranty and prior to any building final inspection.
- f. Formation and annexation into a Community Facilities District is required to finance the maintenance, repair and replacement of all of the streets.
- g. The street frontage including drainage adjacent to APN 062-020-011 (about 367 linear feet) shall be fully improved to the street section suggested for Snedigar. This includes the 12-foot wide half street on the east side of Snedigar adjacent to the subject property. The City will consider the formation of an Area of Benefit to reimburse the subdivider for these off-site improvement obligations.
- h. The project proponent shall be required to fully improve the rail crossing of Snedigar near Patterson Road and pay a fair share of the intersection improvements and signalization of said intersection. All costs associated with compliance with this item are reimbursable as this item is an identified improvement as part of the Riverbank System Development Fees.

Water

- i. The water system shall be installed, tested, approved and operational prior to any residential construction.
- j. The entire water system shall be looped with no dead-end water lines.
- k. A water system analysis is required to determine when the water well #11, including well site improvements, emergency back-up power supply and associated water system improvements shall be installed.
- l. The water well site #11 needs to be acquired and granted to the City prior to

Exhibit C

the recording of the final map.

Sanitary Sewer

- m. A sewer study is required to verify that the sewer trunk lines will be designed at a sufficient size and depth to serve the entire plan area.

Storm Drainage

- n. A storm drainage system study is required to verify that the proposed storm drainage improvements will interconnect with future development and regional systems.
- o. Formation and annexation into a Community Facilities District is required to finance the maintenance, repair and replacement of storm drainage pipes, basins, inlets, filters, facility landscaping and other storm drainage features.
- p. Basins shall be designed to have a maximum depth of 10 feet with side slopes not to exceed 4:1 (H:V).
- q. All basin areas proposed lack specific designs of the areas in the after-project condition. These basins and water filtration areas shall at a minimum be landscaped including irrigation meeting the RMC's standards related to drought tolerant landscape as approved by the City. The Applicant shall be under obligation to pay for all third-party Landscape Architect Consultant charges associated with the review and inspection of the proposed landscape improvements associated with areas intending to be dedicated to the public.
- r. The storm drain basins shall be designed to handle water from the 50-year storm (2.8 inches) with the maximum basin water elevation to be one foot below the lowest gutter elevation in the tributary area being served by the basin. Two feet of freeboard is required in the basin at all times.
- s. Park Fee credits are not available for the proposed project basins unless it can be proven the drainage areas proposed meet several recreational goals of the City. This means that the basins are designed with one or more primary recreational amenities as the driving force behind the design, rather than creating a hole in the ground that serves as storm drainage basin filtering technique and secondarily as open space.

Miscellaneous

- t. All existing irrigation lines, wells, septic systems and structures shall be removed from the site. All wells shall be destroyed as per the requirements of the City of Riverbank and the Stanislaus County Department of Environmental Resources according to the Stanislaus County Well Ordinance 443, Section 3-

Exhibit C

301. All existing septic systems shall be shall be pumped and then have the box punched and broken and back filled with soil in accordance with the requirements of the Stanislaus County Department of Environmental Resources and the City.

DRAFT

EXHIBIT D

Draft System Development Fee Reimbursement Agreement

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 McRoy Wilbur Communities, Inc ("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 March 24, 2015 the City Council adopted Resolution No. 2015-018, approving Tentative Map 02-2014 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 96 residential lots on 17.9 acres.

B. On March 24, 2015, the City Council adopted Resolution No. 2015-018, approving Tentative Map 02-2014 (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 96 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 96 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: McRoy Wilbur Communities, Inc
2909 Coffee Road #12
Modesto, CA 95365
Attn: Mark Wilbur

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:

McRoy Wilbur Communities, Inc.

By: _____
Sean Scully, City Manager

By: _____
Mark Wilbur, President

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

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

Draft Subdivision Improvement Agreement

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 _____ SUBDIVISION**

This **SUBDIVISION IMPROVEMENT AGREEMENT** ("Agreement") is made and entered into this ___ day of __ 20__, by and between the City of Riverbank, a California municipal corporation ("City") and _____ ("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 ___ acres, lying in the City of Riverbank, County of Stanislaus, California, known as "_____" (the "Subdivision").

B. On _____, the Planning Commission approved Tentative Subdivision Map No. _____ for the Subdivision with conditions of approval (the "Tentative Map"). Resolution No. _____ 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, conditions, warranties and covenants made by and between the Parties with respect to the subject matter of this Agreement. Neither Party shall be liable for any representations made, express or implied, not specifically set forth herein. It is the intention of the Parties that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

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

I. *Mandatory and Permissive.* “Shall” and “will” and “agrees” are mandatory. “May” or “can” are permissive.

J. *Successors and Assigns – Covenant Running With the Land.* Subdivider shall not assign any of its obligations under this Agreement without the prior written consent of the City. Notwithstanding the above, all representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of or for the benefit of any or all of the Parties, shall be binding upon and inure to the benefit of such Party, its successors and assigns. This Agreement, however, shall not be binding on any lot that has been conveyed to an individual homebuyer and for which a Certificate of Occupancy has been issued by the City.

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

L. *Other Documents.* 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.

M. *Time is of the Essence.* Time is of the essence in this Agreement in each covenant and term and condition herein.

N. *Authority.* The Parties warrant and represent that they have the power and authority to enter into this Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement have been fully complied with.

O. *Construction and Interpretation.* It is agreed and acknowledged by Subdivider that the provisions of this Agreement have been arrived at through negotiation, and that Subdivider has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in construing or interpreting this Agreement.

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

DRAFT

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

DRAFT

EXHIBIT G

Diamond Bar East Design Guidelines Manual

DESIGN GUIDELINES FOR DIAMOND BAR ESTATES EAST AND DIAMOND BAR ESTATES WEST - WITHIN THE BRUINVILLE MASTER PLAN AREA

FEBRUARY 2015

CITY OF RIVERBANK

DEVELOPMENT SERVICES DEPARTMENT,
6617 THRID ST., RIVERBANK, CA 95367
Phone: 209-863-7128



Diamond Bar Estates East and West – City of Riverbank

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Project History

The area that the project is located in has been annexed into the City of Riverbank for several years. The Diamond Bar Estates project is comprised of two adjacent but not connected projects, known as East Diamond Bar and West Diamond Bar. Between 2000 and 2006, there was a master plan known as "Bruinville", of which these properties were a part of. The projects have been sitting essentially dormant until the development world gets back up to speed. The state has continued to extend the life of maps through mandated map extensions. One of the parcels still has an approved map on it while the other has expired.

The maps that were approved fit the time of high density and very compact lots. Those were salable then, but they are not as salable today. Today's buyer, because of the housing crisis, expects more for their buying dollar. They are looking for room to play with their kids and use the outdoors for their personal pleasure – Larger lots to be able to grow and expand. In discussing this project with many Realtors over the last few months, the question was raised to them "What are your Homebuyers looking for?" Unequivocally, the response was elbow room – space – room to grow without disrupting their neighbors – A backyard for the Bar-B-Q and to have a dog. Traditional Americana values that have been lost in today's busy world. 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 throw the football, or teach the kids how to catch a baseball. Room – and affordability – is what we are trying to achieve here. We feel we have the perfect mix of room and affordability. Much market research was done to transform this property into one that, once built, will be attractive to those that are buying. In addition, the former project as a whole was very large in scope and required an annexation. With very large projects comes challenges, like storm water retention. The Bruinville project had a communal Storm Water Basin that was offsite, and many other concepts that may have worked during the boom, but not now.

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

Proposed Development

Our proposal consists of 2 groups of properties totaling 154 Single Family lots that are a minimum of 5,000 square feet each. We are asking for the properties to be re-zoned PD LDR, or Planned Development, Lower Density Residential to allow for decreased density and latitude regarding street sections and other amenities like custom mailboxes and street lights. Examples of some of the proposed amenities are included with this package.

Since we will not be building these homes, we are asking that the architectural component that is usually required with a PD proposal be “postponed” until we have a builder in place. At that time, we suggest that the architecture and normal requirements involving the approval of floor plans and elevations be reviewed at that time. These projects are autonomous, and can each be developed on their own, or together. Each have retaining basins and open green areas and because both of these projects lie within the current City boundaries of Riverbank.

In addition, development on the East side of Riverbank will ensure that all future and new development will not occur on just the west side of the city by Crossroads – It can occur on the easterly side of the City to try and tie the Crossroads development with the Downtown, and with this project as well.

Zoning, General Plan and Density

The proposed density of the project is approximately 5 + units to the acre. Although the General Plan calls for a higher density, and the Housing element estimates were based on those densities, those higher densities can be made up once the larger annexation takes place around this project in the future. The original approved projects for both of these sites originally had 201 homes planned versus our 154. In addition, in speaking with the SCM Group that owns the parcel along the tracks to the west and south of our proposals, they intend on doing a higher density project on those 12 acres in the future.

The City will have multiple chances of having increased density in the future, once an application for new annexation is proposed, and we feel this would be the time to address the overall density issues not only in this area, but citywide.

Water, Sanitary Sewer and Storm Drainage

Water

The water main runs in front of both sites within in Santa Fe Avenue. Stanislaus Consolidated Fire performed a test flow at the fire hydrant located at Santa Fe and Central Ave. on 9/24/14. The results of the test confirmed sufficient water to accommodate the proposed development with a test flow of 1180 GPM with a static pressure of 68 PSI and a residual pressure of 44 PSI.

Sewer

Sewer is available 200 feet from the project site, near the corner of Claus and Santa Fe Streets. Capacity is available, and the sizing of the lines in Santa Fe are adequate to accommodate our proposal.

Storm Drainage

Storm drainage and retention has always been an issue in this area. Under the old Bruinville Plan, a master basin was proposed to service not only the current annexed area, of which these proposals are a part of, but a substantially larger area encompassing literally hundreds of acres that is not currently annexed into the City.

Our proposal makes each of our projects self-sufficient, as they each have retention capabilities on site. Regarding application for Diamond Bar East, since we are bordered on the south by the Railroad tracks, we established the basin along those tracks to help buffer the project from the tracks. We have spoken to the Railroad about our proposal, and they have no objection to it thus far. Many reasons exist for establishing the basin there, as we accomplish numerous goals by placing it up against the railroad tracks: 1) The onsite retention of our storm water, 2) Buffering the community from the working railroad tracks – We are a minimum of 200 feet from the tracks to our nearest home to the north. This way, noise and any vibration from the trains will be minimal, which is not the case elsewhere in town. 3) We are providing "Green open space" for the community to enjoy, as this area will feature a walking path going east to west. When there is not water in the basin, which is most of the time, the basin will act as another park-like setting. 4) This basin was designed to be "added on to" by future development to the east and the west. Eventually the city will get proposals to develop these properties that are contiguous to our projects, and in doing so, the "Linear Park" concept / buffer / parkway / basin can be extended and added on to our basin to provide an even bigger and better experience for the residents.

Design Guidelines for Diamond Bar Estates

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.

Properly located and with a well-designed street network, lower-density development reduces the need for community open spaces and maximizes the use of private open space in the front and rear yards. Utilizing Low Impact Development (LID) guidelines this will provide storm water bio-filtration at the source and enhances street and landscapes by reducing the amount of impervious surfaces.

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 residential neighborhoods of interest which are 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 of storm water at the source 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 neighborhoods in the area.

Intent

The following design guidelines are to be used to assist developers, project applicants and City staff to assist in producing 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.

The Guidelines will be used to augment and reinforce the City of Riverbank 2005-2025 General Plan adopted April 22, 2009, The Bruinville Area Master Public Facilities Plan, adopted September 2005 and Chapter 153 single family residential zoning of the City of Riverbank Zoning Ordinance. The LDR 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.

Applicability

The Guidelines for LDR Single Family Developments apply to both Diamond Bar Estates projects, East and West. LDR development, as detailed in these guidelines, can only occur in Planned Development Zones.

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

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.

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.

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.

Other Applicable Regulations

The Guidelines for LDR 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.

GUIDELINES

LDR Single-Family Detached Houses



An example of a single-family home on a Lower-Density Lot

A. Relationship to Existing Neighborhoods

New LDR 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 new projects should be gradual. The height and mass of new projects should not create abrupt changes from those of existing buildings. Site setbacks should consider the prevailing setback patterns of adjacent 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.

Where existing neighborhoods have architectural distinction and/or established functional or landscape patterns, new development should incorporate characteristics of the surroundings so that there is no disruption of the streetscape and attempt to become a part of and blend into the existing neighborhood character.



Poor Transition: An older single family ranch home surrounded by much larger two story Mediterranean-style homes, creating loss of privacy and architectural disparity

B. Setbacks/Open Space

Setbacks: The front setback establishes a relationship between the house and the surrounding neighborhood. 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. Additionally, a larger front yard setback leaves a smaller private rear yard. It is equally important to ensure that the placement of the home or substantially varied elevations provide the appearance of a diverse and varied streetscape and avoid the monotonous single plane street.



An example of poor setback variation that lacks diversity and creates a monotonous streetscape

The side setback is primarily utilitarian. However, living areas of the house usually have windows that open into the side yard. Normal activity in the side yard, although limited, tends to be irritating and creates nuisances because the noise is concentrated in a small space and can be loud and irregular, such as moving trash cans or using storage sheds.

The rear yard is where most outdoor activity around under certain circumstances, where an equal amount of open space is incorporated into larger master plan areas, and for projects that do not meet the minimum number of units, a homeowner's association may not be required, provided that no private common areas are required in the development.

Open space; if well-designed, private open space, typically in the rear yard provides a place for children to play and to entertain 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 LDR 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 and is there children play and entertaining happens. These activities are expected and 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.

Table 1: Setbacks and Open Space for LDR PD	
Lot Size	5,000 sq. ft. min.
Minimum Width (mid-block/corner)	50'/55'
FRONT SETBACKS (A)	
Living (1 st floor) (vary front setback as noted above)	15
Living Area (2 nd floor)	15
Porches	10
Attached Garage (B) (front entry/side entry)	10/10
REAR SETBACKS *	
Living Area	20
Attached Garage (no alley/alley access) (B)	5/10
Detached Garage (no alley/alley access) (B)	5/10
Patio Covers (D)	5
SIDE SETBACKS * (A) (G) (H)	
Living Area first floor (interior side) (D)	5
Living Area (corner side) (D)	10
Detached Garage (Int. Side)	10
Attached/Detached Garages (B) (Corner Side) front entry /side entry	10
Lot Coverage	
50% of total acreage (gross)	-

NOTES:

- A. Dwelling unit & wall/fencing shall be located outside the "clear vision triangle" at street intersections.
- B. Garage setback measured from any other building and minimum of 5' from property line.
- C. Patio covers open on three sides 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.
- D. Includes attached garages and patio covers.
- E. 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.
- F. Fragments less than 10' will not be counted toward the common open space area.
- G. 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.
- H. Setbacks outlined in the above table are intended to meet the setback requirements outline in the City of Riverbank R-1 Zone of the current Zoning Ordinance.

C. 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.

D. 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 4-6 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 (Fig. 1).
- 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 50% of the development.

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.
- Repetition of identical or near identical floor plans and elevations.
- Poor infill design.

E. 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.

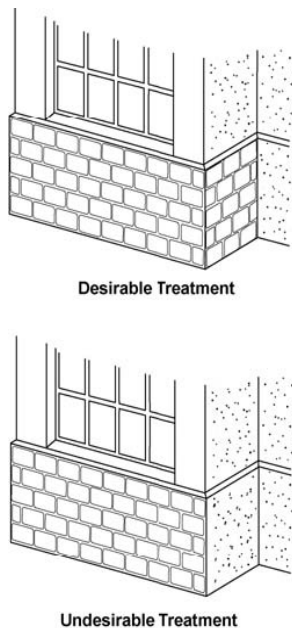
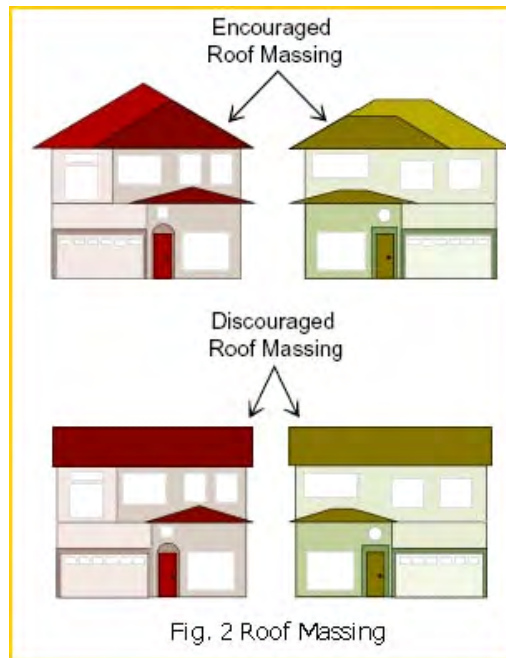


Fig . 1: Veneer Wrapping



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 large enough to accommodate chairs provide an opportunity for increased interaction among neighbors (minimum dimension of 6'x6' or 5'x7, plus circulation area).
- Porches that provide weather protection and shade are desired.
- Entries and porches that incorporate railings, short walls, trellises and roofs to add architectural detail and character and visual interest to the homes.

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.

F. 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
- Detached garages accessed from either an alley or a single-car driveway approach from the street.
- Alley loaded designs particularly for narrow lots are strongly encouraged.
- For homes facing out at community perimeter, rear loaded garages accessed from street rather than alley.



Discourage homes with recessed entry that limit the view of the street.



Encourage recessing the garage from the primary-living area reduces its impact on the front façade.



Encourage de-emphasized garage doors that are offset from the primary living area

- 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.

Discourage/Avoid:

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

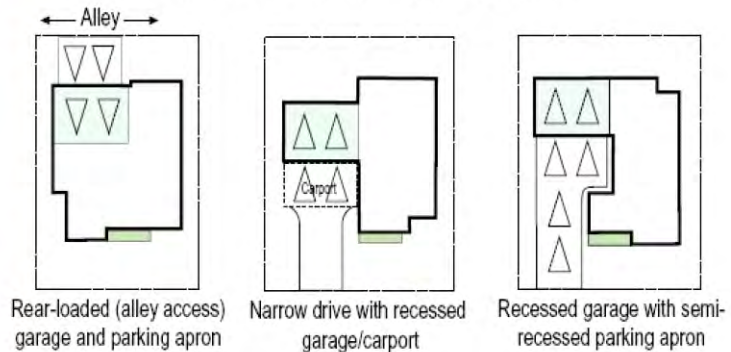
G. Driveways



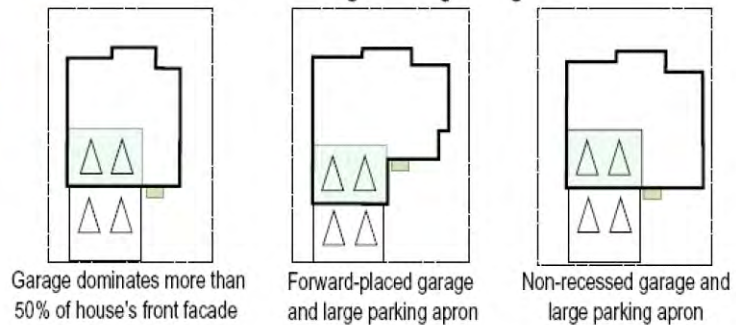
Discourage homes with garages that dominate the front elevation.

- 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

Desirable Garage/Parking Configurations



Undesirable Garage/Parking Configurations



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.



Encourage homes with single-car width driveway that widens to a two-car approach in front of recessed garage.

H. Parking

Most transportation occurs through the use of the private automobile. Because of this, the Zoning Code requires a minimum of two parking spaces for every single family house. With the increasing number of automobiles in every household, there is an increased need for parking, which is typically provided on the driveway and on the street. At the same time, the current trend is toward an increase in homeownership among single adults and the future will likely see an increase in the use of transit, walking, and bicycling for transportation, particularly as density increases and daily needs are better integrated into the fabric of the city.

Two enclosed off-street parking spaces will be required for each housing unit. Tandem parking spaces will be allowed provided that the minimum width of the garage door is 9' wide and that additional off-street parking be provided at a ratio of one space per each four homes. 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. Shared driveways are also encouraged. Off-street parking spaces within the development located within 150 feet of the unit served, may also be considered. Community off-street parking shall be generally provided adjacent to Community Open Space. Additional Community off-street parking can be provided throughout the community at locations that have the ability to serve numerous homes as approved in the site plan.



Community off-street parking adjacent to homes

I. Walls, 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. Frontage roads are preferred in lieu of sound walls wherever possible. The design of walls and 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.

Wall design and selection of materials should consider maintenance issues, especially graffiti removal and long-term maintenance.

Encourage:

- Sound walls should have a rhythm rather than a single monotonous design along the entire length.
- Periodic entries to minimize walking distances and integrate bike paths along the major roads.
- Walls architecturally integrated with adjacent buildings and landscape buffer.



Fence that has been constructed low but topped with lattice creating a sense of privacy.

- Additional landscape setbacks, street trees and accent trees at entries to improve the appearance of sound-walls.
- Landscaping and berms to minimize the visual impact of long continuous sound walls.
- Concrete capstones on stucco walls to help prevent water damage from rainfall and moisture.
- Fences and/or walls visible from streets should be architecturally integrated with adjacent buildings and are encouraged as a means of visually tying buildings together.
- Low walls or fences (3'-4' high) at front or side yard patios where desired in lieu of porch railings, provided the wall/fence design is compatible with the architectural style of the house.
- Accent landscaping and trellises to set off development entries are desirable.

Discourage:

- Long walls separating subdivisions from street access and other subdivisions. This type of development restricts movement between neighborhoods and creates "dead" spaces along pedestrian corridors, as well as increasing driving and walking distances. Back-up and side-on conditions requiring walled streets.
- Wood fencing along streets since it is not a long-term quality material.



Discouraged: Long walls that isolate neighborhoods and paved over appearance created by lack of landscaping.

J. Landscaping

New LDR single-family developments 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

Encourage:

- Street trees or yard trees at 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).



Landscaping should provide a broad palate of trees and plants that are compatible to the regions climate.

- Separated sidewalks with "tree lawns" (min. 7' wide) (i.e. "parkways"). These may be planted in lawns or other appropriate ground cover (irrigation is required) if recorded with a landscape easement.
- 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.
- Accent trees at special locations within the neighborhood.

- Variety of planting palettes for front yard landscaping to soften the development, reinforce the home design, and add variety to the streetscape.
- Front yard landscaping which reinforces other design elements of the home such as vines on trellises, hedges or low fences and walls.

K. 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.

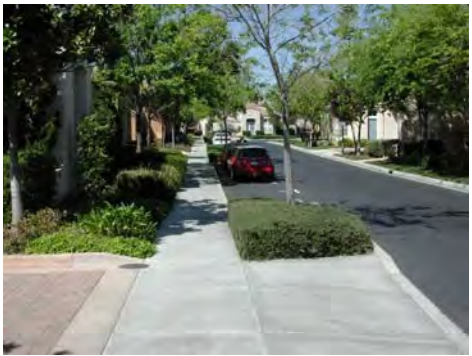


M. Street Design Elements and Access

A street serves 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 neighborhood bonds are created. Minimal street connections within a subdivision and to the external street network increase the need to drive and the number of miles driven, discourage walking and bicycling, and reduce emergency access. The site shall be designed to provide accessibility for emergency vehicles.



Variety of planting palettes that soften the development and add to the variety of the streetscape



Sidewalks separated from the street by planting strips and tree wells are strongly encouraged

N. 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-OF standard or equivalent standard with the same bulb type as the Visco are encouraged.
- 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.



Encouraged; Residential scaled lighting with ornamental design features

Discourage/Avoid:

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

P. 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.

Q. Low Impact Development (LID)

Low Impact Development (LID) is an innovative stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source. 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. Techniques are based on the premise that stormwater management should not be seen as stormwater disposal. LID addresses stormwater through small, cost-effective landscape features located at the lot level. 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. 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.



Filterra® Stormwater Bioretention Filtration System

Encourage:

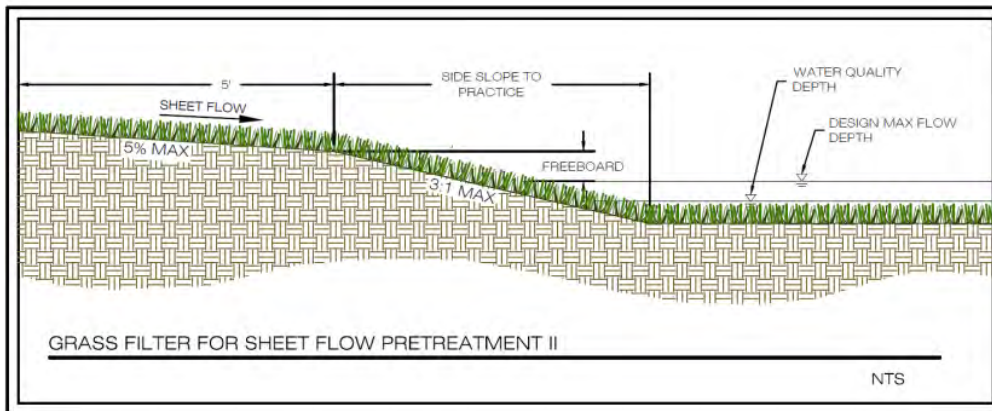
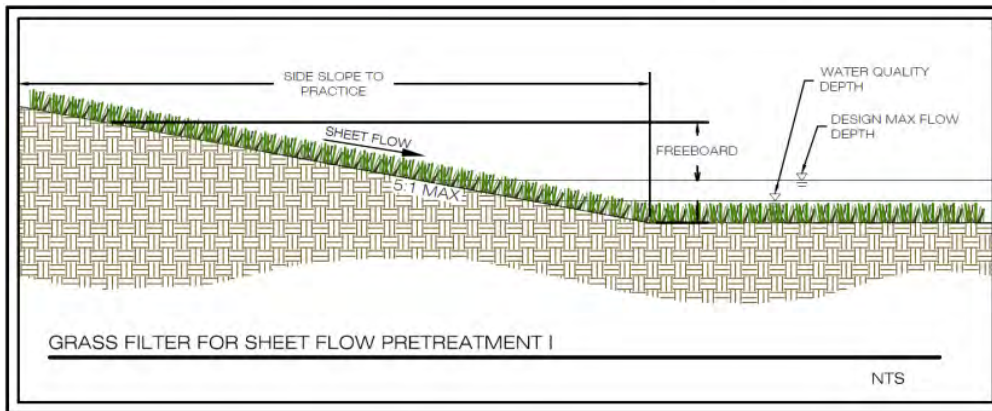
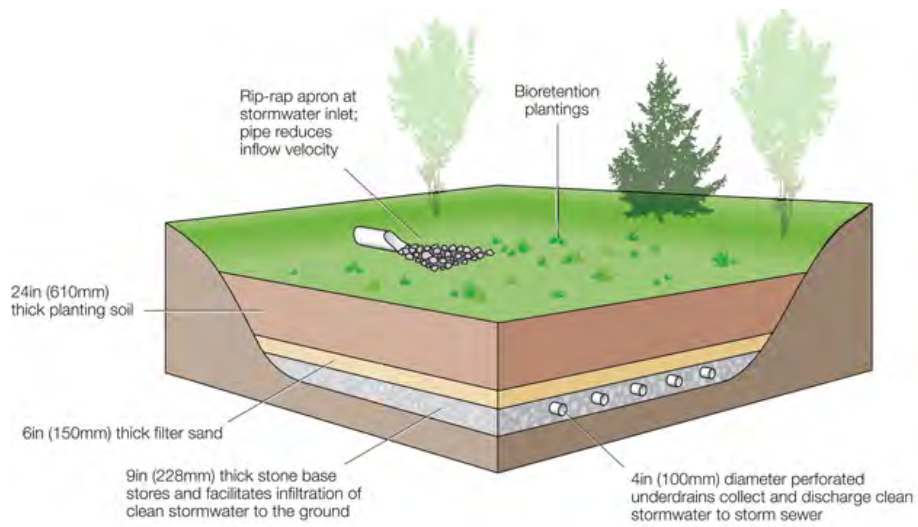
- Bio-retention swales for on-lot storm water run-off
- Decrease amount of impervious surfaces, through efficient street section widths, use of pervious materials
- Use landscape facilities for pretreatment of storm water
- Sufficient Capacity of total storm system to retain water on-site
- Treat storm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

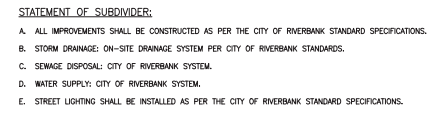
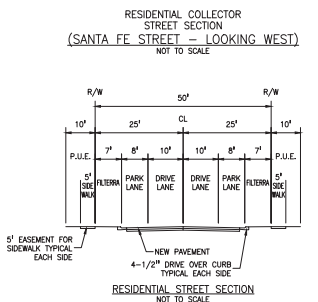
Discourage:

- 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 / quality of life. Today, bio-retention is one of the LID techniques available to users. Other techniques, such as permeable pavers and 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.

LID has numerous benefits and advantages over conventional stormwater management approaches. In short, it is a more environmentally sound technology and a more economically sustainable approach to addressing the adverse impacts of urbanization. By managing runoff close to its source through intelligent site design, LID can enhance the local environment, protect public health, recharge groundwater tables and improve community livability - all while saving developers and local government money.



TM 1

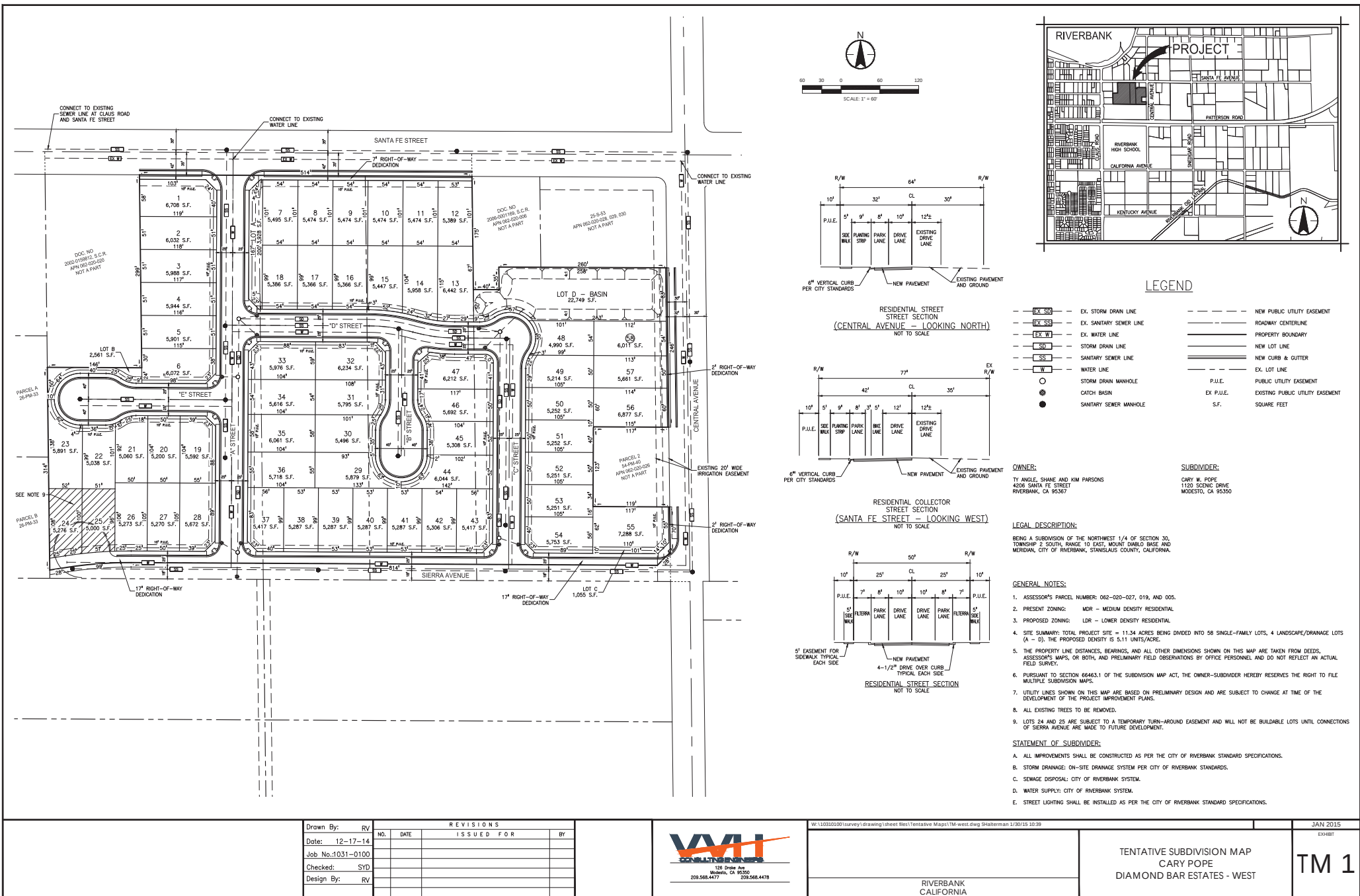


EXHIBIT H

Assumption and Assignment Agreement

**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").

RECITALS

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:

AGREEMENT

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]

DRAFT

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)

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)

**City of Riverbank
Planning Commission
Resolution No. 2020-003**

**A Resolution of the Planning Commission of the City of Riverbank ("City"),
Recommending that the City Council Adopt an Ordinance
Approving a Development Agreement by and Between the
City of Riverbank and McRoy Wilbur Communities, Inc. for the
Diamond Bar East Subdivision (APNs 062-020-010 and 062-020-025)**

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

WHEREAS, the Riverbank City Attorney and City staff have negotiated a development agreement ("Development Agreement") with McRoy Wilbur Communities, Inc. ("McRoy Wilbur"), to provide McRoy Wilbur with a vested right to develop approximately 96 single-family residential lots on approximately 17.9 acres in connection with the project known as Diamond Bar East ("DBE" or "Project"), and to extend the life of Tentative Map 02-2014 relating to the Project; and

WHEREAS, the Development Agreement provides a vested right for McRoy Wilbur to improve, develop, and use real property to develop approximately 96 single family residential lots within DBE as defined in the Development Agreement; and

WHEREAS, 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 March 24, 2015, 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 DBE Project, for which environmental impacts have already been reviewed. Thus, approval of the Development Agreement does not require further environmental review; and

WHEREAS, the Planning Commission held a duly noticed public hearing on March 17, 2020, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, the Planning Commission finds the Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the City's General Plan; and

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

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

THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Riverbank that it hereby recommends City Council approval of Ordinance No. 2020-XXX, approving the Development Agreement between the City of Riverbank and McRoy Wilbur Communities, Inc., attached hereto as Exhibit “A” and incorporated herein by this reference.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 17th day of March 2020; motioned by Commissioner Dinan, seconded by Commissioner Stewart, and upon roll call was carried by the following Planning Commission vote of 4-0:

AYES: Commissioners Link, Stewart, Dinan and Alternate Reuben

NAYS: None

ABSENT: Chair Fenrich and Commissioner Basso

ABSTAIN: None

Attest:

Donna M Kenney
Donna M. Kenney, Secretary
Planning and Building Manager

Approved:

Steve Link
Steve Link, Chair
Planning Commission

EXHIBIT A

Development Agreement

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARING

Meeting Date: April 14, 2020

Subject: **Waive Reading and Introduce by Title Only Urgency Ordinance No. 2020-006 of the City Council Of The City of Riverbank:** (1) Adopting The Stanislaus County Health Officer's March 31, 2020, Order Directing All Individuals Living In The County To Shelter At Their Place Of Residence; (2) Adopting The Governor's Executive Order N-33-20, Directing All Individuals In The State To Shelter At Their Place Of Residence; (3) Adopting Any Subsequent Orders That The Stanislaus County Health Officer Or Any Official Of The State Of California May Issue To Limit The Spread Of COVID-19; And (4) Ordering All Individuals In The City of Riverbank To Shelter At Their Place Of Residence And Setting Forth Enforcement Rules

From: Sean Scully, City Manager

Submitted by: Tom Hallinan, City Attorney

RECOMMENDATION

Motion to waive reading and introduction of Urgency Ordinance No. 2020-006, reading by title only, waiving further reading, and adoption of an Urgency Ordinance of the City Council of the City of Riverbank: (1) adopting the Stanislaus County Health Officer's March 31, 2020 Order; (2) adopting the Governor's Executive Order N-33-20, directing all individuals in the State to shelter at their place of residence; (3) adopting any subsequent orders that the Stanislaus County Health Officer or any official of the State of California may issue to limit the spread of COVID-19; and (4) ordering all individuals in the City of Riverbank to shelter at their place of residence and setting forth enforcement rules (the "Ordinance").

BACKGROUND / SUMMARY

A novel coronavirus ("COVID-19") was first detected in Wuhan City, China in December 2019, and has since then spread rapidly throughout the world, leading the World Health Organization ("WHO") to declare the outbreak a pandemic in March 2020. Symptoms of COVID-19, include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and in some cases, death. COVID-19 is easily transmissible from person to person. As of March 27, 2020, COVID-19 has infected more than five hundred ninety-seven thousand (597,000) people and killed more than twenty-seven thousand (27,000) people worldwide, according to the WHO.

On March 4, 2020, the Governor of the State of California (the "Governor"), declared a state of emergency in the State of California (the "State") due to the number of confirmed cases of COVID-19 in the State. On March 11, 2020, the County of Stanislaus (the "County") proclaimed an emergency due to COVID-19, which the County Board of Supervisors ratified on March 17, 2020. On March 13, 2020, the President of the United States, declared a national emergency in response to the rapid spread of COVID-19 across the country. On March 16, 2020, the City of Riverbank (the "City") proclaimed a local emergency due to COVID-19, which the City of Riverbank City Council ("City Council") ratified on March 18, 2020.

Action is being taken to limit the spread of COVID-19. On March 19, 2020, the Governor issued an Executive Order N-33-20 (the "Executive Order"), ordering all State residents shelter at home or at their place of residence, except as needed to ensure continuity of operations in essential critical infrastructure sectors and additional sectors as directed by the State Public Health Officer. Subsequently, the State Public Health Officer issued an "Essential List of Critical Infrastructure Workers." On March 31, 2020, the Stanislaus County Health Officer issued an order that implements the Executive Order by ordering County residents to shelter at home or at their place of residence, except when leaving to receive or provide essential services (the "County March 31 Order"). A copy of the County March 31 Order is attached as **Exhibit A**. A copy of the Executive Order is attached as **Exhibit B**. The State Public Health Officer "Essential List of Critical Infrastructure Workers" is attached as **Exhibit C**.

The number of COVID-19 cases continues to increase. COVID-19, therefore, remains a threat to City residents. As of April 2, 2020, there are forty-four (44) cases of COVID-19 in the County. The County has confirmed two (2) cases of COVID-19 within the City.¹

DISCUSSION

Due to the rapid spread of COVID-19 and the threat that COVID-19 has on the health of City residents, the City seeks to take swift action to limit the transmission of COVID-19. To protect life and property affected by COVID-19, staff recommends that the City Council adopt an ordinance requiring City residents to comply with the County March 31 Order and the Executive Order, while providing the City with an enforcement mechanism.

The proposed Ordinance, if adopted, will require City residents to comply with the County March 31 Order and the Executive Order and any subsequent orders issued by the County Health Officer, or any State official, to limit the spread of COVID-19.

The Ordinance will also provide the City with an enforcement mechanism, including administrative penalties and fines for violations of the Ordinance. The Ordinance provides that a violation of the Ordinance is a public nuisance and subject to administrative citations under Chapter 99, Administrative Remedies, of Title IX, General Provisions, of the Riverbank Municipal Code. When enforced through an administrative citation, the fines for violation of the Ordinance will be two hundred fifty dollars (\$250) for the first violation, five hundred dollars (\$500) for the second violation, and one thousand dollars

¹ Coronavirus, published April 2, 2020, <http://schsa.org/PublicHealth/pages/corona-virus/>.

(\$1,000) for a third and any subsequent violations. It should be noted that administrative citation is not likely to be the first option for obtaining compliance should the stay in place orders be violated. The standing process of contacting the party or parties not in compliance and requesting compliance will continue to be the first step (as is the case with almost all code enforcement matters). Citations will be used only when those requests have been ignored or disregarded.

Staff recommends that the City Council adopt the Ordinance as an urgency ordinance as there is an urgent need to slow the transmission of COVID-19. Since the Ordinance is an urgency ordinance, Government Code section 36937 requires the City Council to adopt the Ordinance by a four-fifths (4/5) vote. If approved, the Ordinance takes effect immediately.

ALTERNATIVES

The City Council may choose to do any of the following:

- 1) Adopt the Ordinance;
- 2) Continue the item to a later meeting of the City Council and provide direction to staff for any changes; or
- 3) Reject the Ordinance.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act requires environmental review only if a public agency action constitutes a “project.” (Pub. Res. Code § 21065.) Adopting the County March 31 Order and the Executive Order and ordering City residents to shelter at their place of residence is not a “project”, since it does not have the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Code Regs., tit. 14, § 15064, subd. (d).)

FINANCIAL IMPACT

The fiscal impact to the City, if any, will be minimal. The proposed methods of enforcement for these requirements will help encourage compliance with the shelter in place restrictions that the County has imposed in the County March 31 Order, and in Executive Order N-33-20, and will protect the health and safety of City residents.

ATTACHMENTS

1. Ordinance
2. Exhibit A: County March 31 Order
3. Exhibit B: Executive Order N-33-20
4. Exhibit C: List of “Essential Critical Infrastructure Workers designated by the State Public Health Officer.

CITY OF RIVERBANK

URGENCY ORDINANCE NO. 2020-006

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, (1) ADOPTING THE STANISLAUS COUNTY HEALTH OFFICER'S MARCH 31, 2020, ORDER DIRECTING ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF RESIDENCE; (2) ADOPTING THE GOVERNOR'S EXECUTIVE ORDER N-33-20, DIRECTING ALL INDIVIDUALS IN THE STATE TO SHELTER AT THEIR PLACE OF RESIDENCE; (3) ADOPTING ANY SUBSEQUENT ORDERS THAT THE STANISLAUS COUNTY HEALTH OFFICER OR ANY OFFICIAL OF THE STATE OF CALIFORNIA MAY ISSUE TO LIMIT THE SPREAD OF COVID-19 DURING THE DURATION OF THE COVID-19 STATE OF EMERGENCY; AND (4) ORDERING ALL INDIVIDUALS IN THE CITY OF RIVERBANK TO SHELTER AT THEIR PLACE OF RESIDENCE AND SETTING FORTH ENFORCEMENT RULES

WHEREAS, the Centers for Disease Control and Prevention considers the novel coronavirus ("COVID-19") to be a very serious public health threat with outcomes ranging from mild sickness to severe illness and death; and

WHEREAS, COVID-19 is easily transmissible from person to person and has spread globally to approximately one hundred ninety-nine (199) countries, infected more than five hundred ninety-seven thousand (597,000) people and killed more than twenty-seven thousand (27,000) people worldwide as of March 27, 2020, according to the World Health Organization; and

WHEREAS, on March 4, 2020, the Governor of the State of California (the "Governor"), declared a state of emergency in the State of California (the "State") due to the number of confirmed cases of COVID-19 in the State; and

WHEREAS, on March 11, 2020, the Governor announced that State public health officials have determined that gatherings of more than two hundred fifty (250) people should be postponed or canceled across the State until at least the end of March; and

WHEREAS, on March 11, 2020, the County of Stanislaus (the "County") proclaimed a local emergency due to COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency due to COVID-19; and

WHEREAS, on March 16, 2020, the City of Riverbank (the “City”) declared a local emergency due to COVID-19, which was ratified by the City Council on March 18, 2020; and

WHEREAS, on March 19, 2020, to prevent the spread of COVID-19, the Governor issued Executive Order N-33-20 ordering all State residents to shelter at their place of residence except as needed to ensure continuity of operations in essential critical infrastructure sectors and additional sectors as directed by the State Public Health Officer; and

WHEREAS, March 22, 2020, the State Public Health Officer has designated a list of “Essential Critical Infrastructure Workers”, which can be found at <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>; and

WHEREAS, on March 31, 2020, the Stanislaus County Health Officer issued an order to implement Executive Order N-33-20, by directing all County residents to shelter at home or at their place of residence except when leaving to provide or receive certain essential services; and

WHEREAS, many individuals who contract the COVID-19 have no symptoms or have mild symptoms, but can still transmit the disease; and

WHEREAS, because scientific evidence shows the disease is easily spread; gatherings can result in preventable transmission of the virus; and

WHEREAS, the age, condition, and health of a significant portion of the population of the City places it at risk for serious health complications, including death, from COVID-19; and

WHEREAS, as of April 2, 2020, there are (2) cases of COVID-19 in the City and there are forty-four (44) confirmed cases of COVID-19 in the County; and

WHEREAS, the scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed; and

WHEREAS, Government Code section 8634 authorizes, during a local emergency, the City Council, or officials designated thereby, to promulgate orders and regulations necessary to provide for the protection of life and property; and

WHEREAS, Government Code section 53069.4 authorizes the City by ordinance to make any violation of any ordinance enacted by the City subject to an administrative fine or penalty; and

WHEREAS, pursuant to Section 36937 of the California Government Code, the City may adopt an urgency ordinance if it is for the immediate preservation of the public peace, health or safety.

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

Section 1. Stanislaus County Health Officer's March 31, 2020, Order Adopted in Full.

The City hereby adopts in full the Stanislaus County Health Officer's March 31, 2020, Order entitled, "Order of the Stanislaus County Health Officer Directing All Individuals Living In The County To Stay At Home Or At Their Place Of Residence Except That They May Leave To Provide Or Receive Certain Essential Services Or Engage In Certain Essential Activities And Work For Essential Businesses And Governmental Services; Exempting Individuals Experiencing Homelessness From This Order But Urging Them To Find Shelter And Government Agencies To Provide It; Directing All Businesses And Governmental Agencies To Cease Non-Essential Operations At Physical Locations In The County; Prohibiting All Non-Essential Gatherings Of Any Number of Individuals; And Ordering Cessation of All Non-Essential Travel" (the "County March 31 Order"). A true and correct copy of the County March 31 Order is attached hereto as **Exhibit "A"** and incorporated herein by this reference.

Section 2. Governor's Executive Order N-33-20 Adopted in Full.

The City hereby adopts in full the Governor's Executive Order N-33-20 (the "Executive Order"). A true and correct copy of the Executive Order is attached hereto as **Exhibit "B"** and incorporated herein by this reference.

Section 3. All Subsequent Orders of The Stanislaus County Health Officer Issued During the Emergency Period Are Adopted.

All orders that will be issued by the Stanislaus County Health Officer subsequent to the County March 31 Order (Exhibit A) during the term stated in Section 7, shall be deemed automatically adopted by the City as of the date of issuance without any further action required by the City Council or the Director of Emergency Services, and shall be binding on all individuals living within the City, unless the City Council passes an ordinance or resolution, or the Director of Emergency Services issues a rule or regulation abrogating, modifying or otherwise clarifying said order from the Stanislaus County Health Officer or limiting its application with respect to the City.

Section 4. All Subsequent Orders of The State of California Issued During the Emergency Are Adopted.

All orders that will be issued by the Governor of California or the State Public Health Officer subsequent to the Executive Order (Exhibit B) to limit the spread of COVID-19 during the term stated in Section 7, shall be deemed automatically adopted by the City as of the date of issuance without any further action required by the City Council or the Director of Emergency Services, and shall be binding on all individuals living within the City, unless the City Council passes an ordinance or resolution, or the Director of Emergency Services issues a rule or regulation abrogating, modifying or otherwise clarifying said order from the State of California or limiting its application with respect to the City.

Section 5. Shelter In Place.

All individuals currently living within the City are ordered to shelter at their place of residence in accordance with all terms and conditions imposed by the County March 31 Order (Exhibit A) and the Executive Order (Exhibit B). To the extent individuals must use shared or outdoor spaces, they must at all times, as reasonably possible, maintain social distancing of at least six feet from any other person when they are outside their residence. Individuals experiencing homelessness are exempt from this Section but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable and to utilize social distancing requirements in their operation.

All public and private gathering of any number of people occurring outside a household or living units are prohibited, except for the limited purposes as expressly permitted in the County March 31 Order (Exhibit A).

Section 6. Enforcement.

A. The Chief of Police, or his or her designee and all peace officers, shall enforce and ensure compliance with this Ordinance. The violation of any provision of this Ordinance constitutes an imminent threat to the public health and is hereby declared to be a public nuisance in accordance with the Riverbank Municipal Code (the “RMC”). It is unlawful to violate any of the provisions of this Ordinance, or to do any act prohibited by this Ordinance, or to omit or fail to do any act required by this Ordinance.

B. The purpose of this Section is to provide remedies to address acts or omissions set forth in this Ordinance. Violations may be corrected or addressed in a number of ways and it is the intent of this Ordinance to provide the City with an administrative process for correcting violations and to penalize violators for failure to comply with this Ordinance.

C. This Section provides for administrative citations which are in addition to all other legal and equitable remedies and provides an alternative to any criminal prosecutions which may be pursued by the City to address any violation of this Ordinance, or of any regulations adopted under the authority of the RMC.

D. Use of the remedies and procedures of this Section shall be at the sole discretion of the enforcement officer authorized to proceed under this Ordinance and shall not limit or preclude the use of criminal or civil injunctive code enforcement proceedings.

E. For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them:

1. “Enforcement officer” means the City Manager, the Chief of Police, or any City employee, or agent of the City, designated by the City Manager or the Chief of Police with the authority to enforce any provision of this Ordinance.

2. “Responsible party” means the owner, agent, manager, lessee, tenant or any other person having control or possession of a property where a violation of this Ordinance occurs and any individual who violates any provision of this Ordinance. In the event that the responsible person who is in violation of this Ordinance is a minor, then the minor and the parents, or guardians of that minor, will be jointly and severally liable for any fine imposed.

F. Whenever an enforcement officer determines that a violation of any provision of this Ordinance has occurred, the enforcement officer, in his or her sole discretion, may issue a warning to any person responsible for the violation. The warning shall serve as a written or verbal warning of responsibility. The warning requires immediate action by the person responsible for the violation to correct or cease the violation. [SEP]

G. Whenever an enforcement officer charged with the enforcement of this Ordinance determines that a violation of this Ordinance has occurred, the enforcement officer shall have the authority to issue an administrative citation to the person or entity responsible for the violation pursuant to the procedures in Chapter 99, Administrative Remedies, of Title IX, General Provisions, of the RMC. Chapter 99, Administrative Remedies, of Title IX, General Provisions, of the RMC, shall be followed; provided, that:

1. A first violation of this Ordinance shall result in an administrative citation with a two hundred fifty dollar (\$250.00) fine;

2. A second violation of this Ordinance shall result in an administrative citation with a five hundred dollar (\$500.00) fine;
3. A third and subsequent violation of this Ordinance shall result in an administrative citation with a one thousand dollar (\$1000.00) fine.

H. The remedies, fines, penalties and fees provided for under this Ordinance or in the RMC are cumulative and shall not restrict the City from any other remedy to which it is entitled under law or equity. Nothing in this Ordinance shall be deemed to preclude the imposition of any criminal penalty under State law or this Ordinance, nor shall anything in this Ordinance be deemed to conflict with any penalty or provision under State law, or to prohibit any conduct authorized by the California and United States Constitution. This Ordinance shall not be interpreted in any manner that conflicts with the laws or Constitutions of the United States or California.

I. Notwithstanding any other provision of this Ordinance, whenever the enforcement official determines real property or any building, structure or condition thereon is dangerous or constitutes an immediate threat to life, public health or safety, the enforcement official may immediately and forthwith abate such public nuisance. Actions taken to abate immediately or potentially dangerous nuisances may include, but are not limited to, removal of the condition creating the danger and/or the restriction from use or occupancy of the property on which the condition exists, or any other abatement action determined by the enforcement official to be necessary. Notice of the emergency abatement shall be provided to the owner and/or responsible party as provided for in this Ordinance the same day or as soon as practical.

Section 7. Term. This Ordinance remains in full force and effect until the Governor ends the state of emergency in response to the COVID-19 outbreak or until the Ordinance is rescinded by the City Council, whichever occurs first.

Section 8. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof and shall continue to be in full force and effect.

Section 9. Urgency Finding. The City hereby finds, determines and declares that this Ordinance is necessary to the immediate preservation of the public peace, health or safety, because there is an urgent need to slow COVID-19 transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. Therefore, the City further finds,

determines and declares that this Ordinance takes effect immediately upon adoption pursuant to the authority conferred upon the City Council by California Government Code section 36937.

Section 10. The City Clerk is hereby directed to certify to the passage of this Ordinance and to cause it to be published one time pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

PASSED, ADOPTED, AND ORDERED, by a four-fifths vote at a meeting of the City Council of the City of Riverbank held on the 14th day of April, 2020, motioned by _____, seconded by _____; moved said Urgency Ordinance for adoption 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

APPROVE TO FORM:

Tom P. Hallinan
City Attorney



HEALTH SERVICES AGENCY

Public Health Services
820 Scenic Drive, Modesto, CA 95350-6194

Julie Vaishampayan, MD, MPH
Public Health Officer

Phone: 209.558.8804 Fax: 209.558.7286
www.hsahealth.org

**ORDER OF THE STANISLAUS COUNTY
PUBLIC HEALTH OFFICER
DIRECTING**

ALL INDIVIDUALS LIVING IN THE COUNTY TO STAY AT HOME OR AT THEIR PLACE OF RESIDENCE EXCEPT THAT THEY MAY LEAVE TO PROVIDE OR RECEIVE CERTAIN ESSENTIAL SERVICES OR ENGAGE IN CERTAIN ESSENTIAL ACTIVITIES AND WORK FOR ESSENTIAL BUSINESSES AND GOVERNMENTAL SERVICES; EXEMPTING INDIVIDUALS EXPERIENCING HOMELESSNESS FROM THIS ORDER BUT URGING THEM TO FIND SHELTER AND GOVERNMENT AGENCIES TO PROVIDE IT; DIRECTING ALL BUSINESSES AND GOVERNMENTAL AGENCIES TO CEASE NON-ESSENTIAL OPERATIONS AT PHYSICAL LOCATIONS IN THE COUNTY; PROHIBITING ALL NON-ESSENTIAL GATHERINGS OF ANY NUMBER OF INDIVIDUALS; AND ORDERING CESSATION OF ALL NON-ESSENTIAL TRAVEL

DATE OF ORDER: MARCH 31, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code sections 120295, et seq.)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101470, 101475, 101085, 120175, 120200, 120210 AND 120215 THE HEALTH OFFICER OF THE COUNTY OF STANISLAUS ("HEALTH OFFICER") ORDERS:

1. This Order incorporates by reference the directive from the California State Public Health Officer designating Essential Critical Infrastructure Workers. For more information on Essential Critical Infrastructure Workers, see <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>
2. The intent of this Order is to implement Executive Order N-33-20, issued by Governor Newsom on March 19, 2020, and to ensure that the maximum number of people self-isolate in their homes or places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their homes or places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times as reasonably possible comply with Social Distancing Requirements as defined in Section 11 of this Order. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
3. All individuals currently living within the County of Stanislaus (the "County") are ordered to

stay at home or place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities as defined in Section 11, or to work as an Essential Critical Infrastructure Worker as defined by the State Public Health Officer. Individuals experiencing homelessness are exempt from this Section but are strongly urged to obtain shelter. Persons experiencing homelessness that are unable to locate shelter should refrain from being in encampments of more than 10 people, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).

4. This Order is issued based on evidence of escalating occurrence of COVID-19 within the County and throughout California indicating that current efforts are not producing the desired result of reducing spread.
 - 4.1 Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. In addition, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms and they may not be aware they carry the virus. Because even people without symptoms can spread COVID-19, and because evidence shows the disease is easily spread, public activities can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. County residents must minimize public activities and interactions. By reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited healthcare capacity in the County and prevent more deaths.
5. All businesses with facilities located in the County are required to cease all activities within this County, except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as designated by the State Public Health Officer. Those businesses remaining open to maintain continuity of operations of essential critical infrastructure sectors shall comply with Social Distancing Requirements as defined in Section 11 below, including, but not limited to, when customers are standing in line.
6. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 11. All bars, wine tasting rooms, and brewpubs shall close, all in-dining at restaurants shall cease, except for home delivery and curbside takeout, and all pet grooming, gyms, bingo halls, golf course, and cardrooms shall close. Nothing in this Order prohibits the gathering of members of a household or living unit.
7. All travel is prohibited except Essential Travel and Essential Activities as defined in Section 11. People must use public transit only for purposes of performing Essential Activities. People riding on public transit must comply with Social Distancing Requirements as defined in Section 11, to the greatest extent feasible. This Order allows travel into or out of the County **only** to perform Essential Activities.

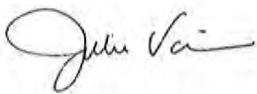
8. This Order also is issued in light of the existence, as of March 31, 2020, of 35 cases of COVID-19 in the County, and likely further significant increases in transmission. This Order is necessary to slow the rate of spread and the County will re-evaluate it as further data becomes available.
9. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the Declarations of Local Health Emergency issued by the Health Officer on March 11, 2020, The Proclamation of a Local Emergency on March 11, 2020, and the March 17, 2020 Resolution of the Board of Supervisors of the County of Stanislaus Ratifying the Declarations of Local Health Emergency and Local Emergency Proclamation, Governor Newsom's March 12, 2020 Executive Order N-25-20, Governor Newsom's March 19, 2020 Executive Order N-33-20, and the designation by the State Public Health Officer of Essential Critical Infrastructure Workers issued March 22, 2020.
10. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19.
11. Definitions and Exemptions.
 - a. For purposes of this Order, individuals may leave their residence **only** to perform "Essential Activities." People at high risk of severe illness from COVID-19 and people who are sick are urged to stay at home or place of residence to the extent possible except as necessary to seek medical care. "Essential Activities" are limited to the following:
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies the individual needs to work from home.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.
 - iii. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, biking, running or equestrian activities. **Use of park or playground equipment is prohibited.**
 - iv. To perform work as an Essential Critical Infrastructure Worker.
 - v. To care for a family member or pet in another household.

- b. For purposes of this Order, Essential Critical Infrastructure Workers are those individuals providing the services designated by the State Public Health Officer listed here <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>
 - c. This Order applies to all businesses in the County including for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.
 - d. For the purposes of this Order, "Essential Travel" includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section below.
 - i. Any travel related to the provision of or access to Essential Activities or Essential Governmental Functions.
 - ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other educational related services.
 - iv. Travel to return to a place of residence from outside the jurisdiction.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
 - e. For purposes of this Order, the term "residences" include places persons normally live such as hotels, motels, shared rental units and homes.
 - f. For purposes of this Order, "Social Distancing Requirements" includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high touch surfaces, and not shaking hands.
12. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat to public health. Consistent with the views expressed by the Governor and after consulting with the Stanislaus County Sheriff, the Public Health Officer believes that enforcement through education is preferable, but that other means of enforcement may be employed, as deemed appropriate by the law enforcement agency.
13. This Order shall become effective at 5:00 a.m. on April 2, 2020 and will continue to be in effect until it is rescinded in writing by the Health Officer.
14. Copies of this Order shall promptly be: (1) made available at the County Administration Building at 1010 10th St, Modesto, 95354; (2) posted on the Stanislaus County Home page

(StanCounty.com); and (3) provided to any member of the public requesting a copy of this Order.

15. If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Julie Vaishampayan, MD, MPH
Health Officer, County of Stanislaus

March 31, 2020

Date



Thomas E. Boze
County Counsel

March 31, 2020

Date

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

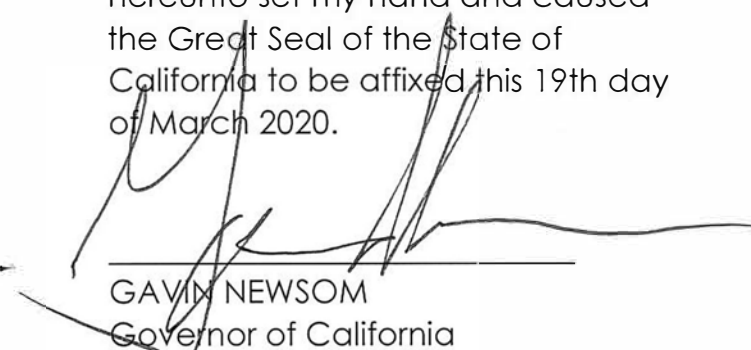
The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 19th day
of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all residents immediately to heed current State public health directives to stay home, except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

In accordance with this order, the State Public Health Officer has designated the following list of “Essential Critical Infrastructure Workers” to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security.

HEALTHCARE / PUBLIC HEALTH

Sector Profile

The Healthcare and Public Health (HPH) Sector is large, diverse, and open, spanning both the public and private sectors. It includes publicly accessible healthcare facilities, research centers, suppliers, manufacturers, and other physical assets and vast, complex public-private information technology systems required for care delivery and to support the rapid, secure transmission and storage of large amounts of HPH data.

Essential Workforce

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response.
- Health care providers and caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists).
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.).
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric, Residential, Rural Health Clinics and Federally Qualified Health Centers, cannabis retailers).
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, [personal care/hygiene products](#), and tissue and paper towel products.

- Public health / community health workers, including those who compile, model, analyze and communicate public health information.
- Behavioral health workers (including mental and substance use disorder) responsible for coordination, outreach, engagement, and treatment to individuals in need of mental health and/or substance use disorder services.
- Blood and plasma donors and the employees of the organizations that operate and manage related activities.
- Workers that manage health plans, billing, and health information, who cannot practically work remotely.
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely.
- Workers who provide support to vulnerable populations to ensure their health and well-being including family care providers
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely.
- Workers conducting research critical to COVID-19 response.
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely.
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters.
- Pharmacy employees necessary for filling prescriptions.
- Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers.
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to behavioral health services to the family members, responders, and survivors of an incident.
- Workers supporting veterinary hospitals and clinics

EMERGENCY SERVICES SECTOR

Sector Profile

The Emergency Services Sector (ESS) is a community of highly-skilled, trained personnel, along with the physical and cyber resources, that provide a wide range of prevention, preparedness, response, and recovery services during both day-to-day operations and incident response. The ESS includes geographically distributed facilities and equipment in both paid and volunteer capacities organized primarily at the federal, state, local, tribal, and territorial levels of government, such as city police departments and fire stations, county sheriff's offices, Department of Defense police and fire departments, and town public works departments. The ESS also includes private sector resources, such

as industrial fire departments, private security organizations, and private emergency medical services providers.

Essential Workforce - Law Enforcement, Public Safety and First Responders

- Including front line and management, personnel include emergency management, law enforcement, Emergency Management Systems, fire, and corrections, search and rescue, tactical teams including maritime, aviation, and canine units.
- Emergency Medical Technicians
- Public Safety Answering Points and 911 call center employees
- Fusion Center employees
- Fire Mitigation Activities
- Hazardous material responders and hazardous devices teams, from government and the private sector.
- Workers – including contracted vendors -- who maintain digital systems infrastructure supporting law enforcement and emergency service operations.
- Private security, private fire departments, and private emergency medical services personnel.
- County workers responding to abuse and neglect of children, elders and dependent adults.
- [Animal control officers and humane officers](#)

Essential Workforce - Public Works

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, [construction material suppliers](#), traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences.
- Support, such as road and line clearing, to ensure the availability of needed facilities, transportation, energy and communications Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste.

FOOD AND AGRICULTURE

Sector Profile

The Food and Agricultural (FA) Sector is composed of complex production, processing, and delivery systems and has the capacity to feed people and animals both within and beyond the boundaries of the United States. Beyond domestic food production, the FA Sector also imports many ingredients and finished products, leading to a complex web of growers, processors, suppliers, transporters, distributors, and consumers. This sectors is critical to maintaining and securing our food supply.

Essential Workforce

- Workers supporting groceries, pharmacies, and other retail that sells food and beverage products, including but not limited to Grocery stores, Corner stores and convenience stores, including liquor stores that sell food, Farmers' markets, Food banks, Farm and produce stands, Supermarkets, Similar food retail establishments, Big box stores that sell groceries and essentials
- Restaurant carry-out and quick serve food operations – including food preparation, carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Employees and firms supporting food, feed, and beverage distribution (including curbside distribution and deliveries), including warehouse workers, vendor-managed inventory controllers, blockchain managers, distribution
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Workers supporting cannabis retail and dietary supplement retail
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products

- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

ENERGY

Sector Profile

The Energy Sector consists of widely-diverse and geographically-dispersed critical assets and systems that are often interdependent of one another. This critical infrastructure is divided into three interrelated segments or subsectors—electricity, oil, and natural gas—to include the production, refining, storage, and distribution of oil, gas, and electric power, except for hydroelectric and commercial nuclear power facilities and pipelines. The Energy Sector supplies fuels to the transportation industry, electricity to households and businesses, and other sources of energy that are integral to growth and production across the Nation. In turn, it depends on the Nation's transportation, information technology, communications, finance, water, and government infrastructures.

Essential Workforce - Electricity industry:

- Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission, and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data
- Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

Essential Workforce - Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services

- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.

Essential Workforce - Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers
- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

WATER AND WASTEWATER

Sector Profile

The Water and Wastewater Sector is a complex sector composed of drinking water and wastewater infrastructure of varying sizes and ownership types. Multiple governing authorities pertaining to the Water and Wastewater Sector provide for public health, environmental protection, and security measures, among others.

Essential Workforce

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring

- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

TRANSPORTATION AND LOGISTICS

Sector Profile

The Transportation Systems Sector consists of seven key subsectors, or modes:

- Aviation includes aircraft, air traffic control systems, and airports, heliports, and landing strips. Commercial aviation services at civil and joint-use military airports, heliports, and sea plane bases. In addition, the aviation mode includes commercial and recreational aircraft (manned and unmanned) and a wide-variety of support services, such as aircraft repair stations, fueling facilities, navigation aids, and flight schools.
- Highway and Motor Carrier encompasses roadway, bridges, and tunnels. Vehicles include trucks, including those carrying hazardous materials; other commercial vehicles, including commercial motorcoaches and school buses; vehicle and driver licensing systems; taxis, transportation services including Transportation Network Companies, and delivery services including Delivery Network Companies; traffic management systems; AND cyber systems used for operational management.
- Maritime Transportation System consists of coastline, ports, waterways, and intermodal landside connections that allow the various modes of transportation to move people and goods to, from, and on the water.
- Mass Transit and Passenger Rail includes terminals, operational systems, and supporting infrastructure for passenger services by transit buses, trolleybuses, monorail, heavy rail—also known as subways or metros—light rail, passenger rail, and vanpool/rideshare.
- Pipeline Systems consist of pipelines carrying natural gas hazardous liquids, as well as various chemicals. Above-ground assets, such as compressor stations and pumping stations, are also included.
- Freight Rail consists of major carriers, smaller railroads, active railroad, freight cars, and locomotives.
- Postal and Shipping includes large integrated carriers, regional and local courier services, mail services, mail management firms, and chartered and delivery services.

Essential Workforce

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Mass transit workers
- Taxis, transportation services including Transportation Network Companies, and delivery services including Delivery Network Companies
- Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

COMMUNICATIONS AND INFORMATION TECHNOLOGY

Sector Profile

The Communications Sector provides products and services that support the efficient operation of today's global information-based society. Communication networks enable people around the world to contact one another, access information instantly, and communicate from remote areas. This involves creating a link between a sender (including voice signals) and one or more recipients using technology (e.g., a telephone system or the Internet) to transmit information from one location to another. Technologies are changing at a rapid pace, increasing the number of products, services, service providers, and communication options. The national communications architecture is a complex collection of networks that are owned and operated by individual service providers. Many of this sector's products and services are foundational or necessary for the operations and services provided by other critical infrastructure sectors. The nature of communication networks involve both physical infrastructure (buildings, switches, towers, antennas, etc.) and cyber infrastructure (routing and

switching software, operational support systems, user applications, etc.), representing a holistic challenge to address the entire physical-cyber infrastructure.

The IT Sector provides products and services that support the efficient operation of today's global information-based society and are integral to the operations and services provided by other critical infrastructure Sectors. The IT Sector is comprised of small and medium businesses, as well as large multinational companies. Unlike many critical infrastructure Sectors composed of finite and easily identifiable physical assets, the IT Sector is a functions-based Sector that comprises not only physical assets but also virtual systems and networks that enable key capabilities and services in both the public and private sectors.

Essential Workforce - Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

Essential Workforce - Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, and

information technology equipment (to include microelectronics and semiconductors) for critical infrastructure

- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS

Essential Workforce

- Critical government workers, as defined by the employer and consistent with Continuity of Operations Plans and Continuity of Government plans.
- County workers responsible for determining eligibility for safety net benefits
- The Courts, consistent with [guidance](#) released by the California Chief Justice
- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Workers who are critical to facilitating trade in support of the national, state, and local emergency response supply chain
- Workers supporting public and private childcare establishments, pre-K establishments, K-12 schools, colleges, and universities for purposes of distance learning, provision of school meals, or care and supervision of minors to support essential workforce across all sectors

- Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures, including measures to protect homeless populations.
- Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, [construction material sources](#), and essential operation of construction sites and construction projects (including those that support such projects to ensure the availability of needed facilities, transportation, energy and communications; and support to ensure the effective removal, storage, and disposal of solid waste and hazardous waste)
- Commercial Retail Stores, that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, and home appliance retailers
- Workers supporting the entertainment industries, studios, and other related establishments, provided they follow covid-19 public health guidance around social distancing.
- Workers critical to operating Rental Car companies that facilitate continuity of operations for essential workforces, and other essential travel
- Workers that provide or determine eligibility for food, shelter, in-home supportive services, child welfare, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
- Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities and critical sector services
- Faith based services that are provided through streaming or other technology
- Laundromats and laundry services
- [Workers at animal care facilities that provide food, shelter, veterinary and/or routine care and other necessities of life for animals.](#)

CRITICAL MANUFACTURING

Sector Profile

The Critical Manufacturing Sector identifies several industries to serve as the core of the sector: Primary Metals Manufacturing, Machinery Manufacturing, Electrical Equipment, Appliance, and Component Manufacturing, Transportation Equipment Manufacturing Products made by these manufacturing industries are essential to many other critical infrastructure sectors.

Essential Workforce

- Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

HAZARDOUS MATERIALS

Essential Workforce

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

FINANCIAL SERVICES

Sector Profile

The Financial Services Sector includes thousands of depository institutions, providers of investment products, insurance companies, other credit and financing organizations, and the providers of the critical financial utilities and services that support these functions. Financial institutions vary widely in size and presence, ranging from some of the world's largest global companies with thousands of employees and many billions of dollars in assets, to community banks and credit unions with a small number of employees serving individual communities. Whether an individual savings account, financial derivatives, credit extended to a large organization, or investments made to a foreign country, these products allow customers to: Deposit funds and make payments to other parties; Provide credit and liquidity to customers; Invest funds for both long and short periods; Transfer financial risks between customers.

Essential Workforce

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

CHEMICAL

Sector Profile

The Chemical Sector—composed of a complex, global supply chain—converts various raw materials into diverse products that are essential to modern life. Based on the end product produced, the sector can be divided into five main segments, each of which has distinct characteristics, growth dynamics, markets, new developments, and issues: Basic chemicals; Specialty chemicals; Agricultural chemicals; Pharmaceuticals; Consumer products

Essential Workforce

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/ or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

DEFENSE INDUSTRIAL BASE

Sector Profile

The Defense Industrial Base Sector is the worldwide industrial complex that enables research and development, as well as design, production, delivery, and maintenance of military weapons systems, subsystems, and components or parts, to meet U.S. military requirements. The Defense Industrial Base partnership consists of Department of Defense components, Defense Industrial Base companies and their subcontractors who perform under contract to the Department of Defense, companies providing

incidental materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities. Defense Industrial Base companies include domestic and foreign entities, with production assets located in many countries. The sector provides products and services that are essential to mobilize, deploy, and sustain military operations.

Essential Workforce

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	April 14, 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 four (4) 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 issued a shelter in place advisory where possible (not mandatory). Subsequently the State and Stanislaus Public Health Official have issued additional orders more clearly defining and restricting the stay at home order.

A number of important changes have been initiated in the past two weeks in response to the virus. Some of those changes include the following:

- Operational schedule adjustments have been put into place to create a bifurcated staffing model to reduce the chance of exposure and ensure that services remain intact and dependable for the community if an infection occurs. Human Resources has also worked to develop other phased staffing models should the crisis become worse or stay at home orders are changed.
- Additional remote work equipment (PC's and Laptops) have been purchased and assigned to staff for remote work possibilities. Additionally, staff have begun to hold meetings via online (zoom) or conference calls where possible.

- A “Senior Check In” program has been established (lead by the Recreation Department). The concept of the program is that staff will contact our senior population by phone to check in on their status and refer them to local and regional services should they need assistance.
- To ensure the spread within the Riverbank community is minimized the City Manager and Parks and Recreation Director have authorized the closure of a number of park amenities. Firstly, all playgrounds have been closed to public use. Second all facilities that could be communal (for example sports equipment, dog park, etc) have or will be closed until we are given direction from the public health community that it is safe to reopen them. Additionally, the Parks and Recreation Director is monitoring the activity within the park systems (especially Jacob Meyers Park) to potentially consider park closure in situations where too many individuals are using defined areas. Thus far that has not been necessary but could be depending on circumstances in the future.
- Administration, Code Enforcement and the Police Services departments have been working together to aggressively address any and all non-essential business complaints received from the community. The process for responding to these violations starts with a courtesy phone call from city staff, then a cease and desist order is posted at the business location, if compliance is still not achieved, RPS will respond and make contact directly with the business. In general compliance after the initial courtesy call has been excellent from the business community. Riverbank has had only a small handful of complaints and almost all have complied immediately once contacted. Staff receives a daily list of non-essential business complaints from the Emergency Operations Center and follows up on those complaints as soon as they are received.
- Despite the overwhelming challenges of the virus to organizational productivity, administration, finance, public works, parks, LRA, planning, building and development services continue to move forward with completion of key projects and providing services to the public.
- The Administration Department is fully engaged in supporting the local emergency response through collaboration with Stanislaus County and the other 8 cities in Stanislaus County.

At the time this staff report was written the Stanislaus Health Services Agency was reporting 81 positive cases within Stanislaus County 3 of those within the City of Riverbank. National and local media reports indicate that the next two weeks could see the State reach the peak of infections. At the previous Council meeting Council gave direction on a handful of key items that required follow up, in addition a couple of new issues related directly and indirectly to COVID have come up as well. Those are:

1. **Moratorium on Evictions:** The Council expressed an interest in considering an ordinance which would delay evictions during the period of the state of emergency. Fortunately, concurrently Stanislaus County has passed an ordinance creating a temporary moratorium on residential and commercial evictions, based on a legal review it is understood that this moratorium also applies to Cities within the County. Additionally, the Sheriff has advised that his Civil Division (responsible for processing evictions) will not be processing evictions at this time. The City Attorney's office has advised that a separate Council action is not overtly necessary at this time. Council should give additional direction here if necessary.
2. **Utility Billing Changes:** Pursuant to Council direction staff have notified the utility customers that Council has authorized that no penalties be applied for the current billing period and that no shutoffs will be performed in the months of April.
3. **Ordinance Allowing Administrative Enforcement of Non-Essential Businesses who refuse to comply with State and Local orders:** The City Attorney has created an urgency ordinance that would address this matter, it will be considered separately on this agenda.
4. **Medicare for All Resolution of Support:** The Council had previously been contacted by members of the Public to consider a resolution in support of "Medicare for All". Three members of the City Council expressed interest in discussing this item. It will be placed and considered separately on the agenda.
5. **Public Facilities:** As was previously mentioned in this staff report, most City facilities have been closed to minimize the spread of COVID 19. Council should discuss any other additional closures or measures related to these facilities. Specifically Jacob Meyer's is a Park that can see large volumes of citizens during good weather. Fortunately the rain recently has minimized this but staff remains concerned that when the weather improves the park may have days where it has large volumes of people. Staff will provide some recent data for Council to consider related to park activity at this location at the time of the meeting. The other park facilities within the City have been used by the Public but not to concentration levels that are concerning at this time.

FINANCIAL IMPACT

Unknown at this time.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6.1: NEW BUSINESS

Meeting Date:	April 14, 2020
Subject:	Regarding Medicare for All – A Resolution in Support of the Medicare for all Act of 2019
Submitted by:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council consider whether or not to adopt a resolution declaring support for the Medicare for All Act of 2019.

SUMMARY

Prior to the March 24th City Council meeting the Council discussed a variety of items directly and indirectly related to the COVID19 health crisis. One such item was discussion regarding a “Medicare for All” resolution. Prior to the Council meeting the City Clerk had received a number of public comments both for and against adoption of such a resolution. During the general COVID19 update the Council discussed whether or not it would be appropriate to consider this request at this time. Three of the five Council states a desire to discuss this matter on an upcoming agenda.

A draft resolution is included as attachment A. Although the discussion regarding universal health care has been taking place nationally for many years the recent requests for consideration of this topic seem to have been triggered by the current public health crisis. The attached resolution states a number of supportive reasons why the Medicare for All Act of 2019 is needed and potentially beneficial for the country. The resolution takes a similar form to many resolutions of support commonly considered by Council, usually those other resolutions of support are generally related to municipal or state/local issues.

It should be noted that because of the breadth and scope of this matter, staff is not able to undertake a comprehensive objective analysis of each of the statements contained within this resolution nor the specific detail of the Act it is supporting. To do so would require a significant amount of data and supporting information most of which has been widely discussed more efficiently at a national level. If Council is interested in approving the attached resolution, the resolution should be viewed broadly and for its intended purpose which is advocacy to the Federal Government. A number of communities within California have approved the resolution (Oakland, San Francisco, Watsonville, Goleta,

Carpinteria, etc). The resolution does not have any language that would commit Riverbank as an organization or a community to any specific course of action. Supporters submitting public comment on this issue have stated that the society wide benefits of Medicare for All would extend not only to individuals and families but also to businesses of all sizes. In addition, comments have indicated that the Medicare for All Act could make the community healthier, while decreasing the healthcare related financial drain.

Opponents of this resolution have stated that consideration of this resolution should not be a priority during this time. Additionally, statements have been made that indicate that other Countries that have universal care have struggled to provide care during the COVID19 virus. Alternatives to the resolution have been suggested, such as a push for Riverbank as a whole to become healthier.

Ultimately, Council may consider whether or not to approve the attached resolution which would indicate the City of Riverbank's support (or lack thereof) for the Medicare for All Act of 2019. The resolution is simply a statement of support and decisions regarding this proposal are a Federal matter and thus will ultimately be decided on at that level.

Alternatively, Council could choose to take no action (for or against) at this time and request additional research or table the item for the time being.

Details regarding these bills can be found on the library of Congress website congress.gov (HR 1384 and S. 1129).

FINANCIAL IMPACT

None directly related to support or opposition to this resolution. Any action on this matter is a Federal decision, if such a decision was made the specific details of the legislation would need to be analyzed by staff for an estimated financial impact.

ATTACHMENTS

Attachment A – Proposed Resolution

CITY OF RIVERBANK

RESOLUTION

RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, IN SUPPORT OF THE MEDICARE FOR ALL ACT OF 2019

WHEREAS, the number of Americans without health insurance is still nearly 30 million, while more than 40 million Americans remain underinsured, despite important gains made since the implementation of the Affordable Care Act; and

WHEREAS, every person in the City of Riverbank deserves high quality health care; and

WHEREAS, the never-ending rising costs of health care add challenges to our already strapped municipal budget and our small businesses, which keep our communities thriving; and

WHEREAS the Medicare for All Act of 2019 would provide national health insurance for every person in the United States for all necessary medical care including prescription drugs; hospital, surgical and outpatient services; primary and preventive care; emergency services; reproductive care; dental and vision care; and long-term care; and

WHEREAS the Medicare for All Act of 2019 would provide coverage without copays, deductibles or other out-of-pocket costs, and would slash bureaucracy, protect the doctor-patient relationship and assure patients a free choice of doctors; and

WHEREAS, recent polls show that a majority of Americans support Medicare-for-All; and

WHEREAS, the Medicare for All Act of 2019 will guarantee that all residents of the City of Riverbank will be fully covered for health care without copays, deductibles or other out-of-pocket costs, and would save millions in taxpayer dollars now spent on premiums that provide often inadequate health insurance coverage for government employees; and

WHEREAS, the quality of life for the residents of the City of Riverbank will vastly improve because they would be able to get the ongoing care they need, instead of waiting until they have a medical emergency that could upend their lives as well as further burden local resources.

NOW THEREFORE BE IT RESOLVED, that the City of Riverbank enthusiastically supports the Medicare for All Act of 2019 (H.R. 1384 and S. 1129) and calls on our federal

legislators to work toward its immediate enactment, assuring appropriate and efficient health care for all residents of the United States.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of April, 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