***NOTICE:* THIS MEETING WILL BE HELD 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.**

# THE CITY OF RIVERBANK REGULAR CITY COUNCIL AND LOCAL REDEVELOPMENT AUTHORITY BOARD MEETINGS

## TUESDAY, JULY 28, 2020 – 6:00 P.M.

**VIA TELECONFERENCE OR VIRTUAL PLATFORM ONLY – NO PUBLIC LOCATION OF THIS MEETING**

**(CITY HALL IS LOCATED AT 6707 THIRD STREET, RIVERBANK. CA 95367)**

# A G E N D A

**(THE AGENDA PACKET IS AT HTTP://WWW.RIVERBANK.ORG/AGENDACENTER)**

**CALL TO ORDER:** Mayor/Chair Richard D. O'Brien

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

**INVOCATION:** Riverbank Ministerial Association

**ROLL CALL:** Mayor/Chair Richard D. O'Brien
Vice Mayor/Chair Luis Uribe (CM-D1)
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member District 3 Cal Campbell
Council/Authority Member District 4 Darlene Barber-Martinez

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

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

## 1. PRESENTATIONS

**Item 1.1:** Proclamation – National Health Center Week

**Item 1.2:** Riverbank Representative Update by Stanislaus County Fire Protection District Board of Director Chad Homme.

**Item 1.3:** PROS Consulting Update on the Citywide Park Master Plan.

## 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 3 minutes or as stated by the presiding Officer.** Under State Law, matters presented during the public comment period cannot be discussed or acted upon.

**Refer to Page 6 for the Public Comment Procedures page.**

## 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:** A **Resolution** of the City Council of the City of Riverbank, California, Authorizing the Destruction of Certain City Records Retained by the Parks and Recreation Department.

**Item 3.C:** Acceptance of the Eight Street Overlay Project Completed by George Reed, Inc. and Authorization to File a Notice of Completion.

**Item 3.D:** Re-adoption of **Ordinance No. 2020-008** Approving a Development Agreement By And Between the City of Riverbank and Canna Mart, LLC, a California Limited Liability Corporation Doing Business as Canna Mart.

**Item 3.E:** A **Resolution** Approving **Final Map 01-2020** for McRoy Wilbur Communities, Inc. (APN: 062-022-003). The project consists of a Tentative Map to subdivide approximately 9.40 acres into forty-nine (49) single-family detached residential lots (overall density of 5.21 du/acre), an approximately one (1) acre park, associated street, sewer, water, and storm drainage improvements.

**Recommendation:** Approval of the Consent Calendar items by roll call vote.

## 4. UNFINISHED BUSINESS

**Item 4.1:** **A Second Reading by Title Only of Proposed Ordinance No. 2020-009 Amending Title XI: Business Regulations; Chapter 120: Cannabis Regulations; Section 120.61: Penalties, by Repealing Section 120.61 in its Entirety and Substituting it with a New Section120.61 Penalties, to the Riverbank Municipal Code of Ordinances** – It is recommended that the City Council consider adoption of proposed Ordinance No. 2020-009 by roll call vote.

## 5. PUBLIC HEARINGS

The public notices for all Public Hearing Item5.1was published in the Riverbank News on 7/15/2020.

**Item 5.1:** **A Resolution Granting an Easement Dedication to Pacific Gas and Electric on City Property (APN: 247-250-022, 247-250-004, & 247-260-002) as Described in the Easement Deed** – It is recommended that the City Council consider the proposed resolution granting an easement to PG&E for overhead power lines at City owned parcels (247-250-022, 247-250-004, & 247-260-002).

## 6. NEW BUSINESS

**Item 6.1:** **Utility Billing Discussion and Feedback** – It is recommended that the City Council provide feedback on the options presented regarding utility billing during the coronavirus ("COVID-19") pandemic.

**Item 6.2:** **CARES Coronavirus Relief Fund (CRF) Allocation Discussion** – It is recommended that the City Council provide feedback to staff regarding the use of the CARES Coronavirus Relief Fund (CRF) Allocation that has been allocated to the City of Riverbank by the County of Stanislaus.

**Item 6.3:** **Electronic Sign Update – Discussion Direction** – It is recommended that the City Council consider an update on the electronic sign update.

## 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 3 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 LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code section 54956.9(d)(1)
Name of Case: Elevations Plus, LLC v. City of Riverbank
Case No.: CV-20-002819

**Item 8.2:** **LIABILITY CLAIMS**
Pursuant to Government Code § 54956.95
Claimant: Lincoln Capitao
Agency claimed against: City of Riverbank

**Item 8.3:** **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Pursuant to Government Code Section 54956.8
Property: APN: 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

## ADJOURNMENT – THE PUBLIC PORTION OF THE MEETING

The meeting on August 11th is canceled. The next regular meeting is on August 25th @ 6:pm

## 9. REPORT FROM CLOSED SESSION

***The Mayor's report on the Closed Session Items will be made to the City Clerk, and the report will be reflected in the Minutes of this meeting. Anyone interested in obtaining the report from Closed Session may contact the City Clerk at cityclerk@riverbank.org or call (209) 863-7198.***

## ADJOURNMENT OF 07/28/2020 REGULAR MEETING

| AFFIDAVIT OF POSTING |
| --- |
| **I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on an accessible public location, and the City's website 72 hours prior to the meeting in accordance to the California Ralph M. Brown Act.**<br>**Posted this 23rd day of July, 2020**<br>*/s/Annabelle H. Aguilar, CMC, City of Riverbank* |

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.

# PUBLIC PARTICIPATION PROCEDURES FOR THE CITY COUNCIL/LRA MEETINGS HELD IN A TELECONFERENCE OR VIRUAL PLATFORM IN CONFORMANCE WITH THE GOVERNOR'S EXECUTIVE ORDER N-29-20

**CHANGES TO THIS NOTICE OF PROCEDURES**

In accordance with the Governor's Executive Order, should the meeting procedures change, 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.

## PUBLIC "LIVE" VIEWING

- Charter Government Channel – 2
- AT&T U-VERSE Government Channel – 99
- YouTube Live Stream https://www.youtube.com/watch?v=7UN98ekdzdk
- Via ZOOM Platform (See instructions below)

## SUBMITTING PUBLIC COMMENTS

- ***Via Mail Service:*** Mail comments to City of Riverbank, Attn. City Clerk, 6707 Third Street, Suite A, Riverbank, CA 95367. (Must be received **by 4:00 p.m.** on the day of the meeting.)

***Via Email to cityclerk@riverbank.org:***

- Written comments via Email *before* the meeting: (Will be distributed to the City Council)
  - **Submit No later than 4:00 p.m.** on the day of the meeting; and
  - Indicate Agenda Item # in the ***subject line***.
- Emails *during* the meeting:
  - Indicate Agenda Item # in the subject line.

***Join via ZOOM Platform:***

- Visit https://zoom.us/j/94943925973?status=success for a free account or to download the app.
- Join by this link: https://us02web.zoom.us/j/86325120231
- Join by accessing website: https://zoom.us/join
  - Webinar ID: 863 2512 0231
- Join by telephone: 1 669 900 9128 or 1 346 248 7799
- *HOW DO I COMMENT?* The Mayor will announce when public comment may be made for the agenda item, at which time you will:
  - Using a computer – click on the "raise hand" feature in the webinar controls. This will let us know you wish to speak.
    - Once acknowledged, you will have 3 minutes to comment.
  - Using a Phone – Dial *9, which will notify us that you have a "raised hand"
    - Once you are acknowledged, you will have 3 minutes to comment.
- *Learn about using ZOOM* - **Visit https://support.zoom.us/hc/en-us/categories/201146643**

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.1

## SECTION 1: PRESENTATIONS

| | |
|---|---|
| **Meeting Date:** | July 28,2020 |
| **Subject:** | Proclamation – National Health Center Week |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Gaby Hernandez, Confidential Assistant |

**RECOMMENDATION**

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

**SUMMARY**

Golden Valley Health Center is a community-based health care organization that is a federally qualified health center (FQHC) serving Merced, Stanislaus and San Joaquin Counties that was established in 1972. Their team of doctors, dentist, counselors and other medical professionals are committed to providing quality health care services regardless of language, financial or cultural barriers Golden Valley Health Centers has a total of 32 facilities throughout the valley providing physical and emotional wellness, dental services, and much more. Golden Valley Health Centers is asking the City of Riverbank City Council to recognize the week of August 9 – August 15, 2020 as National Health Center Week.

**FINANCIAL IMPACT**

There is no financial impact with the report.

**ATTACHMENT**

1. Proclamation_National Health Center Week

**CITY OF RIVERBANK**

**PROCLAMATION**

**NATIONAL HEALTH CENTER WEEK, 2020**

**Whereas:** For over 50 years, Community Health Centers continue to make a significant impact on America's health care system by providing high-quality, affordable, comprehensive primary and preventive health care in our nation's most underserved communities.

**Whereas:** As the country's largest primary care network, Community Health Centers are the health care home for 30 million Americans in over 14,000 communities across the nation. One in every twelve people in the United States gets their care in a Community Health Center.

**Whereas:** Community Health Centers are a critical element of the health system, serving both rural and urban communities, and often providing the only accessible and dependable source of primary care in their communities. Nationwide, Community Health Centers serve one in every five residents of rural areas.

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

**Whereas:** Community Health Centers are locally owned and operated small businesses that serve as critical economic engines, helping to power local economies by generating $54.6 billion in economic activity in some of the country's most economically deprived communities.

**Whereas:** Community Health Centers are on the front lines responding to emerging health care crises, providing access to care for our nation's veterans, addressing the opioid epidemic, and responding to public health threats in the wake of natural disasters, such as COVID19 in 2020.

**Whereas:** During National Health Center Week, we recognize the more than 236,000 people employed by Community Health Centers nationally, including physicians, nurse practitioners, physician assistants, nurses, and other clinical staff who work as part of multi-disciplinary and patient-centered clinical teams designed to treat the whole patient. We celebrate the legacy of America's Community Health Centers, and their vital role in shaping the past, present, and future of America's health care system.

**NOW, THEREFORE, LET IT BE RESOLVED** that the City Council of the City of Riverbank, does hereby proclaim August 9 -15,2020 as National Health Center Week. I encourage all Americans to take part in this week by visiting their local Health Center and celebrating the important partnership between America's Community Health Centers and the communities they serve.

**July 28, 2020**

______________________________

**Richard D. O'Brien**
**Mayor**

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.2

## SECTION 1: PRESENTATIONS

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | Riverbank Representative Update by Stanislaus County Fire Protection District Board of Director Chad Homme |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Annabelle Aguilar, CMC, City Clerk |

**RECOMMENDATION**

It is recommended that the City Council receive an update by Director Chad Homme the City's representative on the Stanislaus Consolidated Fire Protection District's Board of Directors.

**SUMMARY**

The Stanislaus Consolidated Fire Protection District's ("SCFPD") is a five-member Board of Directors charged with strategic leadership, policy and direction, and fiscal oversight. Established March 3, 1995, the "District" is the consolidation that includes unincorporated sections of East Modesto, the cities of Riverbank and Waterford and the communities of Empire, La Grange and Hickman.

On December 10, 2019, the City Council appointed Riverbank resident Chad Homme to represent the City of Riverbank and serve a four-year term on the SCFPD Board of Directors. Director Homme is scheduled to provide an update on the activities and Business of the Board.

**FINANCIAL IMPACT**

There is no financial impact.

**ATTACHMENT**

There are no attachments to this item.

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.3

## SECTION 1: PRESENTATIONS

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | PROS Consulting Update on the Citywide Park Master Plan |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Sue Fitzpatrick, Director of Parks and Recreation |

## RECOMMENDATION

It is recommended that the City Council review the Riverbank Parks and Recreation Citywide Park Master Plan update presented by PROS Consulting.

## SUMMARY

Michael Svetz, our consultant with PROS Consulting will present an update on the Citywide Park Master Plan.

## BACKGROUND

PROS Consulting, Inc. has been working on the Citywide Parks Master Plan since the organization was awarded the bid in April of 2019.

A community survey was mailed out, stakeholders and key groups that use our facilities and parks have met. The survey results were presented to the City Council in January, 2020. More recently, a park inventory was complete as well as a capital improvement plan along with funding and revenue strategies.

The plan is near completion. The final Master Plan will be presented to the City Council for adoption on August 25, 2020.

## STRATEGIC PLAN

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

## FINANCIAL IMPACT

There is no financial impact to this report.

## ATTACHMENT

There are no attachments to this report.

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

## SECTION 3: CONSENT CALENDAR

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | Waiver of Readings |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Annabelle Aguilar, CMC, City Clerk / LRA Recorder |

### RECOMMENDATION

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

### SUMMARY

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

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

### FINANCIAL IMPACT

There is no financial impact to this item.

### ATTACHMENTS

There are no attachments to this report.

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.B

## SECTION 3: CONSENT CALENDAR

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | A **Resolution** of the City Council of the City of Riverbank, California, Authorizing the Destruction of Certain City Records Retained by the Parks and Recreation Department |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Annabelle Aguilar, CMC, City Clerk |

**RECOMMENDATION**

It is recommended that the City Council authorize and order the destruction of Parks and Recreation Department records that have exceeded their retention period and that have been determined to hold no administrative, fiscal, historical, or legal value.

**SUMMARY**

To manage the City's Records, the City adopted Resolution No. 2001-18, which implements the *Local Government Records Retention Guidelines.* Pursuant to these guidelines records have been identified that have exceeded their retention period. The City Clerk who serves as the City's Custodian of Records, and the City Attorney have determined that the records have no administrative, fiscal, historical, or legal value and therefore recommend their destruction.

**FINANCIAL IMPACT**

There is no financial impact.

**ATTACHMENT**

1. Resolution with Exhibit A – Certificate of Records Destruction for Parks and Recreation Department

**CITY OF RIVERBANK**

**RESOLUTION**

# A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF CERTAIN CITY RECORDS RETAINED BY THE PARKS AND RECREATION DEPARTMENT

---

**WHEREAS**, effective records management guidelines provide a method in which a city can efficiently maintain, retain, preserve, and dispose of various types of records generated in the course of business; and,

**WHEREAS**, on February 26, 2001, the City Council adopted Resolution No. 2001-018 implementing the Local Government Records Retention Guidelines for the management and retention of citywide records; and,

**WHEREAS**, California Government Code Sections 34090, and 34090.5 set forth the policy and procedures for the destruction of certain city records; and,

**WHEREAS**, the City Clerk, who serves as the custodian of city records, administers the Records Management Program and final disposition of City records pursuant to the Records Retention Guidelines; and,

**WHEREAS**, records listed in Exhibit A are determined to have exceeded their retention period; and

**WHEREAS**, the City Clerk and the City Attorney have determined that there are no administrative, fiscal, historical, or legal value of said records and therefore have given written approval to the destruction of the records indicated in Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Riverbank does hereby authorize and order:

1. The destruction of the inventoried records as specified in **Exhibit A** attached hereto and incorporated herein.

2. The destruction of said records are determined to be public records and do not contain any privileged information and therefore may be placed in the City's recycling process for recycled paper products.

**PASSED AND ADOPTED** by the City Council of the City of Riverbank at a regular meeting held on the 28th day of July, 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**<br>**City Clerk** | **Richard D. O'Brien**<br>**Mayor** |

**Attachments: Exhibit A – Certificate of Records Destruction for the Parks and Recreation Dept.**

**EXHIBIT A**
**CERTIFICATE OF RECORDS DESTRUCTION**
**FOR THE PARKS AND RECREATION DEPT.**

| PROJECT NAME | FOR: | RECORD DATES | RETENTION | DESTRUCTION DATE |
|---|---|---|---|---|
| PS Box #239876 Playground Inspection Report | Playgrounds | 2000 | CL + 2 yrs. | After 2021 |
| PS Box # 239875 Daily Playground Safety Inspection Checklists (Whorton, Silva, Zerillo, Rotary, Sorensen, Safreno, Pioneer, Jacob Myers) | Parks | 2007-2008 | CL + 2 yrs. | After 2010 |
| PS Box #239876 Daily Playground Safety Inspection checklists (Skate Park, Community Center, Harless, Castleberg, All Parks Weekend Duties, All Parks Weekend Trash/Bathrooms, Area I, II, III, IV, and Community Pool | Parks & Facilities | 2007-2008 | CL + 2 yrs. | After 2010 |
| PS #239877 Daily Playground Inspection Checklists (Skate park, Sorenson, Silva, Harless, Zerillo, Pioneer, Jacob Myers, Community Center, Safreno, Rotary, Castleberg, Whorton) | Parks | 2009 | CL & 2 yrs. | After 2011 |
| PS Box #239878 Daily Playground Safety Inspection and Daily Activity Sheets (Community Pool) | Parks | 2009-2010 | CL & 2 yrs. | After 2012 |
| PS Box #239878 Daily Playground Safety Inspection and Daily Activity Sheets (Castleberg, Jacob Myers, Rotary, Skate, Sorensen, Zerillo, Community Center, Harless, Pioneer, Safreno, Silva, Whorton, Areas I, II, III, IV | Parks | 2010 | CL & 2 yrs. | After 2012 |

| | | | | |
|---|---|---|---|---|
| PS Box #239879<br>Daily Activity Sheets –<br>Area I, II, II, & IV | Parks and Building | 2011 | CL + 2 yrs. | After 2013 |
| PS Box #239879<br>Daily Playground Safety<br>Inspection Checklists –<br>Area I, II, II, & IV | Parks | 2011 | CL + 2 yrs. | After 2013 |
| PS Box #239880<br>Daily Activity Sheets –<br>Area I, II, II, & IV, Skate Park, &<br>Pool Chemical Maintenance | Parks & Facility | 2011 & 2012 | CL + 2yrs | After 2014 |
| PS Box #239880<br>Safety Inspection Checklists –<br>Area I, II, II, Skate Park, & Pool<br>Chemical Maintenance | Parks & Facility | 2011 & 2012 | CL + 2yrs | After 2014 |

*CL = CLOSED/COMPLETED PS = PACIFIC STORAGE COMPANY

## DESTRUCTION APPROVAL

*We, the following, certify that the records above have been retained for the scheduled retention period in accordance to the City's Retention Schedule of Resolution No. 2001-018, required audits have been completed, and no pending or ongoing litigation or investigation involving these records is known to exist.*

City's Records Custodian Approved for Destruction:

Signature:______________________________________ Date:_______________

Annabelle Aguilar, CMC, City Clerk

Approved for Destruction.

Signature:______________________________________ Date:_______________

Tom Hallinan, City Attorney

Authorized by Resolution No. 2020-xxx *Adopted on:* ___________

*I certify that personally disposed of the records approve for destruction in accordance with policy on (date destroyed): ________________________________.*

*Print Name & Title: __Juanita Argumedo, Administrative Clerk, Parks & Recreation Dept.*

*Signature:____________________________________________________________*

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

## SECTION 3: CONSENT CALENDAR

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | Acceptance of the Eight Street Overlay Project Completed by George Reed, Inc. and Authorization to File a Notice of Completion |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Kathleen Cleek, Development Services Administration Manager<br>Laura Graybill, Project Coordinator |

**RECOMMENDATION:**

It is recommended that the City Council accept the completion of the Eight Street Overlay Project and authorize staff to file a Notice of Completion.

**SUMMARY:**

George Reed, Inc. completed the construction of the Eight Street Overlay Project. William Kull, City Engineer and City staff have completed a final inspection and determined that construction has been completed per the plans and specifications. The project also included a flashing crosswalk beacon as this area is traveled by many pedestrian students and parents (see pictures attached).

The contract was awarded on March 10, 2020 to George Reed, Inc. in the amount of $409,449.00. Four contract change orders were issued for this project in the amount of $54,775.73.

**FISCAL IMPACT:**

Funding has been programmed for this project with Measure L Funds. The total cost of construction is $464,224.73.

| | |
|---|---|
| Surface Transportation Block Grant Program (STBGP) | $428,011 |
| Measure L (Matching Funds) | $50,000 |
| TOTAL | $478,011 |

**ATTACHMENTS**:

1. Notice of Completion
2. Site Map
3. Before and After Picture of the Project

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

NAME CITY OF RIVERBANK
ATTN: DEVELOPMENT SERVICES
STREET ADDRESS 6707 THIRD STREET
CITY & STATE RIVERBANK, CA 95367

SPACE ABOVE THIS LINE FOR RECORDER'S USE



# NOTICE OF COMPLETION

**NOTICE IS HEREBY GIVEN THAT:**

1. The undersigned is the owner of the interest or estate stated below in the property hereinafter described.
2. The full name of the undersigned is City of Riverbank
(Print Full Name)
3. The complete address of the undersigned is 6707 Third Street, Riverbank, CA 95367
(Address, City, State, Zip)
4. The nature of the title of the undersigned is:
   - [X] Owner in Fee, **or**
   - [ ] Vendee (Buyer) under Contract of Purchase, **or**
   - [ ] Lessee, **or**
   - [ ] Other

   If "Other," briefly list or describe appropriate designation or title ______
5. The full names and complete addresses of all persons, if any, who hold title with the undersigned as joint tenants or as tenants in common are:

   Co-owner's Name(s) Co-owner's Complete Address (Number and Street, City, State, Zip)

   N/A
6. The names of the predecessors in interest of the undersigned, if the property was transferred subsequent to the commencement of the work of improvement herein referred to, include, but are not limited to the following individual(s) (if no transfer was made, insert the word "none"):

   Co-owner's Name(s) Co-owner's Complete Address (Number and Street, City, State, Zip)

   N/A
7. A work of improvement on the property described below was completed on July 28, 2020.
(Date of Completion)

8. The name of the original contractor, if any, for the work of improvement was (if no contractor for the work of improvement as a whole, insert the word "none") George Reed, Inc.

**If notice covers completion of contract for only part of the work of improvement, check box and complete:**

☐ The kind of work done or finished was construct all curb, guttter, ADA ramps, sidewalk
(Give General Description of Work Completed, e.g., Furnishing of Concrete for Sidewalks, etc.)
grinding, aggregate base and asphalt concrete paving, striping, and adjust structures to grade.

9. The property on which the work of improvement was completed is in the City of Riverbank, County of Stanislaus, State of California, and is described as follows:
Eight Street Overlay Project
(Set Forth Description of Jobsite Sufficient for Identification, Using Legal Description if Possible)

10. The street address of the said property is 8th Street between Patterson Road and Kentucky Ave in Riverbank, CA 95367
(Address, City, State, Zip, or if No Official Street Address, Insert the Word "None")

Dated this 28th (Day) day of July (Month), 2020 (Year)

______________________ (Owner's Signature)

City of Riverbank
Laura Graybill, Project Coordinator
(Owner's Typed or Printed Name)

## VERIFICATION

**I the undersigned, say:**

I am the person who signed the foregoing notice. I have read and understand the above notice and know its contents, and the facts stated therein are true and correct to the best of my knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

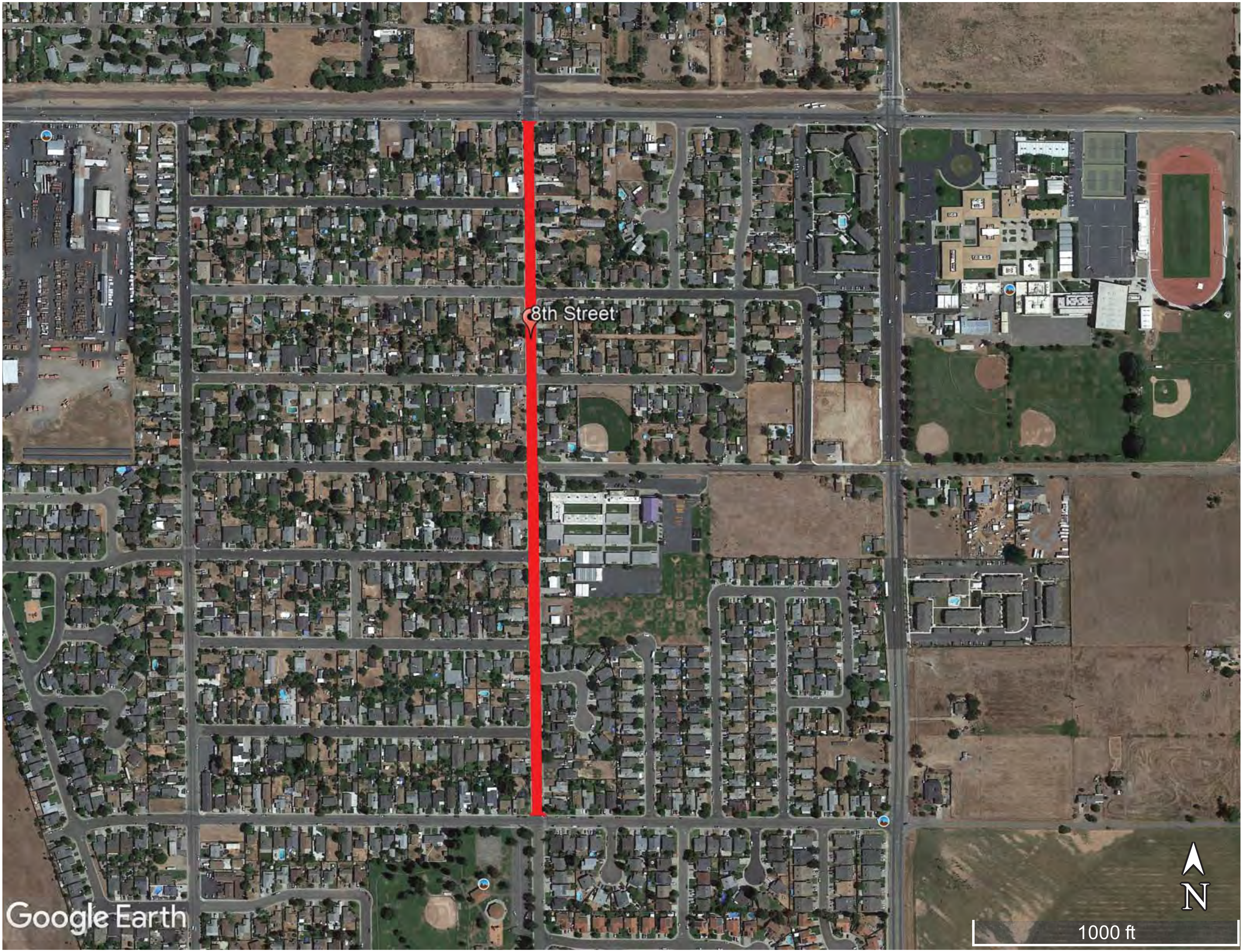
Executed in City of Riverbank, County of Stanislaus, State of California
on this 28th (Day) day of July (Month), 2020 (Year)

______________________
(Signature of Person Signing Notice of Completion)
City of Riverbank
Laura Graybill, Project Coordinator

This form is the notice of completion that a property owner may record to limit the time in which mechanics' liens may be recorded against a construction project (see CA Civil Code § 3093). For this purpose an "owner" is the person who causes a building, improvement, or structure to be constructed, altered, or repaired, whether the interest or estate is in fee, as a vendee (buyer) under contract or purchase, as lessee, or other interest or estate less that fee. If the interest is held by two or more persons as joint tenants or tenants in common, any one or more of the co-tenants may be deemed to be the owner. (CA Civil Code §§ 3092(g), 3093). **This form is for use with a private work of improvement only, and is not intended for public sector applications.**

If the owner records the notice within the applicable time period, the original contractor has sixty (60) days from the day the notice is recorded to record a claim of lien against the project (CA Civil Code § 3115); and all other persons who furnished labor, services, equipment, or materials must record their liens within thirty (30) days after the notice of completion is recorded (CA Civil Code § 3116). Otherwise, all persons who furnished labor, services, equipment, or materials have ninety (90) days after completion of the work of improvement in which to record their liens (CA Civil Code §§ 3115, 3116).

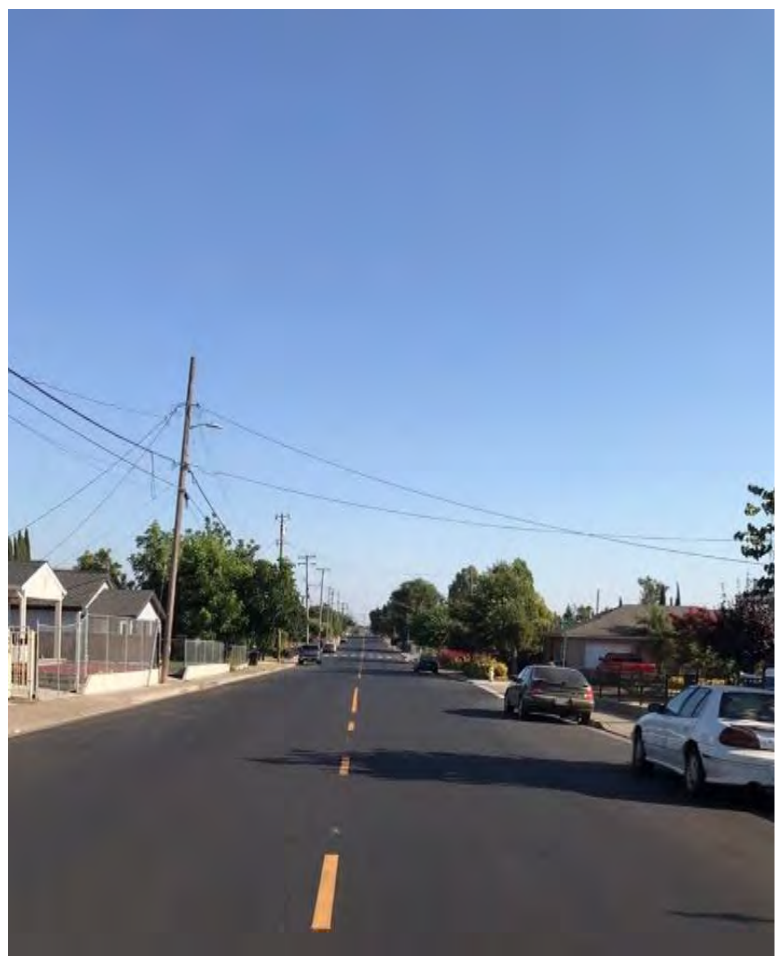
The owner must record the notice in the office of the county recorder of the county where the site is located within ten (10) days after the work of improvement is completed (CA Civil Code § 3093(e)). This applies equally to the project which is completed in phases. A notice of completion must be filed within ten (10) days after the completion of each phase of the project to shield owner properly (CA Civil Code § 3117).


8th Street
Google Earth
N
1000 ft

# 8th Street Overlay Project Photos

Before

After



# 8th Street Overlay Project Photos

Before

After

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.D

## SECTION 3: CONSENT CALENDAR

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | Re-adoption of **Ordinance No. 2020-008** Approving a Development Agreement By And Between the City of Riverbank and Canna Mart, LLC, a California Limited Liability Corporation Doing Business as Canna Mart |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Annabelle Aguilar, CMC, City Clerk |

### RECOMMENDATION

It is recommended that the City Council re-adopt Ordinance No. 2020-008 by roll call vote.

### SUMMARY

At the regular City Council meeting on June 23, 2020, Council conducted the second reading of Ordinance No. 2020-008, and after consideration, unanimously voted to adopt the Ordinance and related Development Agreement.

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, this step had inadvertently been missed.

To remedy this, City Council must re-adopt the Ordinance, and the City Clerk will then complete the required legal publication of its adoption. The Canna Mart parties have been informed of this matter.

### FINANCIAL IMPACT

There is no financial impact.

### ATTACHMENT

1. Ordinance 2020-008 and DA.

## CITY OF RIVERBANK

## ORDINANCE NO. 2020-008

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF RIVERBANK AND CANNA MART, LLC, A CALIFORNIA LIMITED LIABILITY CORPORATION DOING BUSINESS AS CANNA MART

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

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

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

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

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

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

**WHEREAS**, Canna Mart, LLC, a California limited liability company doing business as "Canna Mart" submitted an application to the City for consideration of a development agreement to operate a cannabis retail facility with retail delivery (the "Project"); and

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

**WHEREAS**, Canna Mart, LLC has agreed to purchase that certain real property located at 2667 Patterson Road in the City of Riverbank, Assessor's Parcel Number 075-009-053 on which Canna Mart, LLC intends to develop the Project; and

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

**WHEREAS**, environmental impacts for the Project have been reviewed and assessed by the City pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 *et seq.*; California Code of Regulations Title 14, section 15000 *et seq.*), and the City determined the Project site is categorically exempt from CEQA pursuant to Section 15332 (a-e) of Article 19 of the California Code of Regulations applicable to in-fill development projects; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on May 19, 2020, to consider the Development Agreement and make recommendations to the City Council; and

**WHEREAS,** on June 9, 2020, and June 23, 2020, the City Council held duly noticed public hearings to consider the Development Agreement; and

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

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

2. In accordance with Government Code section 65864 *et seq*, the City Council finds that the Development Agreement:

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

b. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole; and

c. Will not adversely affect the orderly development of property or the preservation of property values; and

d. Is consistent with the provisions of Government Code sections 65864 through 65869.5; and

e. Contains a legal description of the property.

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

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

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

**SECTION 3**. Notice of the public hearing on the proposed Development Agreement was published in the Riverbank News on May 27, 2020, a newspaper of general circulation; and notices of the public hearing on the proposed Development Agreement were mailed to all interested parties and property owners within 300 feet of the property on May 21, 2020, according to the most recent assessor's roll.

**SECTION 4**. Environmental impacts for the Project have been reviewed and assessed by the City pursuant to CEQA (Public Resources Code section 21000 *et seq.*; California Code of Regulations Title 14, section 15000 *et seq.*). The Project site is categorically exempt from CEQA pursuant to Section 15332 (a-e) of Title 14 of the California Code of Regulations applicable to in-fill development projects.

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

**SECTION 6:** This Ordinance shall become effective thirty (30) days from and after its final passage (08/28/2020), 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 06/09/2020. Said ordinance was given a second reading by title only and adopted on 06/23/2020, and re-adopted on 07/28/2020 to conduct the required Section 6 publication.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Riverbank at a regular meeting on the 28th day of July, 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**<br>**City Clerk** | **Richard D. O'Brien**<br>**Mayor** |

**APPROVED AS TO FORM:**

______________________
**Tom P. Hallinan, City Attorney**

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

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

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

# DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this 9th day of June 2020, by and between the **CITY OF RIVERBANK**, a California municipal corporation ("City"), and **CANNA MART, LLC,** a California limited liability company doing business as **CANNA MART** ("Developer"). City and Developer may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

# RECITALS

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

B. On November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act ("AUMA"), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use.

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

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

D. Developer proposes to improve, develop, and use real property to operate a Cannabis Dispensary, as defined in Section 2.3 of this Agreement, in strict accordance with California Cannabis Laws, as defined in Section 1.4(k) of this Agreement and the Municipal Code of the City of Riverbank, as each may be amended from time to time (the "Project").

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

F. Consistent with the requirements of the Development Agreement Statute, City has adopted Resolution No. 99-39 ("City Development Agreement Resolution") authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City.

G. The City Development Agreement Resolution requires a written application with specified data to be submitted to City for consideration of any development agreement.

H. Developer submitted an application to City for consideration of a development agreement for the Project.

I. Developer is in contract to purchase that certain real property located at 2667 Patterson Road, Riverbank, CA 95367 in the City of Riverbank, County of Stanislaus, State of California, Assessor's Parcel Number 075-009-053 of which Developer intends to develop approximately 5,100 square feet of structure (the "Site"), more particularly described in the legal description attached hereto as **Exhibit A** and the Site Map attached hereto as **Exhibit B**.

J. Government Code section 65865 requires that an applicant for a development agreement hold a legal or equitable interest in the real property that is the subject of the development agreement.

K. Developer has purchased the Site for the purpose of operating the Project. A copy of the purchase contract is attached hereto as **Exhibit C**, within satisfaction of the requirement of Riverbank Municipal Code Chapter 120. The legal owner of the Site is aware of, and agrees to, the operation of the Project upon the Site.

L. On August 22, 2017, the City Council adopted Ordinance No. 2017-007 to revise Riverbank Municipal Code 120 to establish a Cannabis Business Pilot Program to regulate all cannabis businesses within the City.

M. Government Code section 65867.5 and the City Development Agreement Resolution require the Planning Commission hold a public hearing to review an application for a development agreement.

N. On May 19, 2020, the Planning Commission, in a duly noticed and conducted public hearing, considered Developer's application for this Agreement.

O. On May 19, 2020, the Planning Commission recommended the City Council adopt Ordinance No. 2020-XXX, which would allow Developer to operate the Project at the Site.

P. On June 9, 2020, pursuant to Government Code section 65867.5 and the City Development Agreement Resolution, the City Council reviewed, considered, adopted, and entered into this Agreement pursuant to Ordinance No. 2020-XXX.

Q. This Agreement is entered into pursuant to the Development Agreement Statute and the City Development Agreement Resolution.

R. City and Developer desire to enter into this Agreement to (i) facilitate the orderly development of the Site; (ii) create a physical environment that is consistent with and complements City's goals and visions; (iii) protect natural resources from adverse impacts; (iv) improve, upgrade, and create additional community facilities and infrastructure, enhance services, and assist in implementing the goals of the General Plan; and (vi) reduce the economic risk of development of the Site to both City and Developer.

S. The Parties intend, through this Agreement, to allow Developer to develop and operate the Project in accordance with the terms of this Agreement.

T. The City Council has determined that this Agreement is consistent with City's General Plan and has conducted all necessary proceedings in accordance with Riverbank Municipal Code for the approval of this Agreement.

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

# AGREEMENT

## ARTICLE 1
## GENERAL PROVISIONS

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

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

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

| **Designation** | **Description** |
|---|---|
| Exhibit A | Legal Description |
| Exhibit B | Site Map |
| Exhibit C | Site Purchase Agreement |
| Exhibit D | Notice of Non-performance Penalty |
| Exhibit E | Indemnification Agreement |
| Exhibit F | Notice of Termination |
| Exhibit G | Assignment and Assumption Agreement |

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

**(a)** "Additional Insureds" has the meaning set forth in Section 6.1.

**(b)** "Additional Licenses" has the meaning set forth in Section 2.4.

**(c)** "Adult-use cannabis" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by adults 21 years of age or over in California pursuant to the California Cannabis Laws.

**(d)** "Agreement" means this Development Agreement, inclusive of all Exhibits attached hereto.

**(e)** "Application" means the cannabis business application for a development agreement required by Riverbank Municipal Code Chapter 120 and Section 4 of the City Development Agreement Resolution.

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

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

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

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

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

**(k)** "California Cannabis Laws" includes AUMA, MAUCRSA, CUA, the Medical Marijuana Program Act of 2004 codified as Health and Safety Code sections 11362.7 through 11.62.83, and any other applicable laws that may be enacted or approved.

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

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

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

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

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

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

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

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

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

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

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

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

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

**(y)** "Developer" means Canna Mart, LLC, a California limited liability company doing business as Canna Mart. Developer also has the meaning set forth in Section 6.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(mm)** “Notice of Termination” has the meaning set forth in Section 9.1.

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

**(oo)** “Processing Costs” has the meaning set forth in Section 1.11.

**(pp)** “Project” has the meaning set forth in Recital D.

**(qq)** “Project Litigation” has the meaning set forth in Section 10.7.

**(rr)** “Public Benefit” has the meaning set forth in Section 4.2.

**(ss)** “Public Benefit Amount” has the meaning set forth in Section 4.2.

**(tt)** “Site” has the meaning set forth in Recital G.

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

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

**(ww)** “State Taxing Authority” has the meaning set forth in Section 4.2.

**(xx)** “Subsequent City Approvals” has the meaning set forth in Section 3.1.

**(yy)** “Term” has the meaning set forth in Section 1.7.

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

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

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

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

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

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

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

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

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

**Section 1.11. Funding Agreement for Processing Costs.** Developer has deposited Twenty Thousand Dollars ($20,000) with City to pay for the Application, all actual fees and expenses incurred by City that are related to the preparation and processing of this Agreement, including recording fees, publishing fees, staff time, consultant and attorney fees and costs (collectively, "Processing Costs"), and the first installment of the Public Benefit. The Processing Costs are refundable solely to the extent of non-expended Processing Costs. Developer shall be entitled to a refund of available Processing Costs only after City determines all financial obligations associated with the Project have been received and paid by City.

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

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

## ARTICLE 2
## DEVELOPMENT OF PROPERTY

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

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

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

| | |
|---|---|
| Type 10 | Retailer |
| Type 11 | Distribution |

Developer shall be permitted to use the Site consistent with the Authorized License for the Term of this Agreement, during the time Developer is applying for the Authorized License with the applicable State Licensing Authority and extending indefinitely thereafter until such time as Developer, and/or its successor in interest, determines to wind up the business of Developer. Notwithstanding the foregoing, Developer is required to apply for and obtain the Authorized License from the State of California. If the State Licensing Authority does not grant the Authorized License to Developer, Developer shall immediately cease Commercial Cannabis Activity on the Site. Developer shall also, within thirty (30) calendar days of receiving notice from the State Licensing Authority, notify City of the State Licensing Authority's denial or rejection of any license. If the Authorized

License is not granted by the State of California, Developer shall immediately cease operations. In this situation, this Agreement shall terminate immediately. The Parties intend for this Agreement and the Conditional Use Permit to serve as the definitive and controlling documents for all subsequent actions, discretionary or ministerial, relating to development of the Site and Project.

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

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

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

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

**Section 2.7. Initiatives and Referenda.** If any City ordinance, rule or regulation, or addition to the Riverbank Municipal Code is enacted or imposed by a citizen-sponsored initiative or referendum after the Effective Date that would conflict with this Agreement, an associated Conditional Use Permit, Subsequent City Approvals, or reduce the development rights or assurances provided to Developer in this Agreement, such Riverbank Municipal Code changes shall not be applied to the Site or Project; provided, however, the Parties acknowledge that City's approval of this Agreement is a legislative action subject to referendum. City shall cooperate with Developer and shall undertake such reasonable actions as may be appropriate to ensure this Agreement remains in full force and effect and is implemented in accordance with its terms to the fullest extent permitted by state or federal law.

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

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

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

**Section 2.11. Changes Mandated by Federal or State Law.** The Site and Project shall be subject to subsequently enacted state or federal laws or regulations that may preempt the Riverbank Municipal Code, or mandate the adoption or amendment of local regulations, or are in conflict with this Agreement or local rules or guidelines associated with the Cannabis Business Pilot Program. As provided in Section 65869.5 of the Development Agreement Statute, in the event state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Upon discovery of a subsequently enacted federal or state law meeting the requirements of this Section, City or Developer shall provide the other Party with written notice of the state or federal law or regulation, and a written statement of the conflicts thereby raised with the provisions of the Riverbank Municipal Code or this Agreement. Promptly thereafter, City and Developer shall meet and confer in good faith in a reasonable attempt to modify this Agreement, as necessary, to comply with such federal or state law or regulation provided City shall not be obligated to agree to any modification materially increasing its obligations or materially adversely affecting its rights and benefits hereunder. In such discussions, City and Developer will attempt to preserve the terms of this Agreement and the rights of Developer derived from this Agreement to the maximum feasible extent while resolving the conflict. If City, in its judgment, determines it necessary to modify this Agreement to address such conflict, City shall have the right and responsibility to do so, and shall not have any liability to Developer for doing so or be considered in breach or default of this Agreement. City also agrees to process, in accordance with the provisions of this Agreement, Developer's proposed changes to the Project that are necessary to comply with such federal or state law and that such proposed changes shall be conclusively deemed to be consistent with this Agreement without further need for any amendment to this Agreement.

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

## ARTICLE 3
## ENTITLEMENT AND PERMIT PROCESSING, INSPECTIONS

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

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

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

**Section 3.4. Further Consistent Discretionary Actions.** The exercise of City's authority and independent judgment is recognized under this Agreement, and nothing in this Agreement shall be interpreted as limiting City's discretion or obligation to hold legally required public hearings. Except as otherwise set forth herein, such discretion and action taken by City shall, however, be consistent with the terms of this Agreement and not prevent, hinder or compromise development or use of the Site as contemplated by the Parties in this Agreement.

## ARTICLE 4
## PUBLIC BENEFIT, PROCESSING, AND OVERSIGHT

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

**Section 4.2. Public Benefit.**

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

| | |
|---|---|
| Effective Date | No Public Benefit Due. |
| First (1st) Business Day, of the 1st Month Following Occupancy of the new building and Commencement of the Conditional Use Permit. | $10,000 or 5% of Gross Receipts from Operations each month, whichever is greater ("Tier 1 Amount"). |
| 1st Business Day, of the Seventh (7th) Month Following Occupancy of the new building and Commencement of the Conditional Use Permit. | $15,000 or 5% of Gross Receipts from Operations each month, whichever is greater ("Tier 2 Amount"). |
| 1st Business Day, of the Thirteenth (13th) Month Following Commencement of the Conditional Use Permit Through the End of the Term. | $20,000 or 5% of Gross Receipts from Operations each month, whichever is greater ("Tier 3 Amount"). |

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

**(c)** Developer shall file an applicable statement that complies with the California State Board of Equalization, California Department of Tax and Fee Administration, or either's successor agency (the "State Taxing Authority") for sales tax purposes showing the true and correct amount of Gross Receipts from Operations of the Project during the applicable time period. Developer shall provide a copy of such statement to City upon request by City.

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

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

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

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

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

**Section 4.7. Protections from City Tax.** Notwithstanding Section 4.2, for the Term of this Agreement, Developer shall be exempt from any City tax, including a business license tax, on commercial cannabis businesses. Notwithstanding the foregoing, Developer and the Project shall be subject to any and all taxes, assessments, or similar charges or fees of general applicability enacted by the federal government, state government, or County of Stanislaus, including any tax applicable to an area greater than the City limits to which City may be a party (i.e., county tax sharing agreement). In the event the Public Benefit Amount is invalidated for any reason, Developer shall be subject to any applicable tax on commercial cannabis businesses from the start date of such invalidation through the remaining Term of this Agreement.

## ARTICLE 5
## PUBLIC FACILITIES, SERVICES, AND UTILITIES

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

## ARTICLE 6
## INSURANCE AND INDEMNITY

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

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

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

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

**(iii)** Contain standard separation of insured provisions.

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

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

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

**(iii)** Contain standard separation of insured provisions.

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

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

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

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

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

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

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

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

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

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

## ARTICLE 7
## MORTGAGEE PROTECTION

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

## ARTICLE 8
## DEFAULT

### Section 8.1. General Provisions.

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

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

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

**(d)** Following consideration of the evidence presented and said review before City, and after providing the Charged Party an additional five (5) calendar day period to cure, the Charging Party may institute legal proceedings against the Charged Party or may give written notice of termination of this Agreement to the Charged Party.

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

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

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

**Section 8.3. Estoppel Certificates.**

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

**(b)** At Developer's option, City's failure to deliver such Estoppel Certificate within the stated time period shall be conclusive evidence that the Agreement is in full force and effect, that there are no uncured breaches or defaults in Developer's performance of the Agreement or violation of any City ordinances, regulations, and policies regulating the use and development of the Site or the Project subject to this Agreement.

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

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

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

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

## ARTICLE 9
## TERMINATION

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

**Section 9.2. Effect of Termination on Developer's Obligations.** Termination of this Agreement shall eliminate any further obligation of Developer to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement, in whole or in part, shall not, however, eliminate the rights of Developer to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

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

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

## ARTICLE 10
## OTHER GENERAL PROVISIONS

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

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

**Section 10.3. Notices.** Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

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|---|---|
| If to City: | City of Riverbank<br>6707 3rd Street<br>Riverbank, California 95367<br>Attention: City Manager |
| and | Churchwell White LLP<br>1414 K Street, 3rd Floor<br>Sacramento, California 95814<br>Attention: Douglas L. White, Esq. |
| If to Developer: | Canna Mart LLC<br>Bobby & Rajwinder Bal<br>2039 Yosemite Blvd<br>Modesto, CA, 95354 |

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

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

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

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

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

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

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

**Section 10.11. Standard Terms and Conditions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**[SIGNATURES ON FOLLOWING PAGE]**

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

**"CITY"**

Date: _________________, 2020

CITY OF RIVERBANK, CA
a California Municipal Corporation

By: ___________________________
Sean Scully
City Manager

Attest:

By: ___________________________
Annabelle Aguilar
City Clerk

(Ordinance No. 2020-xxx)

Approved to as Form

By: ___________________________
Tom Hallinan
City Attorney

**"DEVELOPER"**

Date: ____________________, 2020

Canna Mart, LLC
a California Limited liability company

By: ______________________________
Bhupinder Bal
Managing Partner

## **California All-Purpose Acknowledgment**

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

State of California )
)
County of___________________)

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

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

Witness my hand and official seal.

_______________________________
(Signature)

(Seal)

## California All-Purpose Acknowledgment

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

State of California )
)
County of____________________)

On____________________, before me ______________________________, a Notary Public, personally appeared 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

## Legal Description

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

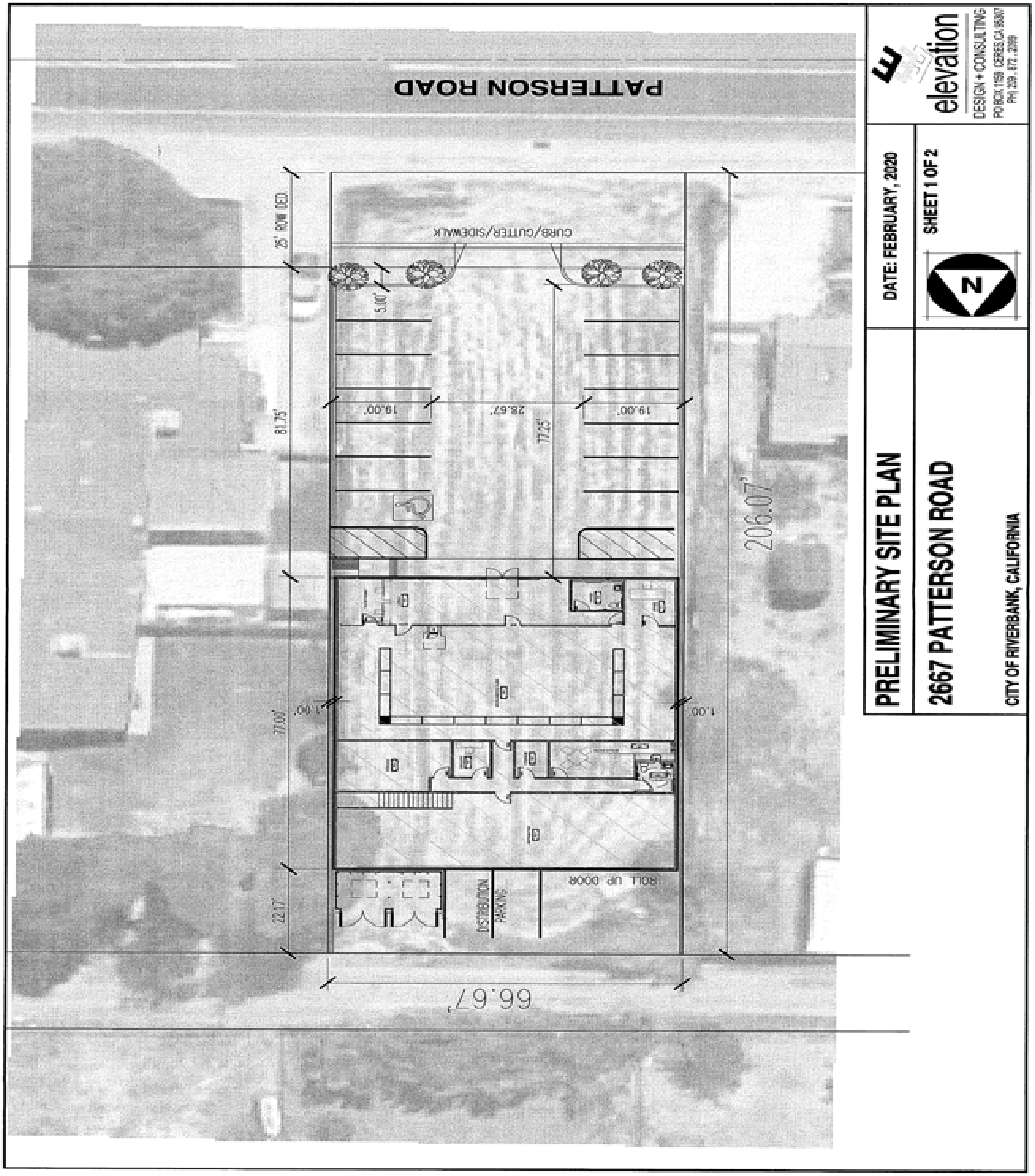
ALL THAT PORTION OF LOT 87 OF RIVERBANK ACREAGE TRACT, AS PER MAP THEREOF, FILED MARCH 23, 1912 IN VOLUME 6 OF MAPS, AT PAGE 33, STANISLAUS COUNTY RECORDS, DESCRIBED AS
FOLLOWS:

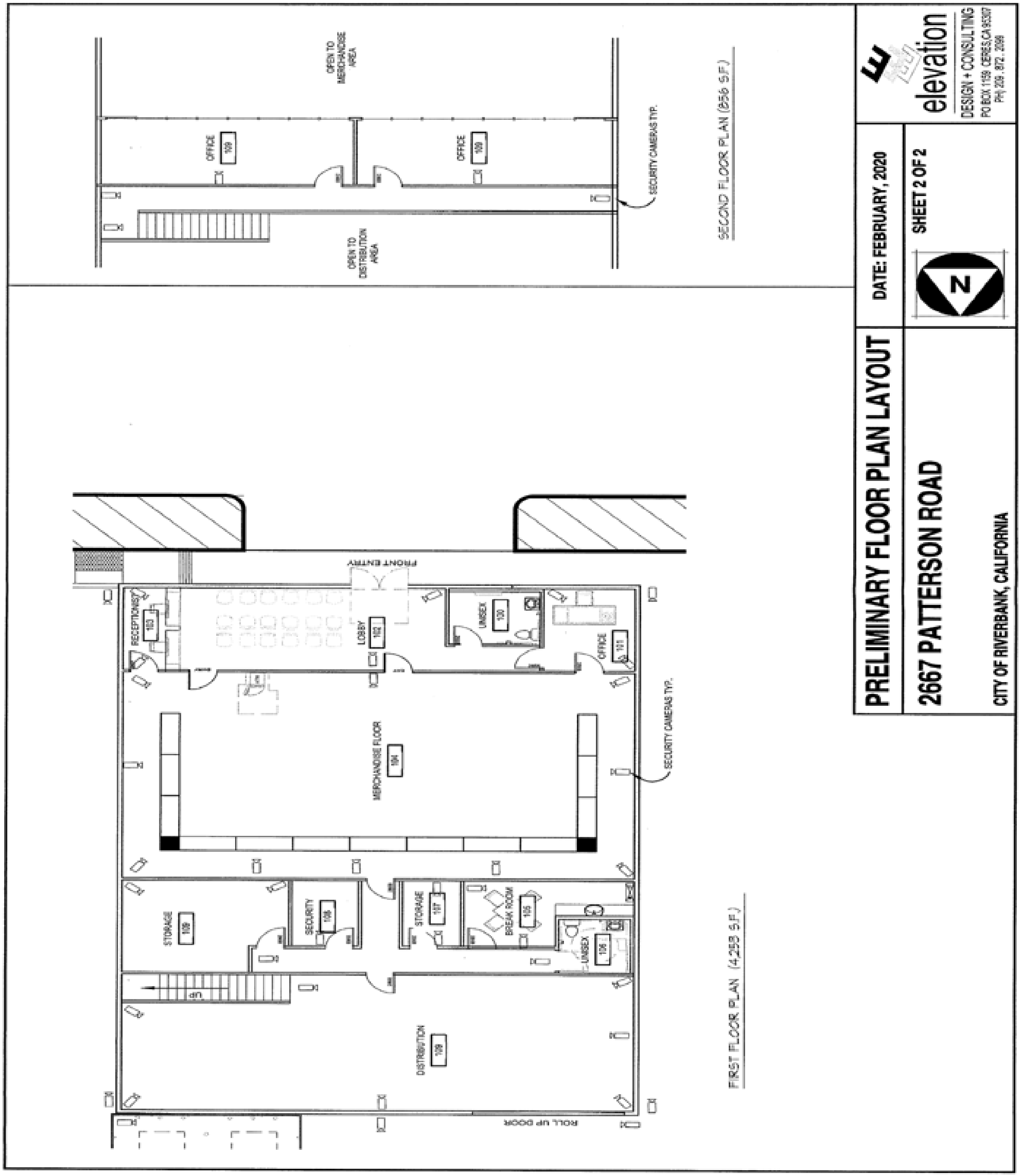
COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 87 AND RUNNING THENCE NORTH 89 DEGREES 03' WEST ALONG THE SOUTH LINE OF SAID LOT 87 OF RIVERBANK ACREAGE TRACT, A DISTANCE OF 66.67 FEET TO THE POINT OF COMMENCEMENT OF THIS DESCRIPTION; SAID POINT BEING THE SOUTHWEST CORNER OF TRACT CONVEYED TO SHIRLEY A. PARSONS AND IVA M. PARSONS, HUSBAND AND WIFE, AS JOINT TENANTS, BY DEED RECORDED SEPTEMBER 6, 1940, AS INSTRUMENT NO. 10574; THENCE CONTINUING NORTH 89 DEGREES 03' WEST ALONG THE SOUTH LINE OF SAID LOT 87, A DISTANCE OF 66.67 FEET TO A POINT; THENCE NORTH 1 DEGREE 05' EAST AND PARALLEL TO THE WEST LINE OF SAID LAND OF PARSONS, A DISTANCE OF 206.7 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 87; THENCE SOUTH 88 DEGREES 55' EAST ALONG THE NORTH LINE OF SAID LOT 87, A DISTANCE OF 66.67 FEET TO THE NORTHWEST CORNER OF LAND SO CONVEYED TO PARSONS; THENCE SOUTH 1 DEGREE 05' WEST ALONG THE WEST LINE OF SAID LAND OF PARSONS, A DISTANCE OF 205.91 FEET TO THE POINT OF COMMENCEMENT.

APN: 075-009-053-000

# Exhibit B

## Site and Floor Plan


PATTERSON ROAD
CURB/GUTTER/SIDEWALK
25' ROW DED.
5.00'
19.00'
28.67'
19.00'
81.75'
77.25'
206.07'
77.00'
1.00'
1.00'
22.17'
ROLL UP DOOR
DISTRIBUTION PARKING
66.67'
DATE: FEBRUARY, 2020
SHEET 1 OF 2
N
PRELIMINARY SITE PLAN
2667 PATTERSON ROAD
CITY OF RIVERBANK, CALIFORNIA
elevation
DESIGN + CONSULTING


PRELIMINARY FLOOR PLAN LAYOUT
2667 PATTERSON ROAD
CITY OF RIVERBANK, CALIFORNIA
DATE: FEBRUARY, 2020
SHEET 2 OF 2
elevation
DESIGN + CONSULTING
SECOND FLOOR PLAN (856 S.F.)
FIRST FLOOR PLAN (4,258 S.F.)
FRONT ENTRY
ROLL UP DOOR
SECURITY CAMERAS TYP.
MERCHANDISE FLOOR
DISTRIBUTION
STORAGE
SECURITY
BREAK ROOM
LOBBY
RECEPTIONIST
OFFICE
UNISEX

## Exhibit C

## Purchase Agreement

CALIFORNIA ASSOCIATION OF REALTORS®

# SELLER COUNTER OFFER No. 1

**May not be used as a multiple counter offer.**
**(C.A.R. Form SCO, Revised 11/14)**

Date [illegible]

This is a counter offer to the: ☒ Purchase Agreement, ☐ Buyer Counter Offer No. ___, or ☐ Other ___________ ("Offer"), dated November 23, 2018, on property known as [illegible] ("Property"), between Bhupinder Bal ("Buyer") and [illegible] ("Seller").

1. **TERMS:** The terms and conditions of the above referenced document are accepted subject to the following:
   A. **Paragraphs in the Offer that require initials by all parties, but are not initialed by all parties, are excluded from the final agreement unless specifically referenced for inclusion in paragraph 1C of this or another Counter Offer or an addendum.**
   B. **Unless otherwise agreed in writing, down payment and loan amount(s) will be adjusted in the same proportion as in the original Offer, but deposit amount(s) shall remain unchanged from the original Offer.**
   C. **OTHER TERMS:** 1. Escrow period to be 120 days.
   2. All other terms & conditions to remain the same.
   D. **The following attached addenda are incorporated into this Seller Counter offer:** ☐ Addendum No. ______
   ☐ ______ ☐ ______

2. **EXPIRATION:** This Seller Counter Offer shall be deemed revoked and the deposits, if any, shall be returned:
   A. Unless by 5:00pm on the third Day After the date it is signed in paragraph 4 (if more than one signature then, the last signature date)(or by ______ ☐ AM ☐ PM on ______ (date)) (i) it is signed in paragraph 5 by Buyer and (ii) a copy of the signed Seller Counter Offer is personally received by Seller or ______________________, who is authorized to receive it.
   B. OR If Seller withdraws it anytime prior to Acceptance (CAR Form WOO may be used).
   C. OR If Seller accepts another offer prior to Buyer's Acceptance of this counter offer.

3. **MARKETING TO OTHER BUYERS:** Seller has the right to continue to offer the Property for sale. Seller has the right to accept any other offer received, prior to Acceptance of this Counter Offer by Buyer as specified in 2A and 5. In such event, Seller is advised to withdraw this Seller Counter Offer before accepting another offer.

4. **OFFER: SELLER MAKES THIS COUNTER OFFER ON THE TERMS ABOVE AND ACKNOWLEDGES RECEIPT OF A COPY.**
   Seller [signature] [illegible] Date [illegible]
   Seller Jae M Shin [signature] [illegible] Date [illegible]

5. **ACCEPTANCE:** I/WE accept the above Seller Counter Offer (If checked ☐ **SUBJECT TO THE ATTACHED COUNTER OFFER**) and acknowledge receipt of a Copy.
   Buyer [signature] Bhupinder Bal Date 12-3-19 Time ______ ☐ AM/ ☐ PM
   Buyer ______________________ Date ______ Time ______ ☐ AM/ ☐ PM

**CONFIRMATION OF ACCEPTANCE:**

(_____ / _____) (Initials) **Confirmation of Acceptance:** A Copy of Signed Acceptance was personally received by Seller, or Seller's authorized agent as specified in paragraph 2A on (date) ______________ at ______ ☐ AM/ ☐ PM. **A binding Agreement is created when a Copy of Signed Acceptance is personally received by Seller or Seller's authorized agent whether or not confirmed in this document.**



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CALIFORNIA ASSOCIATION OF REALTORS®

# VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(C.A.R. Form VLPA, Revised 12/18)

**Date Prepared:** November 25, 2019

1. OFFER:
   A. **THIS IS AN OFFER FROM** Bhupinder Bal ("Buyer").
   B. **THE REAL PROPERTY** to be acquired is 2567 Patterson Rd, situated in Riverbank (City), Stanislaus (County), California, 95367 (Zip Code), Assessor's Parcel No. 075-008-053-000 ("Property").
   **Further Described As** ______.
   C. **THE PURCHASE PRICE** offered is One Hundred Sixty Thousand Dollars $ 160,000.00.
   D. **CLOSE OF ESCROW** shall occur on ☐ ______ (date) (or ☒ 180 Days After Acceptance).
   E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.
2. AGENCY:
   A. **DISCLOSURE: The Parties each acknowledge receipt of a ☒ "Disclosure Regarding Real Estate Agency Relationships"** (C.A.R. Form AD).
   B. **CONFIRMATION:** The following agency relationships are confirmed for this transaction:
   **Seller's Brokerage Firm** Century 21 MM License Number 01183865
   Is the broker of (check one): ☐ the seller; or ☐ both the buyer and seller. (dual agent)
   Seller's Agent Lori Roudebush License Number 01884257
   Is (check one): ☐ the Seller's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)
   **Buyer's Brokerage Firm** Coldwell Banker Castle Real Estate License Number ______
   Is the broker of (check one): ☒ the buyer; or ☐ both the buyer and seller. (dual agent)
   Buyer's Agent Christopher B. Williams License Number 01671671
   Is (check one): ☒ the Buyer's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)
   C. **POTENTIALLY COMPETING BUYERS AND SELLERS:** The Parties each acknowledge receipt of a ☒ "Possible Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).
3. **FINANCE TERMS:** Buyer represents that funds will be good when deposited with Escrow Holder.
   A. **INITIAL DEPOSIT:** Deposit shall be in the amount of . . . . . . . . $ 1,000.00
   (1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, ☐ cashier's check, ☐ personal check, ☐ other ______ within 3 business days after Acceptance (or ______);
   OR (2) ☐ Buyer Deposit with Agent: Buyer has given the deposit by personal check (or ______) to the agent submitting the offer (or to ______), made payable to ______. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within 3 business days after Acceptance (or ______).
   Deposit checks given to agent shall be an original signed check and not a copy.
   (Note: Initial and increased deposits checks received by agent shall be recorded in Broker's trust fund log.)
   B. **INCREASED DEPOSIT:** Buyer shall deposit with Escrow Holder an increased deposit in the amount of . . . $ ______
   within ____ **Days** After Acceptance (or ______).
   If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.
   C. ☒ **ALL CASH OFFER:** No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or ☐ Buyer shall, within 3 (or ____) Days After Acceptance, Deliver to Seller such verification.
   D. **LOAN(S):**
   (1) **FIRST LOAN:** in the amount of . . . . . . . . $ ______
   This loan will be conventional financing **OR** ☐ FHA, ☐ VA, ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ Other ______. This loan shall be at a fixed rate not to exceed ______ % or, ☐ an adjustable rate loan with initial rate not to exceed ______ %. Regardless of the type of loan, Buyer shall pay points not to exceed ______ % of the loan amount.
   (2) ☐ **SECOND LOAN** in the amount of . . . . . . . . $ ______
   This loan will be conventional financing **OR** ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing ☐ Other ______. This loan shall be at a fixed rate not to exceed _____ % or, ☐ an adjustable rate loan with initial rate not to exceed _____ %. Regardless of the type of loan, Buyer shall pay points not to exceed _____ % of the loan amount.
   (3) **FHA/VA:** For any FHA or VA loan specified in 3D(1), Buyer has **17 (or ___) Days** After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless agreed in writing. A FHA/VA amendatory clause (C.A.R. Form FVAC) shall be a part of this transaction.

Buyer's Initials (______) (______) Seller's Initials ( [illegible] ) ( JMS )

E. **ADDITIONAL FINANCING TERMS:** ______

F. **BALANCE OF DOWN PAYMENT OR PURCHASE PRICE** in the amount of . . . . . . . . . . . . . . . . . . . . . . . $ 159,000.00
to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

G. **PURCHASE PRICE (TOTAL):** . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $ 150,000.00

H. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within 3 (or ___) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (☐ Verification attached.)

I. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (or ☒ is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 19B(3), in writing, remove the appraisal contingency or cancel this Agreement within 17 (or ___) Days After Acceptance.

J. **LOAN TERMS:**

**(1) LOAN APPLICATIONS:** Within 3 (or ___) **Days** After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (☐ Letter attached.)

**(2) LOAN CONTINGENCY:** Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above is **a contingency** of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are **not contingencies** of this Agreement.

**(3) LOAN CONTINGENCY REMOVAL:**
Within 21 (or ___) **Days** After Acceptance, Buyer shall, as specified in paragraph 19, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

(4) ☐ **NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

**(5) LENDER LIMITS ON BUYER CREDITS:** Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

K. **BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

L. **SELLER FINANCING:** The following terms (or ☐ the terms specified in the attached Seller Financing Addendum) (C.A.R. Form SFA) apply ONLY to financing extended by Seller under this Agreement.

**(1) BUYER'S CREDIT-WORTHINESS:** Buyer authorizes Seller and/or Brokers to obtain, at Buyer's expense, a copy of Buyer's credit report. Within 7 (or ______) **Days** After Acceptance, Buyer shall provide any supporting documentation reasonably requested by Seller.

**(2) TERMS:** Buyer's promissory note, deed of trust and other documents as appropriate shall incorporate and implement the following additional terms: **(i)** the maximum interest rate specified in paragraph 3D shall be the actual fixed interest rate for Seller financing; **(ii)** deed of trust shall contain a REQUEST FOR NOTICE OF DEFAULT on senior loans; **(iii)** Buyer shall sign and pay for a REQUEST FOR NOTICE OF DELINQUENCY prior to Close Of Escrow and at any future time if requested by Seller; **(iv)** note and deed of trust shall contain an acceleration clause making the loan due, when permitted by law and at Seller's option, upon the sale or transfer of the Property or any interest in it; **(v)** note shall contain a late charge of 6% of the installment due (or ______) if the installment is not received within 10 days of the date due; **(vi)** title insurance coverage in the form of a joint protection policy shall be provided insuring Seller's deed of trust interest in the Property (any increased cost over owner's policy shall be paid by Buyer); and **(vii)** tax service shall be obtained and paid for by Buyer to notify Seller if property taxes have not been paid.

**(3) ADDED, DELETED OR SUBSTITUTED BUYERS:** The addition, deletion or substitution of any person or entity under this Agreement or to title prior to Close Of Escrow shall require Seller's written consent. Seller may grant or withhold consent in Seller's sole discretion. Any additional or substituted person or entity shall, if requested by Seller, submit to Seller the same documentation as required for the original named Buyer. Seller and/or Brokers may obtain a credit report, at Buyer's expense, on any such person or entity.

M. **ASSUMED OR "SUBJECT TO" FINANCING:** Seller represents that Seller is not delinquent on any payments due on any loans. Seller shall, within the time specified in paragraph 19, provide Copies of all applicable notes and deeds of trust, loan balances and current interest rates to Buyer. Buyer shall then, as specified in paragraph 19B(3), remove this contingency or

Property Address: *2807 Patterson Rd, Riverbank, CA 95367* Date: *November 28, 2019*

E. **ADDITIONAL FINANCING TERMS:** ______________________________

F. **BALANCE OF DOWN PAYMENT OR PURCHASE PRICE** in the amount of ........................ $ *169,000.00* to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

G. **PURCHASE PRICE (TOTAL):** ........................ $ *180,000.00*

H. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within **3 (or ___) Days** After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. ( ☐ Verification attached.)

I. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (or ☒ is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 19B(3), in writing, remove the appraisal contingency or cancel this Agreement within **17 (or ____) Days** After Acceptance.

J. **LOAN TERMS:**

**(1) LOAN APPLICATIONS:** Within **3 (or ___) Days** After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. ( ☐ Letter attached.)

**(2) LOAN CONTINGENCY:** Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above **is a contingency** of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are **not contingencies** of this Agreement.

**(3) LOAN CONTINGENCY REMOVAL:**
Within **21 (or ___) Days** After Acceptance, Buyer shall, as specified in paragraph 19, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

**(4)** ☐ **NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

**(5) LENDER LIMITS ON BUYER CREDITS:** Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

K. **BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

L. **SELLER FINANCING:** The following terms (or ☐ the terms specified in the attached Seller Financing Addendum) (C.A.R. Form SFA) apply ONLY to financing extended by Seller under this Agreement.

**(1) BUYER'S CREDIT-WORTHINESS:** Buyer authorizes Seller and/or Brokers to obtain, at Buyer's expense, a copy of Buyer's credit report. Within **7 (or ________) Days** After Acceptance, Buyer shall provide any supporting documentation reasonably requested by Seller.

**(2) TERMS:** Buyer's promissory note, deed of trust and other documents as appropriate shall incorporate and implement the following additional terms: **(i)** the maximum interest rate specified in paragraph 3D shall be the actual fixed interest rate for Seller financing; **(ii)** deed of trust shall contain a REQUEST FOR NOTICE OF DEFAULT on senior loans; **(iii)** Buyer shall sign and pay for a REQUEST FOR NOTICE OF DELINQUENCY prior to Close Of Escrow and at any future time if requested by Seller; **(iv)** note and deed of trust shall contain an acceleration clause making the loan due, when permitted by law and at Seller's option, upon the sale or transfer of the Property or any interest in it; **(v)** note shall contain a late charge of 6% of the installment due (or ________) if the installment is not received within 10 days of the date due; **(vi)** title insurance coverage in the form of a joint protection policy shall be provided insuring Seller's deed of trust interest in the Property (any increased cost over owner's policy shall be paid by Buyer); and **(vii)** tax service shall be obtained and paid for by Buyer to notify Seller if property taxes have not been paid.

**(3) ADDED, DELETED OR SUBSTITUTED BUYERS:** The addition, deletion or substitution of any person or entity under this Agreement or to title prior to Close Of Escrow shall require Seller's written consent. Seller may grant or withhold consent in Seller's sole discretion. Any additional or substituted person or entity shall, if requested by Seller, submit to Seller the same documentation as required for the original named Buyer. Seller and/or Brokers may obtain a credit report, at Buyer's expense, on any such person or entity.

M. **ASSUMED OR "SUBJECT TO" FINANCING:** Seller represents that Seller is not delinquent on any payments due on any loans. Seller shall, within the time specified in paragraph 19, provide Copies of all applicable notes and deeds of trust, loan balances and current interest rates to Buyer. Buyer shall then, as specified in paragraph 19B(3), remove this contingency or

Buyer's Initials ( NS ) ( ________ ) Seller's Initials ( HS ) ( JMS )

Association ("HOA") to obtain keys to accessible HOA facilities.

**11. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:**

A. **NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the MLS, flyers or marketing materials are **not** included in the purchase price or excluded from the sale unless specified in 11B or C.

B. **ITEMS INCLUDED IN SALE:**

(1) All EXISTING fixtures and fittings that are attached to the Property;

(2) The following items: ______

(3) Seller represents that all items included in the purchase price, unless otherwise specified, are owned by Seller.

(4) All items included shall be transferred free of liens and without Seller warranty.

C. **ITEMS EXCLUDED FROM SALE:** ______

**12. STATUTORY AND OTHER DISCLOSURES AND CANCELLATION RIGHTS:**

A. **NATURAL AND ENVIRONMENTAL HAZARD DISCLOSURES AND OTHER BOOKLETS:** Within the time specified in paragraph 19A, Seller shall, if required by Law: **(i)** Deliver to Buyer earthquake guide(s) (and questionnaire), environmental hazards booklet; **(ii)** disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; and Seismic Hazard Zone; and **(iii)** disclose any other zone as required by Law and provide any other information required for those zones.

B. **WITHHOLDING TAXES:** Within the time specified in paragraph 19A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).

C. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at **www.meganslaw.ca.gov.** Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)

D. **NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at **http://www.npms.phmsa.dot.gov/.** To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

E. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**

(1) **SELLER HAS: 7 (or ___ ) Days** After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form VLQ).

(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or ___ ) **Days** After Acceptance to request from the HOA (C.A.R. Form HOA1): **(i)** Copies of any documents required by Law; **(ii)** disclosure of any pending or anticipated claim or litigation by or against the HOA; **(iii)** a statement containing the location and number of designated parking and storage spaces; **(iv)** Copies of the most recent 12 months of HOA minutes for regular and special meetings; and **(v)** the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 19B(3). The Party specified in paragraph 9, as directed by escrow, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

**13. SELLER DOCUMENTATION AND ADDITIONAL DISCLOSURE:**

A. Within the time specified in paragraph 19, if Seller has actual knowledge, Seller shall provide to Buyer, in writing, the following information:

(1) **LEGAL PROCEEDINGS:** Any lawsuits by or against Seller, threatening or affecting the Property, including any lawsuits alleging a defect or deficiency in the Property or common areas, or any known notices of abatement or citations filed or issued against the Property.

(2) **AGRICULTURAL USE:** Whether the Property is subject to restrictions for agricultural use pursuant to the Williamson Act (Government Code §§51200-51295).

(3) **DEED RESTRICTIONS:** Any deed restrictions or obligations.

(4) **FARM USE:** Whether the Property is in, or adjacent to, an area with Right to Farm rights (Civil Code §3482.5 and §3482.6).

(5) **ENDANGERED SPECIES:** Presence of endangered, threatened, 'candidate' species, or wetlands on the Property.

(6) **ENVIRONMENTAL HAZARDS:** Any substances, materials, or products that may be an environmental hazard including, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the Property.

(7) **COMMON WALLS:** Any features of the Property shared in common with adjoining landowners, such as walls, fences, roads, and driveways, and agriculture and domestic wells whose use or responsibility for maintenance may have an effect on the Property.

(8) **LANDLOCKED:** The absence of legal or physical access to the Property.

(9) **EASEMENTS/ENCROACHMENTS:** Any encroachments, easements or similar matters that may affect the Property.

(10) **SOIL FILL:** Any fill (compacted or otherwise), or abandoned mining operations on the Property.

(11) **SOIL PROBLEMS:** Any slippage, sliding, flooding, drainage, grading, or other soil problems.

(12) **EARTHQUAKE DAMAGE:** Major damage to the Property or any of the structures from fire, earthquake, floods, or landslides.

(13) **ZONING ISSUES:** Any zoning violations, non-conforming uses, or violations of "setback" requirements.

(14) **NEIGHBORHOOD PROBLEMS:** Any neighborhood noise problems, or other nuisances.

B. **RENTAL AND SERVICE AGREEMENTS:** Within the time specified in paragraph 19, Seller shall make available to Buyer for inspection and review, all current leases, rental agreements, service contracts and other related agreements, licenses, and permits pertaining to the operation or use of the Property.

C. ☐ **TENANT ESTOPPEL CERTIFICATES:** Within the time specified in paragraph 19, Seller shall deliver to Buyer tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: **(i)** that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); **(ii)** that no lessor defaults exist; and **(iii)** stating the amount of any prepaid rent or security deposit.

D. **MELLO-ROOS TAX; 1915 BOND ACT:** Within the time specified in paragraph 19, Seller shall: **(i)** make a good faith effort to obtain a notice from any local agencies that levy a special tax or assessment on the Property (or, if allowed, substantially equivalent notice), pursuant to the Mello-Roos Community Facilities Act, and Improvement Bond Act of 1915, and **(ii)** promptly deliver to Buyer any such notice obtained.

E. **SELLER VACANT LAND QUESTIONNAIRE:** Seller shall, within the time specified in paragraph 19, complete and provide Buyer with a Seller Vacant Land Questionnaire (C.A.R. Form VLQ).

14. **SUBSEQUENT DISCLOSURES:** In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies disclosed in reports ordered and paid for by Buyer.**

15. **CHANGES DURING ESCROW:**

A. Prior to Close Of Escrow, Seller may engage in the following acts, ("Proposed Changes"), subject to Buyer's rights in paragraph 15B: **(i)** rent or lease any part of the premises; **(ii)** alter, modify or extend any existing rental or lease agreement; **(iii)** enter into, alter, modify or extend any service contract(s); or **(iv)** change the status of the condition of the Property.

B. At least 7 (or ___ ) **Days** prior to any Proposed Changes, Seller shall give written notice to Buyer of such Proposed Changes. Within 5 (or ___ ) Days After receipt of such notice, Buyer, in writing, may give Seller notice of Buyer's objection to the Proposed Changes, in which case Seller shall not make the Proposed Changes.

16. **CONDITION OF PROPERTY:** Unless otherwise agreed in writing: **(i)** the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; **(ii)** the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and **(iii)** all debris and personal property not included in the sale shall be removed by Close Of Escrow.

A. Seller shall, within the time specified in paragraph 19A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.

B. Buyer has the right to conduct Buyer Investigations of the property and, as specified in paragraph 19B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.

C. **Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.**

17. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**

A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 19B. Within the time specified in paragraph 19B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: **(i)** inspect for lead-based paint and other lead-based paint hazards; **(ii)** inspect for wood destroying pests and organisms; **(iii)** review the registered sex offender database; **(iv)** confirm the insurability of Buyer and the Property; and **(v)** satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: **(i)** invasive or destructive Buyer Investigations except for minimally invasive testing; or **(ii)** inspections by any governmental building or zoning inspector or government employee, unless required by Law.

B. Seller shall make the Property available for all Buyer Investigations. Buyer shall **(i)** as specified in paragraph 19B, complete Buyer Investigations and, either remove the contingency or cancel this Agreement, and **(ii)** give Seller, at no cost, complete Copies of all Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.

C. **Buyer indemnity and Seller protection for entry upon property:** Buyer shall: **(i)** keep the Property free and clear of liens; **(ii)** repair all damage arising from Buyer Investigations; and **(iii)** indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs of Buyer's Investigations. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination or cancellation of this Agreement and Close Of Escrow.

D. **BUYER IS STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY AND ALL MATTERS AFFECTING THE VALUE OR DESIRABILITY OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE ITEMS SPECIFIED BELOW. IF BUYER DOES NOT EXERCISE THESE RIGHTS, BUYER IS ACTING AGAINST THE ADVICE OF BROKERS. BUYER UNDERSTANDS THAT ALTHOUGH CONDITIONS ARE OFTEN DIFFICULT TO LOCATE AND DISCOVER, ALL REAL PROPERTY CONTAINS CONDITIONS THAT ARE NOT READILY APPARENT AND THAT MAY AFFECT THE VALUE OR DESIRABILITY OF THE PROPERTY. BUYER AND SELLER ARE AWARE THAT BROKERS DO NOT GUARANTEE, AND IN NO WAY ASSUME RESPONSIBILITY FOR, THE CONDITION OF THE PROPERTY. BROKERS HAVE NOT AND WILL NOT VERIFY ANY OF THE ITEMS IN THIS PARAGRAPH 17, UNLESS OTHERWISE AGREED IN WRITING.**

E. **SIZE, LINES, ACCESS AND BOUNDARIES:** Lot size, property lines, legal or physical access and boundaries including features of the Property shared in common with adjoining landowners, such as walls, fences, roads and driveways, whose use or responsibility for maintenance may have an effect on the Property and any encroachments, easements or similar matters that may affect the Property. (Fences, hedges, walls and other natural or constructed barriers or markers do not necessarily identify true Property boundaries. Property lines may be verified by survey.) (Unless otherwise specified in writing, any numerical statements by Brokers regarding lot size are APPROXIMATIONS ONLY, which have not been and will not be verified, and should not be relied upon by Buyer.)

F. **ZONING AND LAND USE:** Past, present, or proposed laws, ordinances, referendums, initiatives, votes, applications and permits affecting the current use of the Property, future development, zoning, building, size, governmental permits and inspections. Any zoning violations, non-conforming uses, or violations of "setback" requirements. (Buyer should also investigate whether these matters affect Buyer's intended use of the Property.)

G. **UTILITIES AND SERVICES:** Availability, costs, restrictions and location of utilities and services, including but not limited to, sewerage, sanitation, septic and leach lines, water, electricity, gas, telephone, cable TV and drainage.

H. **ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel, oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, including mold (airborne, toxic or otherwise), fungus or similar contaminant, materials, products or conditions.

I. **GEOLOGIC CONDITIONS:** Geologic/seismic conditions, soil and terrain stability, suitability and drainage including any slippage, sliding, flooding, drainage, grading, fill (compacted or otherwise), or other soil problems.

J. **NATURAL HAZARD ZONE:** Special Flood Hazard Areas, Potential Flooding (Inundation) Areas, Very High Fire Hazard Zones, State Fire Responsibility Areas, Earthquake Fault Zones, Seismic Hazard Zones, or any other zone for which disclosure is required by Law.

K. **PROPERTY DAMAGE:** Major damage to the Property or any of the structures or non-structural systems and components and any personal property included in the sale from fire, earthquake, floods, landslides or other causes.

L. **NEIGHBORHOOD, AREA AND PROPERTY CONDITIONS:** Neighborhood or area conditions, including Agricultural Use Restrictions pursuant to the Williamson Act (Government Code §§51200-51295), Right To Farm Laws (Civil Code §3482.5 and §3482.6),schools, proximity and adequacy of law enforcement, crime statistics, the proximity of registered felons or offenders, fire protection, other government services, availability, adequacy and cost of any speed-wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, abandoned mining operations on the Property, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

M. **COMMON INTEREST SUBDIVISIONS: OWNER ASSOCIATIONS:** Facilities and condition of common areas (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others), Owners' Association that has any authority over the subject property, CC&Rs, or other deed restrictions or obligations, and possible lack of compliance with any Owners' Association requirements.

N. **SPECIAL TAX:** Any local agencies that levy a special tax on the Property pursuant to the Mello-Roos Community Facilities Act or Improvement Bond Act of 1915.

O. **RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants and the right of a landlord to terminate a tenancy.

P. **MANUFACTURED HOME PLACEMENT:** Conditions that may affect the ability to place and use a manufactured home on the Property.

**18. TITLE AND VESTING:**

A. Within the time specified in paragraph 19, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 19B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within **7 Days** After Acceptance, give Escrow Holder a completed Statement of Information.

B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: **(i)** monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and **(ii)** those matters which Seller has agreed to remove in writing.

C. Within the time specified in paragraph 19A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.

D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

E. Buyer shall receive a "CLTA/ALTA Homeowner's Policy of Title Insurance", if applicable to the type of property and buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and shall pay any increase in cost.

**19. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).**

A. **SELLER HAS: 7 (or ___ ) Days** After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 3M, 7A, 8, 9, 12A, B, and E, 13, 16A and 18A. Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement if Seller has not Delivered the items within the time specified.

B. **(1) BUYER HAS: 17 (or ___ ) Days** After Acceptance, unless otherwise agreed in writing, to:
(i) complete all Buyer Investigations; review all disclosures, reports, and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and **(ii)** Deliver to Seller Signed Copies of Statutory Disclosures and other disclosures Delivered by Seller in accordance with paragraph 12A.

**(2)** Within the time specified in paragraph 19B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.

**(3)** By the end of the time specified in paragraph 19B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 19A, then Buyer has **5 (or ___ ) Days** After Delivery of any such items, or the time specified in paragraph 19B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.

Buyer's Initials ( ________ ) ( ________ ) Seller's Initials ( HS ) ( JMS )

(4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 19B(1) and before Seller cancels, if at all, pursuant to paragraph 19C, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 19C(1).

C. **SELLER RIGHT TO CANCEL:**

(1) **Seller right to Cancel; Buyer Contingencies:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

(2) **Seller right to Cancel; Buyer Contract Obligations:** Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): **(i)** Deposit funds as required by paragraph 3A or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; **(ii)** Deliver a notice of FHA or VA costs or terms as required by paragraph 3D(3) (C.A.R. Form FVA); **(iii)** Deliver a letter as required by paragraph 3J(1); **(iv)** Deliver verification as required by paragraph 3C or 3H or if Seller reasonably disapproves of the verification provided by paragraph 3C or 3H; **(v)** Return Statutory Disclosures as required by paragraph 12A; or **(vi)** Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 27B; or **(vii)** Provide evidence of authority to sign in a representative capacity as specified in paragraph 19. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

D. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: **(i)** be in writing; **(ii)** be signed by the applicable Buyer or Seller; and **(iii)** give the other Party at least **2** (or ___ ) **Days** After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than **2 Days** Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 19.

E. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: **(i)** completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; **(ii)** elected to proceed with the transaction; and **(iii)** assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.

F. **CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: **(i)** be signed by the applicable Buyer or Seller; and **(ii)** give the other Party at least **3** (or _____ ) **Days** After Delivery to close escrow. A DCE may not be Delivered any earlier than **3 Days** Prior to the scheduled close of escrow.

G. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within 10 Days After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursal of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **A Party may be subject to a civil penalty of up to $1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).**

20. **REPAIRS:** Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: **(i)** obtain invoices and paid receipts for Repairs performed by others; **(ii)** prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and **(iii)** provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.

21. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property within **5** (or ___ ) **Days** Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: **(i)** the Property is maintained pursuant to paragraph 16; **(ii)** Repairs have been completed as agreed; and **(iii)** Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).

22. **ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: **(i)** Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; **(ii)** Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; **(iii)** Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and **(iv)** Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.

Buyer's Initials ( RSD ) ( ) Seller's Initials ( HS ) ( JMS )

23. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: **(i)** for periods after Close Of Escrow, by Buyer; and **(ii)** for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.

24. **BROKERS:**

A. **COMPENSATION:** Seller or Buyer, or both, as applicable, agrees to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.

B. **SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Broker: **(i)** Does not decide what price Buyer should pay or Seller should accept; **(ii)** Does not guarantee the condition of the Property; **(iii)** Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; **(iv)** Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; **(v)** Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; **(vi)** Shall not be responsible for inspecting public records or permits concerning the title or use of Property; **(vii)** Shall not be responsible for identifying the location of boundary lines or other items affecting title; **(viii)** Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; **(ix)** Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; **(x)** Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and **(xi)** Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

25. **REPRESENTATIVE CAPACITY:** If one or more Parties is signing the Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 37 or 38 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on the Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, within **3 Days** After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code §18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).

26. **JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**

A. **The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder,** which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5, 6, 7A, 8, 9, 12B, 18, 19G, 23, 24A, 25, 26, 32, 35, 36, 37, 38 and paragraph D of the section titled Real Estate Brokers on page 11. If a Copy of the separate compensation agreement(s) provided for in paragraph 24A, or paragraph D of the section titled Real Estate Brokers on page 10 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 9B(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within 3 (or ___ ) **Days**, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 9, 12 or elsewhere in this Agreement.

B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within **3 Days** After Acceptance (or ______________________________ ). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 12B, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.

C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 24A and paragraph D of the section titled Real Estate Brokers on page 11. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 24A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.

D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: **(i)** if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or **(ii)** if Buyer and Seller instruct Escrow Holder to cancel escrow.

Buyer's Initials ( BD ) ( ) Seller's Initials ( H S ) ( JMS )

E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 3 Days after mutual execution of the amendment.

27. **REMEDIES FOR BUYER'S BREACH OF CONTRACT:**

A. **Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.**

B. **LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement. Release of funds will require mutual, Signed release instr uctions from both Buyer and Seller, judicial decision or arbitration award. AT TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R.FORM RID).**

Buyer's Initials NT / ______ Seller's Initials H.S. / JMS

28. **DISPUTE RESOLUTION:**

A. **MEDIATION:** The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Consumer Mediation Center (**www.consumermediation.org**) or through any other mediation provider or service mutually agreed to by the Parties. The Parties **also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker.** Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. **Exclusions from this mediation agreement are specified in paragraph 28C.**

B. **ARBITRATION OF DISPUTES:**

**The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of transactional real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 28C.**

**"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."**

**"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."**

Buyer's Initials NT / ______ Seller's Initials H.S. / JMS

C. **ADDITIONAL MEDIATION AND ARBITRATION TERMS:**

(1) EXCLUSIONS: **The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.**

(2) PRESERVATION OF ACTIONS: **The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.**

(3) BROKERS: **Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to the Agreement.**

29. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.

Buyer's Initials ( NT ) ( ______ ) Seller's Initials ( H.S. ) ( JMS )

30. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.
31. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorneys fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 28A.
32. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld unless otherwise agreed in writing. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller (C.A.R. Form AOAA).
33. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
34. **TERMS AND CONDITIONS OF OFFER:** This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counteroffer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.
35. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance wth the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**
36. **DEFINITIONS:** As used in this Agreement:
    - A. **"Acceptance"** means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
    - B. **"Agreement"** means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.
    - C. **"C.A.R. Form"** means the most current version of the specific form referenced or another comparable form agreed to by the parties.
    - D. **"Close Of Escrow"** means the date the grant deed, or other evidence of transfer of title, is recorded.
    - E. **"Copy"** means copy by any means including photocopy, NCR, facsimile and electronic.
    - F. **"Days"** means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
    - G. **"Days After"** means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
    - H. **"Days Prior"** means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
    - I. **"Deliver", "Delivered"** or **"Delivery"**, unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page11, regardless of the method used (i.e., messenger, mail, email, fax, other).
    - J. **"Electronic Copy" or "Electronic Signature"** means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
    - K. **"Law"** means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
    - L. **"Repairs"** means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
    - M. **"Signed"** means either a handwritten or electronic signature on an original document, Copy or any counterpart.
37. **EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by ______________________, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by ______ ☐AM/ ☐PM, on ______________ (date)).

☐ One or more Buyers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-B) for additional terms.

Date 11/26/2019 BUYER ______________________

**(Print name)** Bhupinder Bal

Date ________ BUYER ______________________

**(Print name)** ______________________

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

Property Address: 2667 Patterson Rd, Riverbank, CA 95367 Date: November 26, 2019

38\. **ACCEPTANCE OF OFFER:** Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer and agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

☐ (If checked) SELLER'S ACCEPTANCE IS **SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED:** ______

☐ One or more Sellers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date 11.27.19 SELLER Han S Shin

(Print name)

Date 12-02-2019 SELLER Jai M Shin

(Print name)

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

(____ / ____) (Initials) **(Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE:** A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) ______ at ______ ☐ AM/ ☐ PM. **A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.**

**REAL ESTATE BROKERS:**

A. **Real Estate Brokers are not parties to the Agreement between Buyer and Seller.**

B. **Agency relationships are confirmed as stated in paragraph 2.**

C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.

D. **COOPERATING (BUYER'S) BROKER COMPENSATION:** Seller's Broker agrees to pay Buyer's Broker and Buyer's Broker agrees to accept, out of Seller's Broker's proceeds in escrow, the amount specified in the MLS, provided Buyer's Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Seller's Broker and Buyer's Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

E. **PRESENTATION OF OFFER:** Pursuant to Standard of Practice 1-7, if Buyer's Broker makes a written request, Seller's Broker shall confirm in writing that this offer has been presented to Seller.

Buyer's Brokerage Firm Coldwell Banker Castle Real Estate DRE Lic. #

By Williams Christopher B. Williams DRE Lic. # 01671571 Date 11/26/2019 08:44 PM GMT

By ______ DRE Lic. # ______ Date ______

Address 323 15th St City Modesto State CA Zip 95354-1140

Telephone (209)662-1395 Fax ______ E-mail cbwilliams@live.com

Seller's Brokerage Firm Century 21 M&M DRE Lic. # 01183838

By ______ Lori Roudebush DRE Lic. # 01694257 Date 11.27.19

By ______ DRE Lic. # ______ Date ______

Address 114 East F St., Bldg. A Ste.1 City Oakdale State CA Zip 95361

Telephone (209)847-5111 Fax (209)847-3620 E-mail LRoudebush@c21mm.com

**ESCROW HOLDER ACKNOWLEDGMENT:**

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, ☐ a deposit in the amount of $ ______ ), counter offer numbers ______ ☐ Seller's Statement of Information and ______, and agrees to act as Escrow Holder subject to paragraph 26 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is ______

Escrow Holder ______ Escrow # ______

By ______ Date ______

Address ______

Phone/Fax/E-mail ______

Escrow Holder has the following license number # ______

☐ Department of Business Oversight, ☐ Department of Insurance, ☐ Department of Real Estate.

**PRESENTATION OF OFFER:** ( LR ) Seller's Broker presented this offer to Seller on 11.27.19 (date).
Broker or Designee Initials

**REJECTION OF OFFER:** ( ____ )( ____ ) No counter offer is being made. This offer was rejected by Seller on ______ (date).
Seller's Initials



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REAL ESTATE BUSINESS SERVICES, LLC.
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525 South Virgil Avenue, Los Angeles, California 90020

Buyer's Acknowledge that page 11 is part of this Agreement ( ____ )( ____ )

CALIFORNIA ASSOCIATION OF REALTORS®

# BUYER'S VACANT LAND ADDITIONAL INSPECTION ADVISORY

**(C.A.R. Form BVLIA, 11/13)**

Property Address: 2667 Patterson Rd, Riverbank, CA 95367 ("Property").

**A. IMPORTANCE OF PROPERTY INVESTIGATION:** The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. For this reason, you should conduct thorough investigations of the Property personally and with professionals who should provide written reports of their investigations. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations. Additionally, some inspections, such as those listed below, may be of particular importance when purchasing vacant land.

**B. BUYER RIGHTS AND DUTIES:** You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. The purchase agreement gives you the right to investigate the Property. If you exercise this right, and you should, you must do so in accordance with the terms of that agreement. This is the best way for you to protect yourself. It is extremely important for you to read all written reports provided by professionals and to discuss the results of inspections with the professional who conducted the inspection. You have the right to request that Seller make repairs, corrections or take other action based upon items discovered in your investigations or disclosed by Seller. If Seller is unwilling or unable to satisfy your requests, or you do not want to purchase the Property in its disclosed and discovered condition, you have the right to cancel the agreement if you act within specific time periods. If you do not cancel the agreement in a timely and proper manner, you may be in breach of contract.

**C. SELLER RIGHTS AND DUTIES:** Seller is required to disclose to you material facts known to him/her that affect the value or desirability of the Property. However, Seller may not be aware of some Property defects or conditions. Seller does not have an obligation to inspect the Property for your benefit nor is Seller obligated to repair, correct or otherwise cure known defects that are disclosed to you or previously unknown defects that are discovered by you or your inspectors during escrow. The purchase agreement obligates Seller to make the Property available to you for investigations.

**D. BROKER OBLIGATIONS:** Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as soil stability, geologic or environmental conditions, hazardous or illegal controlled substances, structural conditions of the foundation or other improvements, or the condition of the roof, plumbing, heating, air conditioning, electrical, sewer, septic, waste disposal, or other system. The only way to accurately determine the condition of the Property is through an inspection by an appropriate professional selected by you. If Broker gives you referrals to such professionals, Broker does not guarantee their performance. You may select any professional of your choosing. If you have entered into a written agreement with a Broker, the specific terms of that agreement will determine the nature and extent of that Broker's duty to you. **YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.**

**E. YOU ARE ADVISED TO CONDUCT INVESTIGATIONS OF THE ENTIRE PROPERTY, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:**

1. **FINANCE:** Financing the purchase of vacant land finance and especially financing construction loans for the improvement of vacant land can provide particular challenges, including subordination agreements and insurance requirements. Buyer is advised to seek the assistance of reputable lenders in assistance with their decisions regarding financing of the property.
2. **CONSTRUCTION COSTS:** If Buyer is contemplating building improvements on the property, Buyer is advised that they will have to contact directly any contractors, service providers, suppliers, architects, utility companies regarding the costs of improvements. Buyer is advised to get written bids from all such persons regarding their decision to develop the property.
3. **UTILITIES:** Unimproved property may or may not have utilities available to the property. Buyer(s) is advised to obtain information from the public or private utility provider about the availability and cost of providing utilities to the property and whether necessary easements are in place to allow such utilities to the property.
4. **ENVIRONMENTAL SURVEY:** Unimproved land may have had or may have hazardous materials stored upon or under the land or been used by persons engaged in activities exposing the land to hazardous materials. The land may also be host to protected vegetation or animal life. Buyer(s) is advised to satisfy themselves as what hazards or protected plant or animal life are on the property and what impact they may have on Buyer's future plans for the property by seeking the help of a qualified professional.

Buyer's Initials ( ) ( ) Seller's Initials ( H, S ) ( JMS )

Property Address: 2667 Patterson Rd, Riverbank, CA 95367 Date: ____________

5. **NATURAL HAZARDS REPORTS:** Buyer(s) is advised that while certain disclosures are required by state, federal and local laws, hazard disclosure companies can provide additional disclosures for both natural and man-made hazards or nuisances for a cost. Buyer is advised to seek the advice of a natural hazards reporting company regarding additional reports and disclosures that buyer may wish to obtain.

6. **SUBDIVISION OF THE PROPERTY:** If Buyer's plans include future subdivision of the property (whether under the Subdivision Map Act of the Subdivided Lands Law) multiple, complex issues regarding city, county, state, and federal laws may be presented. Buyer is strongly advised to seek the advice of California legal counsel familiar with federal, state and local subdivision requirements.

Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (x) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

**By signing below, Buyer and Seller each acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyer is encouraged to read it carefully.**

SELLER ____________________ Date 11-27-19

SELLER Jae M Shin ____________________ Date 12-02-2019

BUYER ____________________ Date 11/26/2019 10:30 PM GMT
Bhupinder Bal

BUYER ____________________ Date ____________



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CALIFORNIA ASSOCIATION OF REALTORS®

# DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

**(Buyer's Brokerage Firm to Buyer)**
**(As required by the Civil Code)**
**(C.A.R. Form AD, Revised 12/18)**

☐ (If checked) This form is being provided in connection with a transaction for a leasehold interest exceeding one year as per Civil Code section 2079.13(j), (k) and (l).

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

**SELLER'S AGENT**

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

**BUYER'S AGENT**

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

**AGENT REPRESENTING BOTH SELLER AND BUYER**

A real estate agent, either acting directly or through one or more salespersons and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

**SELLER AND BUYER RESPONSIBILITIES**

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation.

Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. **This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

☒ Buyer ☐ Seller ☐ Landlord ☐ Tenant ______ Date 11/26/2019 10:30 PM GMT
Singinder Bal

☐ Buyer ☐ Seller ☐ Landlord ☐ Tenant ______ Date ______

Agent Coldwell Banker Castle Real Estate DRE Lic. # ______
Real Estate Broker (Firm)

By Christopher B. Williams DRE Lic. # 01971671 Date 11/26/2019 08:44 PM GMT
(Salesperson or Broker-Associate, if any) Christopher B. Williams

## CIVIL CODE SECTIONS 2079.13 – 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:
**(a)** "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. **(b)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. **(c)** "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobilehome, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. **(d)** "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. **(e)** "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement. **(f)** "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation.**(g)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent. **(h)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(i)** "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(j)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multiunit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobilehome as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(k)** "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. **(l)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(m)** "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. **(n)** "Buyer's agent" means an agent who represents a buyer in a real property transaction.

**2079.14.** A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: **(a)** The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

**2079.15.** In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

**2079.16** Reproduced on Page 1 of this AD form.

**2079.17(a)** As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.

CONFIRMATION: The following agency relationships are confirmed for this transaction:

Seller's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number ____________
Is the broker of (check one): ☐ the seller; or ☐ both the buyer and seller. (dual agent)
Seller's Agent DO NOT COMPLETE, SAMPLE ONLY License Number ____________
Is (check one): ☐ the Seller's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)
Buyer's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number ____________
Is the broker of (check one): ☐ the buyer; or ☐ both the buyer and seller. (dual agent)
Buyer's Agent DO NOT COMPLETE, SAMPLE ONLY License Number ____________
Is (check one): ☐ the Buyer's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)

**(d)** The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

2079.18 (Repealed pursuant to AB-1289)

**2079.19** The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

**2079.20** Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

**2079.21 (a)** A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. **(b)** A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. **(c)** "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered. **(d)** This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

**2079.22** Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

**2079.23** A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

**2079.24** Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.



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# POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER - DISCLOSURE AND CONSENT

(C.A.R. Form PRBS, Revised 12/18)

A real estate broker (Broker), whether a corporation, partnership or sole proprietorship, may represent more than one buyer or seller. This multiple representation can occur through an individual licensed as a broker or salesperson or through different individual broker's or salespersons (associate licensees) acting under the Broker's license. The associate licensees may be working out of the same or different office locations.

**Multiple Buyers:** Broker (individually or through its associate licensees) may be working with many prospective buyers at the same time. These prospective buyers may have an interest in, and make offers on, the same properties. Some of these properties may be listed with Broker and some may not. Broker will not limit or restrict any particular buyer from making an offer on any particular property whether or not Broker represents other buyers interested in the same property.

**Multiple Sellers:** Broker (individually or through its associate licensees) may have listings on many properties at the same time. As a result, Broker will attempt to find buyers for each of those listed properties. Some listed properties may appeal to the same prospective buyers. Some properties may attract more prospective buyers than others. Some of these prospective buyers may be represented by Broker and some may not. Broker will market all listed properties to all prospective buyers whether or not Broker has another or other listed properties that may appeal to the same prospective buyers.

**Dual Agency:** If Seller is represented by Broker, Seller acknowledges that broker may represent prospective buyers of Seller's property and consents to Broker acting as a dual agent for both seller and buyer in that transaction. If Buyer is represented by Broker, buyer acknowledges that Broker may represent sellers of property that Buyer is interested in acquiring and consents to Broker acting as a dual agent for both buyer and seller with regard to that property.

In the event of dual agency, seller and buyer agree that: a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the buyer's or seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the seller's willingness to accept a price less than the listing price or the buyer's willingness to pay a price greater than the price offered; and except as set forth above, a dual agent is obligated to disclose known facts materially affecting the value or desirability of the Property to both parties.

**Offers not necessarily confidential:** Buyer is advised that seller or listing agent may disclose the existence, terms, or conditions of buyer's offer unless all parties and their agent have signed a written confidentiality agreement. Whether any such information is actually disclosed depends on many factors, such as current market conditions, the prevailing practice in the real estate community, the listing agent's marketing strategy and the instructions of the seller.

Buyer and seller understand that Broker may represent more than one buyer or more than one seller and even both buyer and seller on the same transaction and consents to such relationships.

**Seller and/or Buyer acknowledges reading and understanding this Possible Representation of More Than One Buyer or Seller - Disclosure and Consent and agrees to the agency possibilities disclosed.**

Seller Date 11-27-19
Seller Date 12-02-2019
Buyer Joe M Shin Bhupinder Bal Date
Buyer Date

Buyer's Brokerage Firm Coldwell Banker Castle Real Estate DRE Lic # Date
By Christopher B. Williams DRE Lic # 01971971 Date
Christopher B. Williams
Seller's Brokerage Firm Century 21 MM DRE Lic # 01183865 Date 11-27-19
By DRE Lic # 01894257 Date
Lori Studebush



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# WIRE FRAUD AND ELECTRONIC FUNDS TRANSFER ADVISORY

**(C.A.R. Form WFA, Revised 12/17)**

Property Address: 2667 Patterson Rd, Riverbank, CA 95367 ("Property").

## WIRE FRAUD AND ELECTRONIC FUNDS TRANSFERS ADVISORY:

The ability to communicate and conduct business electronically is a convenience and reality in nearly all parts of our lives. At the same time, it has provided hackers and scammers new opportunities for their criminal activity. Many businesses have been victimized and the real estate business is no exception.

While wiring or electronically transferring funds is a welcome convenience, we all need to exercise extreme caution. Emails attempting to induce fraudulent wire transfers have been received and have appeared to be legitimate. Reports indicate that some hackers have been able to intercept emailed transfer instructions, obtain account information and, by altering some of the data, redirect the funds to a different account. It also appears that some hackers were able to provide false phone numbers for verifying the wiring or funds transfer instructions. In those cases, the victim called the number provided to confirm the instructions, and then unwittingly authorized a transfer to somewhere or someone other than the intended recipient.

**ACCORDINGLY, YOU ARE ADVISED:**

1. **Obtain phone numbers and account numbers only from Escrow Officers, Property Managers, or Landlords at the beginning of the transaction.**
2. **DO NOT EVER WIRE OR ELECTRONICALLY TRANSFER FUNDS PRIOR TO CALLING TO CONFIRM THE TRANSFER INSTRUCTIONS. ONLY USE A PHONE NUMBER YOU WERE PROVIDED PREVIOUSLY. Do not use any different phone number or account number included in any emailed transfer instructions.**
3. **Orally confirm the transfer instruction is legitimate and confirm the bank routing number, account numbers and other codes before taking steps to transfer the funds.**
4. **Avoid sending personal information in emails or texts. Provide such information in person or over the telephone directly to the Escrow Officer, Property Manager, or Landlord.**
5. **Take steps to secure the system you are using with your email account. These steps include creating strong passwords, using secure WiFi, and not using free services.**

If you believe you have received questionable or suspicious wire or funds transfer instructions, immediately notify your bank, and the other party, and the Escrow Office, Landlord, or Property Manager. The sources below, as well as others, can also provide information:

Federal Bureau of Investigation: https://www.fbi.gov/; the FBI's IC3 at www.ic3.gov; or 310-477-6565

National White Collar Crime Center: http://www.nw3c.org/

On Guard Online: https://www.onguardonline.gov/

**NOTE: There are existing alternatives to electronic and wired fund transfers such as cashier's checks. By signing below, the undersigned acknowledge that each has read, understands and has received a copy of this Wire Fraud and Electronic Funds Transfer Advisory.**

Buyer/Tenant X Bhupinder Bal Date 11/26/2019 10:30 PM GMT

Buyer/Tenant X Date

Seller/Landlord Date 11.27.19

Seller/Landlord Date 12-02-2019



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# CONFIRMATION OF REAL ESTATE AGENCY RELATIONSHIPS

(As required by the Civil Code)
(C.A.R. Form AC, Revised 12/18)

**Subject Property Address** [illegible]

**This is (or ☐ is NOT) an amendment to, and supersedes, the agency confirmation in the purchase agreement.**

**The following agency relationship(s) is/are hereby confirmed for this transaction:**

**CONFIRMATION:** The following agency relationships are confirmed for this transaction:

**Seller's Brokerage Firm** Century 21 M&M License Number [illegible]
Is the broker of (check one) ☒ the seller/landlord; or ☐ both the buyer/tenant and seller/landlord. (dual agent)
Seller's Agent Lori Roudebush License Number [illegible]
Is (check one) ☒ the Seller's/Landlord's Agent. (salesperson or broker associate) ☐ both the Buyer's/Tenant's and Seller's/Landlord's Agent (dual agent).

**Buyer's Brokerage Firm** Coldwell Banker Castle Real Estate License Number [illegible]
Is the broker of (check one) ☒ the buyer/tenant; or ☐ both the buyer/tenant and seller/landlord (dual agent)
Buyer's Agent Christopher B Williams License Number [illegible]
Is (check one) ☒ the Buyer's/Tenant's Agent. (salesperson or broker associate) ☐ both the Buyer's/Tenant's and Seller's/Landlord's Agent (dual agent).

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS CONFIRMATION.

X Seller/Landlord [signature] Ron S Sala Date 11.27.19

Seller/Landlord [signature] Date 12-03-2019

Buyer/Tenant [signature] Date 12-3-19

Buyer/Tenant Date

Seller's Brokerage Firm Century 21 M&M

By [signature] Lori Roudebush Date 11.27.19

Buyer's Brokerage Firm Coldwell Banker Castle Real Estate

By [signature] Christopher B Williams Date 12-3-19

**A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.**



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# Exhibit D

## Notice of Non-Performance Penalty

DATE: ________________, 20___

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

Canna Mart, LLC, a California limited liability company
2039 Yosemite Blvd.
Modesto, CA, 95354

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

A. By Instrument No. _____________, which was recorded in the Official Records of Stanislaus County, California on ________________, 20__, City recorded a development agreement between City and ________________ ("Developer"), dated ________________, 20__ (the "Development Agreement"), relating to the development and operation of a cannabis ________________.

B. Pursuant to Section 4.2 of the Development Agreement, Developer agrees to pay to City a Public Benefit on the first business day of each month during the term of the Development Agreement.

C. On ________, 20__, the Public Benefit was due to City by Developer. City did not receive payment.

D. Pursuant to Section 4.5 of the Development Agreement, if Developer fails to make payment when it is due, City may impose a penalty of one percent (1%) of the total of the past due amounts ("Penalty"). As of ____________, 20__, the past due amount equals $_________. The Penalty owed by Developer equals $____________ ("Penalty Amount").

E. Pursuant to Section 4.5 of the Development Agreement, Developer shall make payment of the Penalty Amount in a single installment due within fifteen (15) days of delivery of this Penalty Notice ("Penalty Due Date").

F. Pursuant to Section 4.6 of the Development Agreement, if Developer fails to pay the Penalty Amount before the Penalty Due Date, then, in addition to the Penalty Amount specified in subdivision (D), Developer shall pay City interest on the Penalty Amount, at the rate of eighteen percent (18%) per annum ("Penalty Interest Payment"), computed from the Penalty Due Date specified in subdivision (E). The Penalty Interest Payment is due fifteen (15) days following delivery of the Penalty Due Date. As of ____________, 20__, the Penalty Interest Payment amount equals $_________.

G. Nothing contained herein shall constitute a waiver of City's future claims for the Public Benefit, Penalty, or interest on the Penalty.

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

CITY OF RIVERBANK,
a California municipal corporation

By:___________________________________
City Manager

# Exhibit E

# INDEMNITY AGREEMENT FOR LAND USE ENTITLEMENT PROCESSING

**THIS INDEMNITY AGREEMENT FOR LAND USE ENTITLEMENT PROCESSING** ("Agreement") is made and entered into on this ___ day of _______ 20__ ("Effective Date"), by and between the City of Riverbank, a California municipal corporation ("City"), and Canna Mart, LLC, a California limited liability company dba Canna Mart ("Applicant"). City and Applicant may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

## RECITALS

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

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

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

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

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

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

G. Applicant has purchased that certain real property located in the City, identified as Stanislaus County Assessor's Parcel Number 132-004-045-000 (the "Property"), shown on **Exhibit A** attached hereto ("Property Description").

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

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

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

## AGREEMENT

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

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

**Section 2. Applicant's Indemnification Obligations**.

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

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

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

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

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

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

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

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

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

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

If to City:

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

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

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

If to Applicant:

Canna Mart, LLC
Bobby & Rajwinder Bal
2039 Yosemite Blvd.
Modesto, CA 95354

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 18.** **Waiver**. No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

**Section 19.** **Counterparts**. This Agreement may be executed in counterparts and all so executed shall constitute an agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

[SIGNATURE PAGE TO FOLLOW]

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

**APPLICANT**

Canna Mart, LLC, a California limited liability company

By: ______________________________

Name: Bhupinder Singh Bal
Managing Partner

Date: ______________________________

**CITY**

City of Riverbank, a California municipal corporation

By: ______________________________
Sean Scully, City Manager

Date: ______________________________

APPROVED AS TO FORM:

By: ______________________________
Douglas L. White, Deputy City Attorney

# Exhibit F

## Notice of Termination

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

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

**NOTICE OF TERMINATION AND RELEASE OF DEVELOPMENT AGREEMENT**

DATE: _________________, 20___

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

___________________________
___________________________
___________________________

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

A. By Instrument No. ______________, which was recorded in the Official Records of Stanislaus County, California on _________________, 20__, City recorded a development agreement between City and Canna Mart, LLC ("Developer"), dated _______________, 20__ (the "Development Agreement"), relating to the development and operation of a cannabis dispensary.

B. Pursuant to Sections 1.7 and 9.1 of the Development Agreement, the term of the Development Agreement expires three (3) years from _______, 20__, on __________, 20__.

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

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

CITY OF RIVERBANK,
a California municipal corporation

By:________________________________
City Manager

# Exhibit G

## Assignment and Assumption Agreement

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

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

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (the "Agreement") is entered into this _____ day of ______________________, 20___, by and between Canna Mart, LLC, a California limited liability company doing business as Canna Mart ("Developer"), and __________________________________ ("Assignee"). Developer may be referred to herein as ("Assignor").

**RECITALS**

A. On ___________, 20__, Assignor and the City of Riverbank ("City") entered into that certain agreement entitled "Development Agreement by and between the City of Riverbank, a California municipal corporation, and Canna Mart, LLC a California limited liability company doing business as Canna Mart, relating to the improvement, development, and use of real property to operate a cannabis business (the "Development Agreement"), originally recorded upon Stanislaus County Assessor's Parcel Number 075-009-053 (the "Property").

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

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

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

of the Development Agreement for an Assignment and Assumption Agreement, and is executed with the consent of the City Manager, as contemplated in the Development Agreement.

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

1. The foregoing Recitals are true and incorporated herein by this reference as though set forth in full.

2. Assignor hereby assigns to Assignee all of the Assignable Rights of Assignor under the Development Agreement.

3. Assignee hereby assumes all of the burdens and obligations of Assignor under the Development Agreement, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this Agreement, Assignee shall become substituted for Assignor as the "Developer" under the Development Agreement.

4. This Agreement shall take effect and be binding only upon the City Manager's consent to and approval of the Agreement.

5. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement. Assignee acknowledges that the Assignable Rights are as set forth in Section 10.1 of the Development Agreement, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that City is not party to such other agreements.

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

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

[*Signatures on the following page*]

**ASSIGNOR / DEVELOPER:**

Canna Mart LLC, a California limited liability company dba Canna Mart

____________________________________

Its: ____________________________

**ASSIGNEE**

____________________________, a California __________

By: ________________________

**AGREED TO AND ACCEPTED:**

CITY OF RIVERBANK
a California municipal corporation

____________________________________
City Manager

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.E

## SECTION 3: CONSENT CALENDAR

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject/ Title:** | Approval of **Final Map 01-2020 Countryside 1 – APN: 062-022-003.** The project consists of a Tentative Map to subdivide approximately 9.40 acres into forty-nine (49) single-family detached residential lots (overall density of 5.21 du/acre), an approximately one (1) acre park, associated street, sewer, water, and storm drainage improvements |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Donna M. Kenney, Planning and Building Manager |

**RECOMMENDATION**

Approve the Final Map ("FM") for Countryside 1 based on the required finding that the map is in conformity with the provisions of law and city code.

**BACKGROUND**

The City first approved the Hayes Tentative Subdivision Map by adopting Resolution No. 2005-046 for the development of ninty-one (91) single family residential lots. On November 27, 2006, the City Council adopted Resolution No. 2006-127, approving the Phase 2 Vesting Tentative Subdivision Map for Tentative Map 07-2004. On February 14, 2017, Development Agreement 02-2015 was approved by the City Council to memorialize all prior entitlements granted for the Project including the clarification of map life.

The developer has been working on the on-site and off-site improvements including the installation of utilities, curb, gutter, sidewalks, a park, and a stormwater basin. Instead of a dual park/basin in Countryside 1 and a dual park/basin in future Countryside 2, staff has worked with the developer to instead create a park in Countryside 1 and a basin in Countryside 2.

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

The City Engineer and Planning and Building Manager have reviewed the final map and have determined that the plans are in substantial compliance with city standards and with the conditions placed upon the tentative map.

## FISCAL IMPACT

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

### ATTACHMENTS

1. Resolution No. 2020-XXX with Exhibit A - Final Map 01-2020

# CITY OF RIVERBANK

## RESOLUTION

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING FINAL MAP 01-2020 FOR MCROY WILBUR COMMUNITIES, INC. COUNTRYSIDE 1 (APN 062-022-003)

---

**WHEREAS,** McRoy Wilbur Communities, Inc is the developer for Countryside 1 VTM No. 07-2004 Phase 2 (9.40 acres and 49 Single Family Residential Lots); and

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

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

**NOW, THEREFORE, BE IT RESOLVED,** that the City of Riverbank City Council does hereby authorize the City Engineer to record Final Map 01-2020 for Countryside 1, attached hereto as **Exhibit A,** for McRoy Wilbur Communities, Inc., VTM No. 01-2020 Phase 2 (9.40 Acres and 49 Single Family Residential Lots) upon determination that the map is in conformity with the provisions of state law and City code.

**PASSED AND ADOPTED** by the City Council of the City of Riverbank at a regular meeting held on the 28th day of July, 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**<br>**City Clerk** | **Richard D. O'Brien**<br>**Mayor** |

**Attachment: Exhibit A - Final Map 01-2020**

## OWNER'S STATEMENT

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

WE OFFER FOR DEDICATION TO THE PUBLIC FOR PUBLIC USE, IN FEE, 20' OF CALIFORNIA AVENUE, 20' OF CENTRAL AVENUE, LABRADOR LANE, CORGI WAY, BEAGLE DRIVE, AIREDALE WAY, AND LOT A (PARK); AS EASEMENTS; THE 10 FOOT WIDE PUBLIC UTILITY EASEMENTS; ALL AS SHOWN ON AND LYING WITHIN THE BOUNDARY OF THE LAND BEING DIVIDED BY THIS SUBDIVISION MAP.

OWNER: McROY-WILBUR COMMUNITIES, INC., A CALIFORNIA CORPORATION

Mark Wilbur DATE: June 8, 2020

MARK WILBUR - PRESIDENT

OWNER: McROY-WILBUR COMMUNITIES, INC., A CALIFORNIA CORPORATION

DATE: 6-9-20

IAN WILBUR - SECRETARY TREASURER

OWNER: JAMES A. AARTMAN A SINGLE MAN

James A. Aartman DATE: 6-11-20

JAMES A. AARTMAN

## NOTARY STATEMENT

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 } S.S.

ON June 8th, 2020, BEFORE ME, Michelle Cooper,

A NOTARY PUBLIC, PERSONALLY APPEARED Mark Wilbur

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

SIGNATURE: M. Cooper COMMISSION NUMBER: 2310197

PRINCIPAL COUNTY OF BUSINESS: Stanislaus MY COMMISSION EXPIRES: 11/20/2023

## NOTARY STATEMENT

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 } S.S.

ON June 9th, 2020, BEFORE ME, Michelle Cooper.

A NOTARY PUBLIC, PERSONALLY APPEARED Ian Wilbur

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

SIGNATURE: M. Cooper COMMISSION NUMBER: 2310197

PRINCIPAL COUNTY OF BUSINESS: Stanislaus MY COMMISSION EXPIRES: 11/20/2023

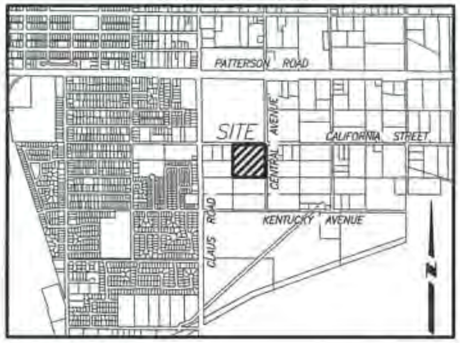
# COUNTRYSIDE, PHASE 1

BEING A SUBDIVISION OF LOTS 316 AND 330 AS SHOWN ON THAT MAP ENTITLED "MAP OF RIVERBANK IRRIGATED FARMS" FILED IN VOLUME 7 OF MAPS AT PAGE 23, STANISLAUS COUNTY RECORDS, LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN,
CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
APRIL 2020

## BENCHMARK ENGINEERING, INC.

915 17TH STREET, MODESTO, CALIFORNIA, 95354

VICINITY MAP N.T.S.




## TAX COLLECTORS CERTIFICATE

THIS IS TO CERTIFY THAT THERE ARE NO LIENS AGAINST THE SUBDIVISION OR ANY PART THEREOF FOR ANY UNPAID STATE, COUNTY, SCHOOL, MUNICIPAL, IRRIGATION OR LOCAL TAXES, OR SPECIAL ASSESSMENTS, EXCEPT SPECIAL ASSESSMENTS OR TAXES NOT YET PAYABLE AGAINST THE LAND SHOWN ON THIS MAP.
APN: 062-022-003

DATED THIS 24 DAY OF June, 2020

DONNA RILEY, STANISLAUS COUNTY TAX COLLECTOR

BY: ______________________
DEPUTY

Janet Davenport
(PRINT NAME)

## CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE

THIS IS TO CERTIFY THAT THE OWNERS OF THE PROPERTY SHOWN ON THE ACCOMPANYING MAP HAVE FILED WITH THE BOARD OF SUPERVISORS: (CHECK ONE)

- [x] A. A BOND OR DEPOSIT APPROVED BY SAID BOARD TO SECURE THE PAYMENT OF TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES WHICH ARE AT THE TIME OF FILING OF THIS MAP, A LIEN AGAINST SAID PROPERTY OR ANY PART THEREOF.
- [ ] B. RECEIPTED TAX BILL OR BILLS OR SUCH OTHER EVIDENCE AS MAY BE REQUIRED BY SAID BOARD SHOWING FULL PAYMENT OF ALL APPLICABLE TAXES.

DATED THIS 24th DAY OF June, 2020

ELIZABETH A. KING
CLERK OF THE BOARD OF SUPERVISORS
STANISLAUS COUNTY, CALIFORNIA

BY: Patricia Gonzalez
DEPUTY

Patricia Gonzalez
(PRINT NAME)

## SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF MARK WILBUR, ON FEBRUARY 17 2016. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONAL APPROVED TENTATIVE MAP, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN THOSE POSITIONS ON OR BEFORE DECEMBER 31, 2021 AND THAT THE MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED THIS 24TH DAY OF JUNE, 2020

MICHAEL HALTERMAN L.S. 8040

PROFESSIONAL LAND SURVEYOR
MICHAEL HALTERMAN
No. 8040
STATE OF CALIFORNIA

## CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND STATE THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH, AND I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

DATED THIS _____ DAY OF ____________, 20___.

WILLIAM F. KULL, CITY SURVEYOR, CITY OF RIVERBANK L.S. 5792

## OMITTED SIGNATURE STATEMENT

PURSUANT TO SECTION 66436 OF THE SUBDIVISION MAP ACT, THE FOLLOWING SIGNATURES HAVE BEEN OMITTED:

NAME: CLARA H. SNEDIGAR
TYPE OF INTEREST: RESERVATION OF RIGHT TO RUN AND CONDUCT IRRIGATION WATER AND THE RIGHTS WITH ALL ITS INCIDENTS TO CONSTRUCT AND MAINTAIN DITCHES
DEED REFERENCE: BOOK 286 OF DEEDS, PAGE 461, STANISLAUS COUNY RECORDS

## PLANNING COMMISSION STATEMENT

THIS IS TO STATE THAT THIS SUBDIVISION MAP SUBSTANTIALLY CONFORMS TO THE TENTATIVE MAP AND RECOMMENDED BY THE PLANNING COMMISSION AT A DULY AUTHORIZED MEETING HELD ON APRIL 25, 2005 AND APPROVED BY THE CITY COUNCIL AT A DULY AUTHORIZED MEETING HELD ON NOVEMBER 27, 2006.

DATED THIS _____ DAY OF ____________, 20___.

DONNA M. KENNEY, SECRETARY PLANNING COMMISSION
CITY OF RIVERBANK

## CITY CLERK'S CERTIFICATE

THIS IS TO CERTIFY THAT AT A REGULAR MEETING HELD ON THE _____ DAY OF ____________, 20___, THE CITY COUNCIL OF THE CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, APPROVED THIS FINAL MAP AND ACCEPTED ON BEHALF FOR PUBLIC USE THE STREETS, AVENUES, ROADS, EASEMENTS, AND OTHER PUBLIC PLACES AND DEDICATIONS AS SHOWN ON THIS FINAL MAP. SAID APPROVAL IS NOT TO BE CONSTRUED AS ACCEPTANCE OF THE REMAINING STREETS THEREON.

DATED THIS _____ DAY OF ____________, 20___.

BY: ______________________ ______________________
ANNABELLE AGUILAR, CITY CLERK, CITY OF RIVERBANK PRINT NAME

## RECORDER'S STATEMENT

FILED THIS _______ DAY OF ______________, 20____, AT __________ O'CLOCK ___ M.

IN BOOK _______ OF MAPS AT PAGE ______________________, S.C.R.

AT THE REQUEST OF MARK WILBUR

DONNA LINDER
STANISLAUS COUNTY RECORDER

FEE: ______________

BY: ______________________, DEPUTY

PRINT NAME

SHEET 1 OF ~~3~~ 4

DATE: 6/5/2020 9:32 FILE: M:\141605\Survey Drawings\COUNTRYSIDE PHASE 1 FM\01-CERT.dwg

## NOTARY STATEMENT

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 } S.S.

ON June 11, 2020, BEFORE ME, M. Cooper,

A NOTARY PUBLIC, PERSONALLY APPEARED James A. Hartman

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

SIGNATURE: M. Cooper COMMISSION NUMBER: 2310197

PRINCIPAL COUNTY OF BUSINESS: Stanislaus MY COMMISSION EXPIRES: 11/21/2023

# COUNTRYSIDE, PHASE 1

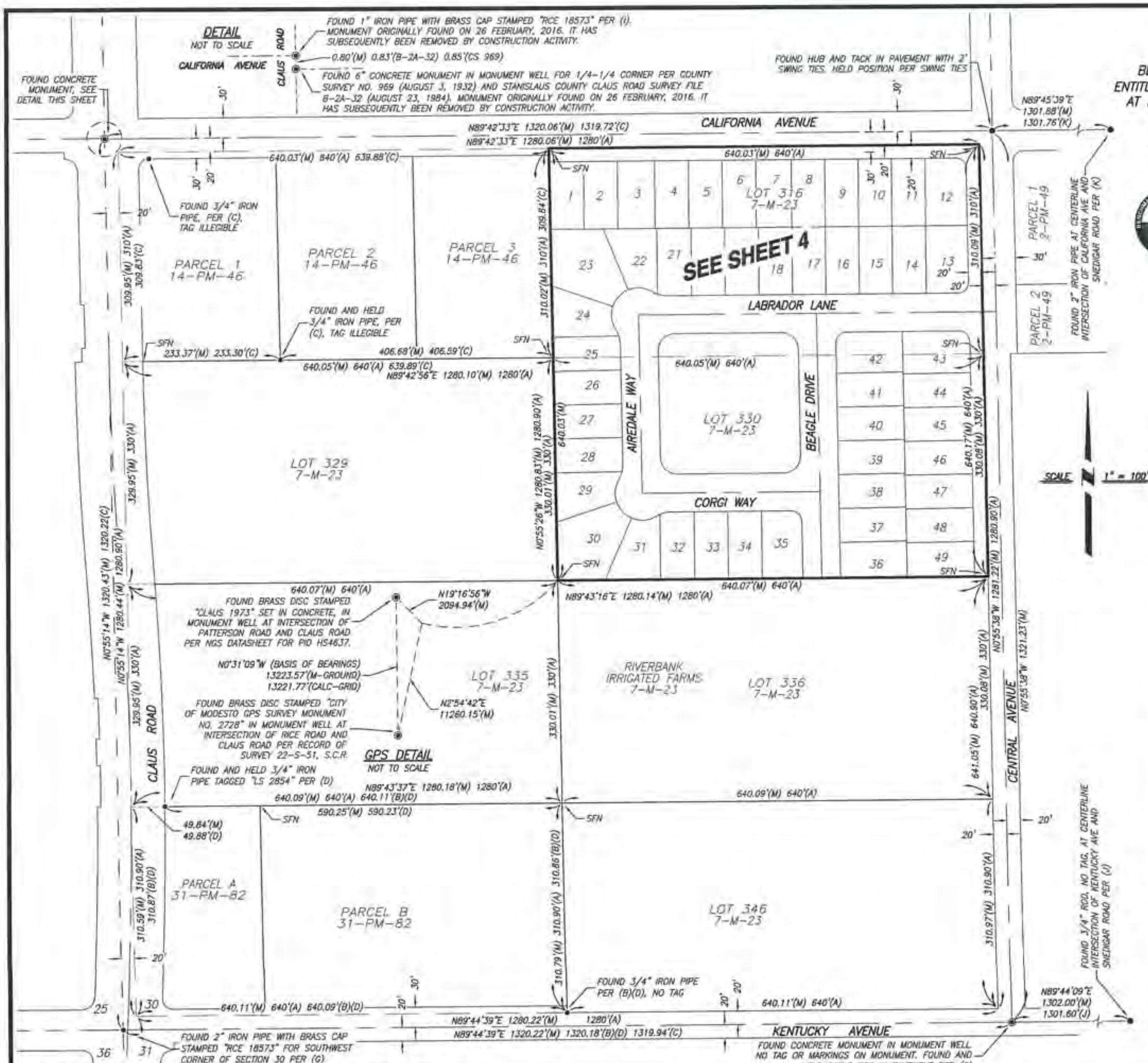
BEING A SUBDIVISION OF LOTS 316 AND 330 AS SHOWN ON THAT MAP ENTITLED "MAP OF RIVERBANK IRRIGATED FARMS" FILED IN VOLUME 7 OF MAPS AT PAGE 23, STANISLAUS COUNTY RECORDS, LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN,
CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
APRIL 2020

## BENCHMARK ENGINEERING, INC.

915 17TH STREET, MODESTO, CALIFORNIA, 95354



DATE: 6/11/2020 11:22 FILE: M:\141605\Survey Drawings\COUNTRYSIDE PHASE 1 FM\02-CERT.dwg




DATE: 6/11/2020 11:21 FILE: M:\141605\Survey Drawings\COUNTRYSIDE PHASE 1 FM\03-BNDY.dwg

# COUNTRYSIDE, PHASE 1

BEING A SUBDIVISION OF LOTS 316 AND 330 AS SHOWN ON THAT MAP ENTITLED "MAP OF RIVERBANK IRRIGATED FARMS" FILED IN VOLUME 7 OF MAPS AT PAGE 23, STANISLAUS COUNTY RECORDS, LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN,
CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
APRIL 2020

## BENCHMARK ENGINEERING, INC.

915 17TH STREET, MODESTO, CALIFORNIA, 95354

## LEGEND

NOTE: ALL PIPE SIZES ARE INSIDE DIAMETER

- ● FOUND MONUMENT AS NOTED
- ◉ FOUND MONUMENT IN MONUMENT WELL, AS NOTED
- ○ SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040
- ◎ SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040 IN MONUMENT WELL
- 3'WC ○ SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040 AT ALL REAR LOT CORNERS, AND LOT ANGLE POINTS, UNLESS NOTED AS A WITNESS CORNER

| | |
|---|---|
| D.N. | DOCUMENT NUMBER |
| R.S. | RECORD OF SURVEY |
| P.M. | PARCEL MAP |
| O.P. | OFFICIAL PLATS |
| (M) | MEASURED ON THIS SURVEY |
| (R) | RADIAL BEARING |
| SFN | SEARCHED, FOUND NOTHING |
| PUE | PUBLIC UTILITY EASEMENT |
| C42 | CURVE TABLE REFERENCE |
| S.C.R. | STANISLAUS COUNTY RECORDS |

## NOTES

1. ALL BEARINGS AND DISTANCES SHOWN HEREON ARE MEASURED UNLESS OTHERWISE NOTED.
2. ALL DISTANCES AND DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
3. ALL RECORD INFORMATION SHOWN IS FROM STANISLAUS COUNTY RECORDS.

## REFERENCES

(A) 7-M-23, MAP OF RIVERBANK IRRIGATED FARMS, S.C.R.
(B) 11-S-121, S.C.R.
(C) 14-PM-46, S.C.R.
(D) 31-PM-82, S.C.R.
(E) 35-M-89, CHURCHILL DOWNS SUBDIVISION, S.C.R.
(F) CORNER RECORD NO. 599, S.C.R.
(G) CORNER RECORD NO. 647, S.C.R.
(H) DOCUMENT NO. 2020-0009381-00, S.C.R.
(I) 34-M-79, KATHLEEN ESTATES, UNIT NO. 1, S.C.R.
(J) 12-PM-55, S.C.R.
(K) 24-PM-87, S.C.R.

## SUBDIVISION SUMMARY

| | |
|---|---|
| 49 LOTS | 6.03 ACRES |
| LOT A (PARK) | 0.98 ACRES |
| STREETS | 2.39 ACRES |
| TOTAL | 9.40 ACRES |

## BASIS OF BEARINGS

BEARINGS ON THIS MAP ARE BASED UPON A LINE OBSERVED BETWEEN CITY OF MODESTO GPS MONUMENT 2728 AND NGS MONUMENT "CLAUS" (PID HS4637). THE BEARING BETWEEN THOSE POINTS IS CALCULATED TO BE N0°31'09"W BASED UPON THE COORDINATES PUBLISHED ON THE RECORD OF SURVEY FILED IN 22-S-51, S.C.R. AND THE NGS DATA SHEET FOR STATION "CLAUS". SEE GPS DETAIL ON THIS SHEET.


# COUNTRYSIDE, PHASE 1

BEING A SUBDIVISION OF LOTS 316 AND 330 AS SHOWN ON THAT MAP ENTITLED "MAP OF RIVERBANK IRRIGATED FARMS" FILED IN VOLUME 7 OF MAPS AT PAGE 23, STANISLAUS COUNTY RECORDS, LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
APRIL 2020

## BENCHMARK ENGINEERING, INC.

915 17TH STREET, MODESTO, CALIFORNIA, 95354

### LEGEND

NOTE: ALL PIPE SIZES ARE INSIDE DIAMETER

- FOUND MONUMENT AS NOTED
- FOUND MONUMENT IN MONUMENT WELL, AS NOTED
- SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040
- SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040 IN MONUMENT WELL
- 3'WC — SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040 AT ALL REAR LOT CORNERS, AND LOT ANGLE POINTS, UNLESS NOTED AS A WITNESS CORNER

D.N. DOCUMENT NUMBER
R.S. RECORD OF SURVEY
P.M. PARCEL MAP
O.P. OFFICIAL PLATS
(M) MEASURED ON THIS SURVEY
(R) RADIAL BEARING
SFN SEARCHED, FOUND NOTHING
PUE PUBLIC UTILITY EASEMENT
C42 CURVE TABLE REFERENCE
S.C.R. STANISLAUS COUNTY RECORDS

### REFERENCES

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(B) 11-S-121, S.C.R.
(C) 14-PM-46, S.C.R.
(D) 31-PM-82, S.C.R.
(E) 35-M-89, CHURCHILL DOWNS SUBDIVISION, S.C.R.
(F) CORNER RECORD NO. 599, S.C.R.
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(H) DOCUMENT NO. 2020-0009381-00, S.C.R.
(I) 34-M-79, KATHLEEN ESTATES, UNIT NO. 1, S.C.R.
(J) 12-PM-55, S.C.R.
(K) 24-PM-87, S.C.R.

| CURVE DATA TABLE | | | | CURVE DATA TABLE | | | |
|---|---|---|---|---|---|---|---|
| CURVE | DELTA | RADIUS | LENGTH | CURVE | DELTA | RADIUS | LENGTH |
| C1 | 89°21'05" | 16.00' | 24.95' | C16 | 49°13'51" | 40.00' | 34.37' |
| C2 | 24°01'56" | 40.00' | 16.78' | C17 | 53°31'12" | 40.00' | 37.36' |
| C3 | 31°47'18" | 40.00' | 22.19' | C18 | 154°12'35" | 40.00' | 107.66' |
| C4 | 7°45'22" | 40.00' | 5.41' | C19 | 11°12'06" | 40.00' | 7.82' |
| C5 | 55°29'40" | 40.00' | 38.74' | C20 | 31°47'18" | 40.00' | 22.19' |
| C6 | 48°11'12" | 40.00' | 33.64' | C21 | 20°35'12" | 40.00' | 14.37' |
| C7 | 49°15'01" | 40.00' | 34.38' | C22 | 90°38'11" | 15.00' | 23.73' |
| C8 | 152°55'54" | 40.00' | 106.77' | C23 | 89°21'49" | 15.00' | 23.40' |
| C9 | 18°07'56" | 40.00' | 12.66' | C24 | 89°21'49" | 16.00' | 24.95' |
| C10 | 31°47'18" | 40.00' | 22.19' | C25 | 90°38'11" | 16.00' | 25.31' |
| C11 | 15°39'22" | 40.00' | 9.53' | C26 | 89°21'49" | 25.00' | 38.99' |
| C12 | 17°09'48" | 40.00' | 11.98' | C27 | 90°38'55" | 25.00' | 39.55' |
| C13 | 31°47'18" | 40.00' | 22.19' | C28 | 89°21'18" | 25.00' | 38.99' |
| C14 | 14°37'30" | 40.00' | 10.21' | C29 | 90°37'59" | 25.00' | 39.55' |
| C15 | 51°27'33" | 40.00' | 35.93' | | | | |

SCALE 1" = 50'

DATE: 5/11/2020 11:18 FILE: M:\141605\Survey Drawings\COUNTRYSIDE PHASE 1 FM\04-MAP.dwg

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 4.1

## SECTION 4: UNFINISHED

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject/ Title:** | A Second Reading by Title Only of Proposed **Ordinance No. 2020-009** Amending Title XI: Business Regulations; Chapter 120: Cannabis Regulations; Section 120.61: Penalties, by Repealing Section 120.61 in its Entirety and Substituting it with a New Section120.61 Penalties, to the Riverbank Municipal Code of Ordinances |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Donna M. Kenney, Planning and Building Manager |

### RECOMMENDATION

It is recommended that the City Council consider adoption of proposed Ordinance No. 2020-009 by roll call vote.

### SUMMARY

In the last two years, the City has discovered several large unpermitted cannabis cultivations in residential areas of the City. While each residence is allowed six (6) mature cannabis plants per State law, it is not unusual to find several dozen or upwards of several hundred per residence. As Code Enforcement and the Sheriff's Department move forward to abate these sites, they are finding the penalty section of the City's cannabis ordinance is inadequate in deterring these activities.

### BACKGROUND

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

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

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

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

Lastly, on August 8, 2017 and August 22, 2017, the Riverbank City Council adopted Ordinance #2017-007, which provides a regulatory structure for personal cultivation and commercial cannabis activities in the City of Riverbank ONLY in the General Commercial (C-2), Commercial – Industrial (CM), Cannery District, Highway Boulevard (HB), Downtown General (DG), Downtown Core (DC), Light industrial (M-1), and Research and Development (R&D) zoning districts.

## ANALYSIS

The adoption of Riverbank Ordinance #2017-007 mentioned above included Section §120.61 PENALTIES for the enforcement of the ordinance. Subsection (C) of this section states:

"Violations of this chapter shall be subject to an administrative penalty. The amount of the administrative penalty shall be two hundred and fifty dollars ($250) for the first offense, five hundred ($500) dollars for the second offense, and one thousand dollars ($1,000) for any subsequent offense."

This makes sense when applied to a homeowner cultivating cannabis without an Administrative Cultivation Permit (ACP) or someone with an ACP permit planting a couple more cannabis plants than allowed. It does not make sense when applied to an unpermitted cannabis cultivation site of 1,000 plants in a residential neighborhood. A $250 penalty means nothing to someone growing cannabis for the black market at $2,000 per pound. It is not enough to deter them from starting another cultivation down the street or somewhere else within city limits. Enforcement is a collaborative effort between Code Enforcement and the Sheriff's Department which means there could be a dozen officers participating. A $250 fine does not come close to covering the staff time involved in the enforcement.

The amendment below was proposed by the City Attorney as a remedy (underlined in red). It is currently in use by the City of Patterson.

**§Section 120.61 Penalties**

A. In addition to any other enforcement permitted by this Chapter, any use or condition caused, or permitted to exist, in violation of any provision of this Chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Section 731 of the Code of Civil Procedure or any other remedy available to the City.

B. In addition to any other enforcement permitted by this Chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party.

C. Violations of this chapter shall be subject to an administrative penalty. The amount of the administrative penalty shall be two hundred and fifty dollars ($250) for the first offense, five hundred ($500) dollars for the second offense, and one thousand dollars ($1,000) for any subsequent offense.

D. In addition to any other enforcement permitted by this Chapter, violations of this Chapter shall be subject to an administrative penalty. Any responsible party violating any provision of this Chapter may be issued an administrative citation by a public official in accordance with this Chapter. The administrative citation penalty for each and every cannabis plant cultivated in violation of this Chapter shall be: (1) One Thousand Dollars ($1,000) per plant; plus (2) One Hundred Dollars ($100) per plant per day that the plant remains uncorrected past the deadline set forth in the administrative citation.

E. Notwithstanding the other provisions of this Section, the City may immediately assess fines for violations of the City's building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of or to facilitate, the cultivation of cannabis, without first providing an opportunity to correct the violation, unless any of the following are true:

1. A tenant is in possession of the property that is the subject of the administrative action;

2. The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis; or

3. The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

F. Each and every day a violation of the provisions of this Chapter exists constitutes a separate and distinct offense and shall be subject to citation.

G. Neither imposition nor payment of an administrative penalty shall relieve the responsible party from their obligation to correct the violation, nor shall it bar further enforcement action.

## FINANCIAL IMPACT

Due to the increased penalty from $250 per incident to $1,000 per plant, the City should be able to recoup some, if not most of its enforcement costs.

## ENVIRONMENTAL DETERMINATION

The approval of any ordinance regarding cannabis is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in a physical change in the environment, directly or ultimately. Therefore, no CEQA analysis of the ordinance is required.

## STRATEGIC GOALS

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three years. Under the Goal of “Improve Public Safety,” Objective 2.1 applies: “Ensure adequate funding for appropriate levels of staffing for public safety personnel.” An increase in penalties for the unpermitted cultivation of cannabis will help close the current financial gap in its enforcement.

## ATTACHMENTS

1. Proposed City Council Ordinance No. 2020-009

**CITY OF RIVERBANK**

**ORDINANCE NO. 2020-009**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AMENDING TITLE XI: BUSINESS REGULATIONS; CHAPTER 120: CANNABIS REGULATIONS; SECTION 120.61: PENALTIES, BY REPEALING SECTION §120.61 IN ITS ENTIRETY AND SUBSTITUTING IT WITH A NEW SECTION 120.61, TO THE RIVERBANK MUNICIPAL CODE OF ORDINANCES**

---

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

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

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

**WHEREAS,** in the last two years, the City has discovered several large unpermitted cannabis cultivations in residential areas of the City and as Code Enforcement and the Sheriff's Department move forward to abate these sites, they are finding the penalty section of the City's cannabis ordinance is inadequate in deterring these activities; and

**WHEREAS,** the City Council adoption of Riverbank Ordinance #2017-007 included Section §120.61 PENALTIES for the enforcement of the ordinance, which Council desires to amend with this ordinance; and

**WHEREAS,** the City Council of the City of Riverbank finds that this ordinance with its proposed penalties is consistent with the city's current prohibition of outdoor cultivation and the State's limit of six mature cannabis plants per residence, which is in the best interest of the health, welfare and safety of the public.

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

**SECTION 1:** Chapter 120: Cannabis Regulations, Section §120.61 Penalties of the Riverbank Municipal Code shall be repealed in its entirety and replaced with a new Chapter 120: Cannabis Regulations, Section §120.61 Penalties, which shall read as follows:

## CHAPTER 120: CANNABIS REGULATIONS.

### § 120.61 PENALTIES.

(A) Any use or condition caused, or permitted to exist, in violation of any provision of this chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Cal. Code of Civil Procedure § 731 or any other remedy available to the City.

(B) In addition to any other enforcement permitted by this chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.

(C) Violations of this chapter shall be subject to an administrative penalty. The amount of the administrative penalty shall be two hundred and fifty dollars ($250) for the first offense, five hundred dollars ($500) for the second offense, and one thousand dollars ($1,000.00) for any subsequent offense.

(D) In addition to any other enforcement permitted by this Chapter, violations of this Chapter shall be subject to an administrative penalty. Any responsible party violating any provision of this Chapter may be issued an administrative citation by a public official in accordance with this Chapter. The administrative citation penalty for each and every cannabis plant cultivated in violation of this Chapter shall be: (1) One Thousand Dollars ($1,000) per plant; plus (2) One Hundred Dollars ($100) per plant per day that the plant remains uncorrected past the deadline set forth in the administrative citation.

(E) Notwithstanding the other provisions of this Section, the City may immediately assess fines for violations of the City's building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of or to facilitate, the cultivation of cannabis, without first providing an opportunity to correct the violation, unless any of the following are true:

1. A tenant is in possession of the property that is the subject of the administrative action;

2. The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis; or

3. The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

(F) Each and every day a violation of the provisions of this Chapter exists constitutes a separate and distinct offense and shall be subject to citation.

(G) Neither imposition nor payment of an administrative penalty shall relieve the responsible party from their obligation to correct the violation, nor shall it bar further enforcement action.

**SECTION 2:** If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3:** This Ordinance shall become effective thirty (30) days from and after its final passage June 23, 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 June 9, 2020. Said ordinance was given a second reading by title only and adopted.

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

**AYES:**
**NAYS:**
**ABSENT:**
**ABSTAINED:**

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

**APPROVED AS TO FORM:**

______________________________
**Tom P. Hallinan, City Attorney**

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

## SECTION 5: PUBLIC HEARING

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | A **Resolution** Granting an Easement Dedication to Pacific Gas and Electric on City Property (APN: 247-250-022, 247-250-004, & 247-260-002) as Described in the Easement Deed |
| **Submitted by:** | Sean Scully, City Manager |

**RECOMMENDATION**

It is recommended that the City Council consider the proposed resolution granting an easement to PG&E for overhead power lines at City owned parcels (247-250-022, 247-250-004, & 247-260-002).

**SUMMARY**

The City of Riverbank has received a request from an adjacent agricultural landowner (Bruce Beard) who owns property adjacent to the Waste Water Treatment Plant (WWTP). Mr. Beard is in the process of completing a new agricultural water well on his property adjacent to the WWTP. The final step of the project is PG&E power connection to the well. In order for overhead lines to be brought to this area, the power lines will need to be constructed in such a way that a very small portion of the overhead line will cross the property line boundaries over the City parcels where the WWTP is located. The area of encroachment identified is a small 45' area at the very southwestern edge of the plant. The easement would be approximately 45' long and 10' wide. See easement attached to this document which includes a map with location information.

Public Works have reviewed the request and believe it to be a reasonable request with little to no impact at the plant. The easement would allow PG&E or contractor to construct of the overhead lines as well as the rights to perform routine maintenance (including removal, replacement, repair of the facility) from time to time. There are no City owned trees or other facilities that will require removal as a result of granting this easement. The easement restricts the City's ability to construct new facilities within the easement area, however due to its minimal size and location it is unlikely this will impact any future plans the City has in this area. The primary benefits to the City granting the request are three key reasons: First, if the City ever had a need for electrical connections on that side of the plant there is a potential that the City could run electrical off that line with a separate meter, second at some point in the future the City may need utility easements along Mr. Beard's property and cooperation with the request may assist in future discussions for those easements,  and finally the ag water pump that will be energized and in production as a result of this easement assists in the ground not becoming over saturated in this area as the percolation ponds for the WW plant are immediately adjacent to this location.

## STRATEGIC PLAN

The recommended action supports the City of Riverbank Strategic Plan Initiatives: Maintain and Improve the City's Infrastructure and Service Delivery System.  While not a direct City infrastructure improvement,  cooperating with neighbors in need to utility adjacent to City parcels is an important component to making sure that service is being delivered in and around Riverbank.

## FINANCIAL IMPACT

None

## ATTACHMENT

1. Proposed Resolution
2. PG&E Easement Deed, map, and Disclosure Statement

**CITY OF RIVERBANK**

**RESOLUTION**

# A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, GRANTING AN EASEMENT DEDICATION TO PACIFIC GAS AND ELECTRIC (PG&E) ON CITY PROPERTY (PARCELS 247-250-022, 247-250-004, & 247-260-002) AS DESCRIBED IN THE EASEMENT DEED

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**WHEREAS,** the City of Riverbank has received a request from Rodney P. Beard and Virginia Beard property owners of an agricultural property to the west of the City of Riverbank Waste Water Treatment Plant; and

**WHEREAS,** the request is a public utility electrical utility easement to allow power lines to be brought to the Beard property adjacent to the Waste Water Treatment Plant, which will be used to energize a new agricultural well site at this location; and

**WHEREAS,** if approved, a small area (approximately 45' of length) of the southwestern side of the Waste Water Treatment Plant would have overhead utility lines; and

**WHEREAS,** the easement would allow the right from time to time to excavate for, construct, reconstruct, install, replace (of initial or any other size), remove, maintain, inspect and use facilities of the type hereinafter specified, together with a right of way therefor, within the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands; and

**WHEREAS,** Public Works staff have reviewed the request and believe it to be reasonable with no effect on the Waste Water Treatment Plant or general use of the property.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Riverbank does hereby approve the easement deed request and authorizes the City Manager to execute the necessary documents associated with granting the easement.

**PASSED AND ADOPTED** by the City Council of the City of Riverbank at a regular meeting held on the 28th day of July, 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**<br>**City Clerk** | **Richard D. O'Brien**<br>**Mayor** |

**Attachment:**

Distribution Easement (Rev.02/2020)
**RECORDING REQUESTED BY AND RETURN TO:**

***PACIFIC GAS AND ELECTRIC COMPANY***
***245 Market Street, N10A, Room 1015***
***P.O. Box 770000***
***San Francisco, California 94177***

Location: City/Uninc______________________
Recording Fee $_____________________________
Document Transfer Tax $ __________
[ ] This is a conveyance where the consideration and Value is less than $100.00 (R&T 11911).
[ ] Computed on Full Value of Property Conveyed, or
[ ] Computed on Full Value Less Liens & Encumbrances Remaining at Time of Sale
[ ] Exempt from the fee per GC 27388.1 (a) (2); This document is subject to Documentary Transfer Tax

_________________________________________
Signature of declarant or agent determining tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

LD# 2202-09-10003 EASEMENT DEED

CITY OF RIVERBANK, a Municipal Corporation,

hereinafter called Grantor, hereby grants to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called Grantee, the right from time to time to excavate for, construct, reconstruct, install, replace (of initial or any other size), remove, maintain, inspect and use facilities of the type hereinafter specified, together with a right of way therefor, within the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands of Grantor situated in the County of San Joaquin, State of California, described as follows:

(APN 247-250-22, 247-250-04 & 247-260-02)

The parcel of land described in the deed from Rodney P. Beard and Virginia Beard, husband and wife, as Community Property to City of Riverbank, a Municipal Corporation dated January 9, 2003 and recorded as Document No. 2003-056973, San Joaquin County Records and the parcel of land described in the deed from T.B. Roberson and Retha C. Roberson, his wife to City of Riverbank, a Municipal corporation, dated June 10, 1964 and recorded in Book 2841 of Official Records at page 292, San Joaquin County Records and the parcel of land described in the deed from Santa Fe Land Improvement Company, a California corporation to the City of Riverbank dated March 21, 1949 and recorded in Book 663 of Official Records at page 376, San Joaquin County Records.

The facilities and easement area are described as follows:

Such poles, aerial wires, cables, electrical conductors with associated crossarms, braces, transformers, anchors, guy wires and cables, fixtures and appurtenances, as Grantee deems necessary for the distribution of electric energy and communication purposes located within the strip of land of the uniform width of 10 feet lying 5 feet on each side of the alignment of the facilities as initially installed hereunder. The approximate location of said facilities are shown upon Grantee’s Drawing Number L-02-09-22 attached hereto and made a part hereof.

Grantor further grants to Grantee the right, from time to time, to trim or to cut down, without Grantee paying compensation, any and all trees and brush now or hereafter within said easement area, and shall have the further right, from time to time, to trim and cut down trees and brush along each side of said easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the facilities installed hereunder, or as Grantee deems necessary to comply with applicable state or federal regulations.

Grantor also grants to Grantee the right to use such portion of said lands contiguous to said easement area as may be reasonably necessary in connection with the excavation, construction, reconstruction, replacement, removal, maintenance and inspection of said facilities.

Grantor hereby covenants and agrees not to place or construct, nor allow a third party to place or construct, any building or other structure, or store flammable substances, or drill or operate any well, or construct any reservoir or other obstruction within said easement area, or diminish or substantially add to the ground level within said easement area, or construct any fences that will interfere with the maintenance and operation of said facilities.

Grantor further grants to Grantee the right to apportion to another public utility (as defined in Section 216 of the California Public Utilities Code) the right to construct, reconstruct, replace, remove, maintain, inspect, and use the communications facilities within said easement area including ingress thereto and egress therefrom.

Grantor acknowledges that they have read the “Grant of Easement Disclosure Statement”, Exhibit “A”, attached hereto and made a part hereof.

The legal description herein, or the map attached hereto, defining the location of this utility distribution easement, was prepared by Grantee to Section 8730 (c) of the Business and Professions Code.

Grantor hereby confirms in Grantee all necessary rights for Grantee's existing pole line and other appurtenances located on said lands.

This document may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

Dated: ___________________, _______.

CITY OF RIVERBANK, a Municipal Corporation,

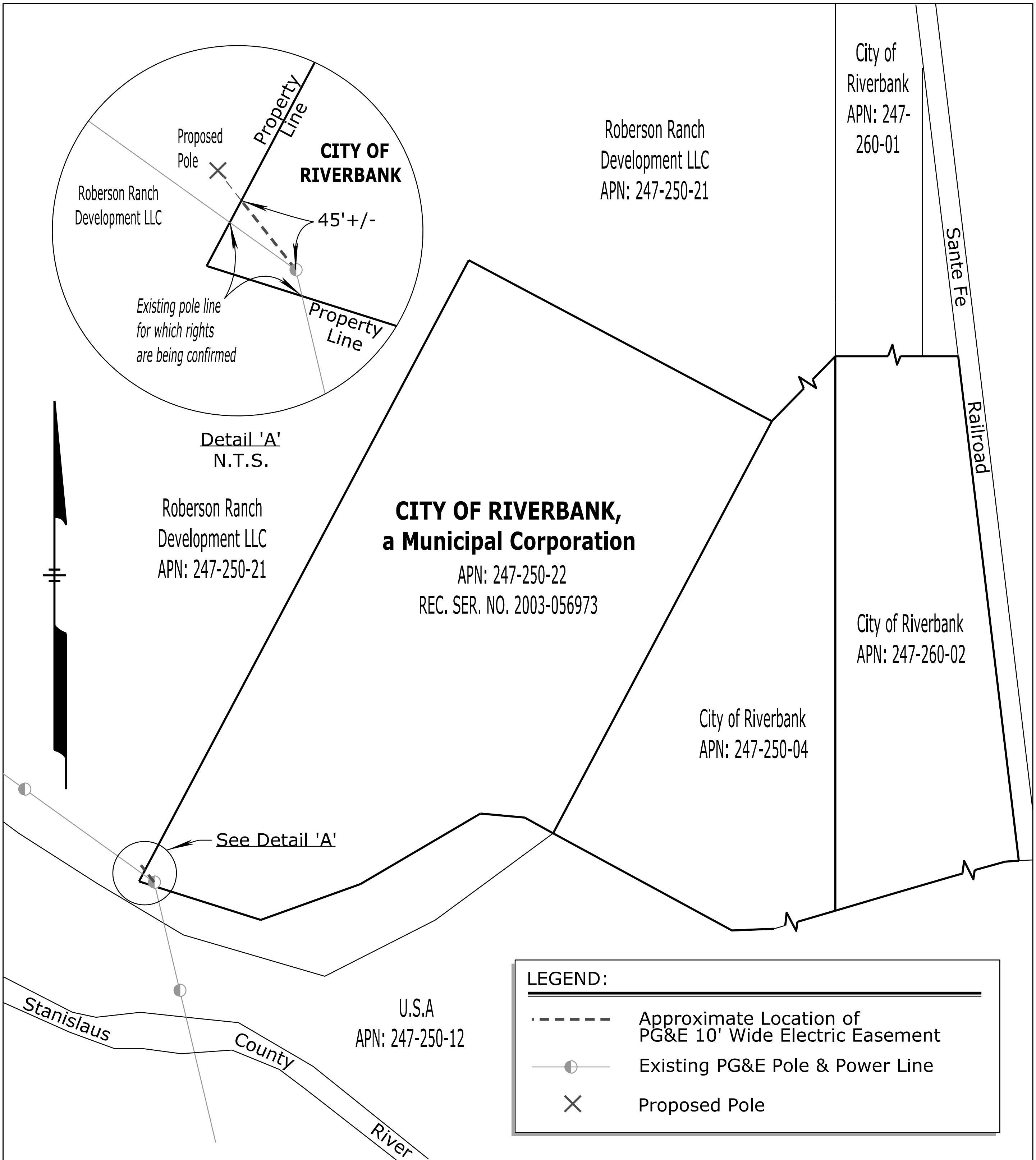
By_______________________________

By_______________________________

I hereby certify that a resolution was adopted on the ____ day of __________, 20____, by the ________________________________________ authorizing the foregoing grant of easement.

By____________________________________

Attach to LD: 2202-09-10003
Area: 6
Land Service Office: Stockton
Line of Business: Electric Distribution (43)
Business Doc Type: Easements
MTRSQ: 22.02.09.22.32, 22.02.09.23.22,
22.02.09.23.21, 22.02.09.23.33, 22.02.09.23.32,
PG&E Drawing Number: L-02-09-22
Plat No.: Z-19, Z-1916
LD of Affected Documents: N/A
LD of Cross Referenced Documents: N/A
Type of interest: Electric Pole Line Easements (3), Communication Easement (6)
Order: 35152961
County: San Joaquin
Prepared By: PXA0
Checked By: RWW0




UNLESS OTHERWISE SHOWN ALL COURSES EXTEND TO OR ALONG BOUNDARIES OR LINES

| Applicant: | SCALE | DATE |
|---|---|---|
| **BRUCE BEARD** | 1" = 400' | 04/28/20 |

| SECTION | TOWNSHIP | RANGE | MERIDIAN | COUNTY OF: | CITY OF: |
|---|---|---|---|---|---|
| SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 22 & S $\frac{1}{2}$ Sec. 23 | T.02S. | R.09E. | M.D.M. | San Joaquin | Unincorporated |

| F.B.: | DR.BY: PXA0 | CH.BY: RWWO |
|---|---|---|

| PLAT MAP REFERENCES | | DIVISION | AUTHORIZ | DRAWING NO. |
|---|---|---|---|---|
| Z-19, Z-1916 | PG&E | Sacramento | 35152961 | L-02-09-22 |

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, __________________________________________ Notary Public,
Insert name

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.

__________________________________________________ (Seal)
Signature of Notary Public

**CAPACITY CLAIMED BY SIGNER**

[ ] Individual(s) signing for oneself/themselves

[ ] Corporate Officer(s) of the above named corporation(s)

[ ] Trustee(s) of the above named Trust(s)

[ ] Partner(s) of the above named Partnership(s)

[ ] Attorney(s)-in-Fact of the above named Principal(s)

[ ] Other _________________________________

**Pacific Gas and Electric Company**

# EXHIBIT "A"

## GRANT OF EASEMENT DISCLOSURE STATEMENT

This Disclosure Statement will assist you in evaluating the request for granting an easement to Pacific Gas and Electric Company (PG&E) to accommodate a utility service extension to PG&E's applicant. **Please read this disclosure carefully before signing the Grant of Easement.**

- You are under no obligation or threat of condemnation by PG&E to grant this easement.
- The granting of this easement is an accommodation to PG&E's applicant requesting the extension of PG&E utility facilities to the applicant's property or project. Because this easement is an accommodation for a service extension to a single customer or group of customers, PG&E is not authorized to purchase any such easement.
- By granting this easement to PG&E, the easement area may be used to serve additional customers in the area. Installation of any proposed facilities outside of this easement area will require an additional easement.
- Removal and/or pruning of trees or other vegetation on your property may be necessary for the installation of PG&E facilities. You have the option of having PG&E's contractors perform this work on your property, if available, or granting permission to PG&E's applicant or the applicant's contractor to perform this work. Additionally, in order to comply with California fire laws and safety orders, PG&E or its contractors will periodically perform vegetation maintenance activities on your property as provided for in this grant of easement in order to maintain proper clearances from energized electric lines or other facilities.
- The description of the easement location where PG&E utility facilities are to be installed across your property must be satisfactory to you.
- The California Public Utilities Commission has authorized PG&E's applicant to perform the installation of certain utility facilities for utility service. In addition to granting this easement to PG&E, your consent may be requested by the applicant, or applicant's contractor, to work on your property. Upon completion of the applicant's installation, the utility facilities will be inspected by PG&E. When the facility installation is determined to be acceptable the facilities will be conveyed to PG&E by its applicant.

By signing the Grant of Easement, you are acknowledging that you have read this disclosure and understand that you are voluntarily granting the easement to PG&E. Please return the signed and notarized Grant of Easement with this Disclosure Statement attached to PG&E. The duplicate copy of the Grant of Easement and this Disclosure Statement is for your records.

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

## SECTION 6: NEW BUSINESS

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | Utility Billing Discussion and Feedback |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Marisela H. Garcia, Assistant City Manager/Administrative Services Director |

### RECOMMENDATION

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

### SUMMARY

City Hall lobby closures have continued to limit resident's ability to make payments in person. In addition, many residents have made contact with staff stating that they have faced layoffs and work schedule reductions during this time in certain economic segments hindering their ability to make payment. It is requested that Council provide feedback on potential options regarding payment of utility bills which are due by June 1, 2020.

### BACKGROUND

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

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

As part of the COVID-19 response, the City has closed all City buildings in an effort to protect the public and employees. This has hindered our residents' ability to make in-person payment on the utility bill that is currently due on July 31, 2020. As of the writing of this report, the City has yet to determine the length of time that City offices will be closed. The City has publicized the various alternative payment options available to the public such as:

- Online via Xpress Bill Pay
- Online via residents online banking service
- Phone via Xpress Bill Pay (1-800-720-6847)
- Check/Money Order in City Drop Box at City Hall South
- In person at two "Checkfree Pay" Authorized Locations: Riverbank Food Center and O'Brien's Market.

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

Given the guidance from the Governor and in an effort to avoid having residents appear at City Hall South on July 31, 2020 to make payment prior to the deadline we are presenting the following options for feedback:

1. Status Quo: Continue with July 31, 2020 due date. Application of penalties occurs on August 1, 2020.
2. Delay the due date on the utility bill until August 14, 2020. Apply penalties on August 15, 2020
3. Do not apply penalties for delinquent bills after the July 31, 2020 due date.

Pursuant to the Governor's orders, staff will not perform shut-offs for delinquent billings during the months of August/September.

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

## STRATEGIC PLAN

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

## FINANCIAL IMPACT

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

## ATTACHMENT

There are no attachments to this item.

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

## SECTION 6: NEW BUSINESS

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | CARES Coronavirus Relief Fund (CRF) Allocation Discussion |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Marisela H. Garcia, Assistant City Manager/Administrative Services Director |

**RECOMMENDATION**

It is recommended that the City Council provide feedback to staff regarding the use of the CARES Coronavirus Relief Fund (CRF) Allocation that has been allocated to the City of Riverbank by the County of Stanislaus.

**SUMMARY**

On June 9, 2020 the Stanislaus County Board of Supervisors allocated $15 million, to be distributed based on population, for eligible expenditures related to COVID-19. Riverbank will be receiving approximately $536,015 from the County. In addition, the City is entitled to a direct allocation of $309,049 in CRF funding from the State. Tonight's discussion will focus on a spending plan for the use of the County Funds and the State Funds, which each have their own specific guidelines for use.

**BACKGROUND**

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by Congress and signed into law by the federal government. This economic relief package is intended to provide funding for the costs incurred to protect residents from the public health and economic impacts of COVID-19. Stanislaus County qualified for direct funding and received $96.1 million from the U.S. Treasury to provide much needed financial relief.

The City will be receiving a direct allocation of CRF funding from the State of California in the amount of $ 309,049. In addition, on June 9, 2020 the Stanislaus County Board of Supervisors approved their spending plan for CARES Act funds and allocated $15 million to local cities in Stanislaus County. Of this share, Riverbank is eligible to receive $536,015. The County has asked all agencies to provide a spending plan for the use of these funds. As per the Subrecipient Agreement (Attachment A) signed with the County, funding may only be used to cover costs that:

1) Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2) Were not accounted for in the budget most recently approved as of March 27, 2020 for the State or government; and
3) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

The U.S. Department of the Treasury issued guidance (Attachment 2) for allowable spending of CRF funds. Although the guidance continues to evolve and be clarified, it generally provides that direct and indirect expenses incurred after March 1, 2020 in response to the COVID-19 pandemic are an allowable use of the funds. The funds can be used for actual payments issued between March 1, 2020 and December 30, 2020 and expire after December 30, 2020. Unfortunately, funds are not eligible to backfill lost revenue resulting from COVID-19 or to match claims for FEMA reimbursement; both issues remain subject to ongoing consideration at the Federal level.

## SPENDING PLAN OPTIONS

Based on the Department of Treasury guidance, staff has discussed several expenditure options that Council may consider including as part of the spending plan to be submitted to Stanislaus County. It is important to note, that limited staff availability may require that the City explore opportunities for other agencies (i.e. non-profit organizations) to provide administrative services in order to allow for such a program to be implemented.

1. *Public Health Expenses*
    a. Expenses for communication and enforcement by local governments of public health orders related to COVID-19 (i.e. Administrative staff, Code Enforcement, and Law Enforcement),
    b. Expenses for acquisition and distribution of medical and protective supplies,
    c. Expenses for disinfection of public areas and other facilities,
    d. Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
    e. Expenses for public safety measures undertaken in response to COVID-19.

The City has begun a mask program and provided masks to various non-profit organizations, and local food banks to share with residents who seek their services. In addition, the City will begin providing masks to Riverbank residents who may be unable to purchase masks due to an economic hardship.

2. *Payroll expenses* for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

Costs associated with law enforcement is an allowable expense under the **City's direct allocation from the State**. It would be prudent for the City Council to allocate a portion of the funding to be received to offset costs of our law enforcement contract with the Sheriff's Office.

3. *Expenses of actions to facilitate compliance with COVID-19* related public health measures, such as:
   a. Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions,
   b. Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
   c. Expenses to care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.

This will directly assist the City in offsetting the costs of providing leave that has been authorized under the Families First Coronavirus Relief Act (FFCRA). The FFCRA authorized up to 80 hours of "Emergency Paid Sick Leave" and "Expanded Family Medical Leave Act" for employees who met certain criteria due to COVID-19.

Providing assistance to our homeless population could take the form of assisting with temporary housing for those who must quarantine.

4. Expenses associated with the *provision of economic support* in connection with the COVID-19 public health emergency, such as:
   a. Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruptions caused by required closures.

Similar to programs implemented by Stanislaus County and the City of Modesto, Riverbank would seek to implement a COVID-19 Small Business Assistance Program that would assist our small businesses who have been affected by the mandated State closures. Grants could offer our small businesses an opportunity to pay for operational expenses, such as rent and payroll. A program such as this would require the development of program guidelines and establishing a maximum grant amount. The City would seek the assistance of agencies such as Opportunity Stanislaus, in order to implement this program.

## OTHER FUNDING AVAILABILITY

In addition to the CRF funding, the City of Riverbank has the unique opportunity of applying for CDBG-CV-1 funding (approximately $103,000) which can be used towards the implementation of a utility and rental assistance program for low-medium income residents who are in need. This item will be brought forward for Council consideration in August.

## STRATEGIC PLAN

This report directly relates to the City's Strategic Plan goal to "Ensure Financial Stability".

## FINANCIAL IMPACT

There is no direct financial impact to the City's funds associated with this report. Spending plan will allow for reimbursement via the CARES CRF Allocation.

**ATTACHMENT**

1. County of Stanislaus CARES Coronavirus Relief Fund (CRF) Subrecipient Agreement
2. Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (Updated June 30, 2020)

COUNTY OF STANISLAUS
CARES CORONAVIRUS RELIEF FUND (CRF)
SUBRECIPIENT AGREEMENT

This subrecipient agreement ("Agreement") is entered into between the County of Stanislaus, a political subdivision of the State of California ("County") and City of Riverbank ( "Subrecipient") effective as of July 1, 2020.

WHEREAS, the County has received an allocation from the Coronavirus Relief Fund ("CRF") established under Title V, Section 5001 of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act;

WHEREAS, per section 601 (d) of the Social Security Act, CRF funding may only be used to cover costs that:

(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);
(2) were not accounted for in the budget most recently approved as of March 27, 2020 for the State or government; and
(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020;

such costs to be referred to herein as "Eligible Expenditures;"

WHEREAS, The Department of Treasury has issued guidance that the County may transfer funds to a unit of government within its borders provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act;

WHEREAS, the County may allocate CRF funding to cities as long as cities spend the funding in accordance with the CARES Act and only for Eligible Expenditures;

WHEREAS, the County finds it necessary to provide financial assistance to cities within the County's geographical boundaries due to the public health emergency with respect to COVID-19 and that such assistance is an eligible expense under the CARES Act;

WHEREAS, on June 9, 2020, the Board of Supervisors allocated $15 million, to be distributed based on population, for the purposes set forth in this Agreement and subsequently authorized the creation of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Subrecipient agree as follows:

1. Amount of Allocation. The County shall pay to Subrecipient an amount of $536,015 in accordance with the terms of this Agreement.

2. Purpose of Allocation. Subrecipient shall use the allocated funds solely for Eligible Expenditures and in accordance with the terms set forth in this Agreement.

3. Deadline for Use of Allocated Funds. Subrecipient shall expend allocation no later than December 30, 2020 to expend funds under this Agreement. Any unexpended funds will be

returned to County by February 1, 2021. If the Date for expending CRF funds is reduced or extended by the federal government, this agreement and all related due dates for final reports and reimbursement of unspent funds will be adjusted accordingly by an equal amount of days as is provided for in the revised deadline versus December 30, 2020.

4. Reports and Documentation of Expenditures.

   (a) Prior to County's disbursement of funds under this Agreement, Subrecipient shall deliver to County a spending plan report detailing Subrecipient's anticipated use of the funds.

   (b) On or prior to September 15th, Subrecipient shall deliver to County a report detailing Subrecipient's expenditure of funds through fiscal year ending June 30. Expenditure of funds shall be reported using Exhibit B.

   (c) County reserves the right to withhold or reduce funding under this Agreement if County determines, in its sole discretion, that any portion of Subrecipient's anticipated use of funds is ineligible for CRF funding in accordance with paragraph 5.

   (d) Once funds have been released to Subrecipient, Subrecipient will forward the quarterly claims, using Exhibit B, prior to the 15th of the following month, to the county with backup documentation to substantiate expenditures eligible for CRF funding. The County may have an outside auditing contractor audit the claims and backup. On December 30, 2020, or on the effective date of termination of this Agreement if terminated earlier or the date for expending the funds is extended, Subrecipient shall deliver to County a final claim along with supporting documentation. In addition, City will provide a final reconciliation of CRF funds received and expended during the agreement term, and Subrecipient shall return to County all unexpended funds within 30 days of County written notice or funds termination date.

5. Disallowance. If County or any oversight agency/auditor determines that any amount of Subrecipient's expenditures under this Agreement lack the required documentation or are ineligible for CRF funding, Subrecipient shall be allowed to provide additional documentation as required and /or refund such amount which lacks required documentation to the County within thirty (30) days of County's written request.

6. Reconciliation Recapture. If at any time during the agreement and/or after the expiration of this agreement, funds are due from the Subrecipient to the County for non-refunded CRF funds as requested by the County or federally disallowed expenditures claimed by Subrecipient to CRF, County will exercise the right to deduct and recapture any amount owed from the next scheduled Property Tax apportionment.

7. Subsequent Funding. Notwithstanding anything to the contrary contained herein, if Subrecipient is awarded direct federal or state funding to address COVID-19-related impacts,

Subrecipient CRF allocation shall be reduced equal to the amount subrecipient was awarded and any CRF shall be refunded by an equal amount up to the amount of the CRF allocation. If the reduction is implemented, Subrecipient shall refund to County within ten (10) days of Subrecipient's receipt of such federal/state funding CRF funds amounting to the lesser of (a) the funds paid to Subrecipient under this Agreement or (b) the federal/state funds awarded to Subrecipient.

8. Compliance with Laws. Subrecipient shall comply with all applicable Federal, State, and local laws, ordinances, and regulations, including, without limitation, requirements regarding the use of CRF funds under the CARES Act that are in effect as of the effective date of this Agreement and that may later be enacted or promulgated. Without limiting the foregoing, Subrecipient shall comply with all applicable federal requirements set forth in Exhibit A, Federal Requirements, attached hereto.

9. Agreement Administration. The individuals listed below shall administer this Agreement on behalf of the County and Subrecipient. All communications between Subrecipient and the County shall be sent to the individuals listed below.

| County of Stanislaus | City of Riverbank, Subrecipient |
|---|---|
| Claim Submission<br>Jian-Ou-Yang<br>Asst. Auditor Controller<br>1010 10th Street Ste 5100<br>Modesto, CA 95354<br>209-525-6398 | Marisela H. Garcia<br>Assistant City Manager<br>6707 Third Street<br>Riverbank, CA 95367<br>209-863-7122 |

10. Audit and Inspection of Records. At any time during normal business hours, the Subrecipient shall make available to the County for examination all of its records with respect to all matters covered by this Agreement and will permit the County to audit, examine and make excerpts or transcripts from such records, and make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this Agreement. Unless otherwise specified by the County, said records shall be made available for examination within Stanislaus County. Subrecipient shall maintain such records in an accessible location and condition for a period of not less than five years following the fiscal year end of the final report required to be submitted under this Agreement unless County agrees in writing to an earlier disposition. The State of California and any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon County by this Agreement.

11. Termination of Agreement.

    (a) Termination for Convenience.

    This agreement may be terminated for convenience, in whole or in part, by either party by providing a written termination notice to the other party, stating the extent and effective date, at least fifteen (15) days prior to the termination date as identified. Within fifteen (15) days of such termination, Subrecipient shall return to County any unexpended funds paid to it under this Agreement which may be unexpended or owed.

(b) Termination for Default.

If Subrecipient fails to perform its obligations under this Agreement, the County may send Subrecipient a written notice of default that specifies the nature of the default. Subrecipient shall cure the default within fifteen (15) business days following receipt of the notice of default, or within such additional time to which County may agree. If Subrecipient fails to cure the default within that time, the County may terminate this Agreement by giving Subrecipient written notice of immediate termination. The County may also exercise clauses 5 and/or 6 to recapture any amount owed by the subrecipient for default. The County may also seek any and all legal and equitable remedies against Subrecipient for breaching this Agreement.

12. Independent Capacity. In the performance of this Agreement, Subrecipient and its officers, agents, employees and volunteers shall act in an independent capacity and not as officers, employees, agents or volunteers of the County. This Agreement does not create an employment relationship between Subrecipient and the County.

13. Defense and Indemnity. To the fullest extent permitted by law, County shall not be liable for, and Subrecipient shall defend and indemnify County and its officers, agents, employees and volunteers (collectively, "County Parties") against any and all claims, deductibles, self-insured retention's, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, "Claims"), which arise out of or are in any way connected to County's provision of allocated CRF funds and/or Subrecipient's use of allocated CRF funds under this Agreement arising either directly or indirectly from any act, error, omission or negligence of Subrecipient stating the extent and effective date, or its officers, employees, volunteers, agents, contractors, licensees or servants, including without limitation, Claims caused by the sole passive negligent act or the concurrent negligent act, error or omission, whether active or passive, of County Parties. Subrecipient stating the extent and effective date, shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole active negligent act or willful misconduct of County Parties.

For avoidance of doubt, and without limitation, the defense and indemnity obligations set forth shall specifically apply to any actions against the County by a federal agency to disallow funds or otherwise enforce compliance under the CARES Act or other federal requirements regarding Subrecipient's use or non-use of allocated CRF funding.

14. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of California.

15. Assignment. Subrecipient stating the extent and effective date, may not assign or transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the County.

16. Entire Agreement. This Agreement constitutes the entire agreement between Subrecipient stating the extent and effective date, and County regarding the subject matter contained herein. All other representations, oral or written, are superseded by this Agreement. Neither party is relying on any representation outside of this Agreement. This Agreement may be changed only by written amendment signed by County and Subrecipient.

17. Waiver. The failure of one party to enforce any term, covenant or condition of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce this, or any other term, covenant or condition of this Agreement. No waiver shall be deemed effective unless the waiver is expressly stated in writing and signed by the party waiving the right or benefit.

18. Survival. Unless otherwise specified herein, all terms and conditions of this Agreement shall survive the expiration of this Agreement.

19. Remedies. The rights and remedies in this Agreement are in addition to, and not a limitation on, all other rights and remedies available at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.

20. Recognition. If Subrecipient stating the extent and effective date, chooses to give written recognition of this CRF allocation Subrecipient shall recognize the County of Stanislaus and not one or more individual County Supervisors.

21. Counterparts. This Agreement may be executed in counterparts, and each counterpart shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties are not signatory to an original or same counterpart. The parties agree that signatures transmitted electronically via pdf attachment shall be binding as if they were original signatures.

IN WITNESS WHEREOF, the parties execute this Agreement effective on the date first written above.

| COUNTY OF STANISLAUS | CITY OF RIVERBANK |
|---|---|
| By: ______________________ | By: ______________________ |
| Jody Hayes, Chief Executive Officer | Sean Scully, City Manager |
| Date: ______________________ | Date: 7/14/20 |
| Approved as to form and legality | Approved as to form and legality |
| By: ______________________ | By: ______________________ |
| Thomas E. Boze, County Counsel | Thomas P. Hallinan, City Attorney |

**CORONAVIRUS RELIEF FUND**
**SUBRECIPIENT AGREEMENT**

## EXHIBIT A – FEDERAL REQUIREMENTS

Subrecipient shall comply with all applicable requirements associated with the CARES Act Coronavirus Relief Fund (CRF). Guidance for the allowable use of CRF funds can be found on the U.S. Department of the Treasury website (https://home.treasury.gov/policy-issues/cares/state-and-local-governments). Subrecipient shall also comply with all applicable requirements of 2 CFR Part 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS, including, without limitation, the following:

1. DEBARMENT AND SUSPENSION.

    (a) This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Subrecipient is required to verify that none of their principals (defined at 2 C.F.R. § 180.995) or affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

    (b) Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction they enter into.

    (c) This certification is a material representation of fact relied upon by County. If it is later determined that Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

2. SINGLE AUDIT. Subrecipient shall comply with the Single Audit requirements of 2 CFR Part 200.501, et seq.

3. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS. This is an acknowledgement that federal funding under the CARES Act is used to fund this Agreement. Subrecipient will comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.

4. NO OBLIGATION BY FEDERAL GOVERNMENT. The federal government is not a party to this Agreement and is not subject to any obligations or liabilities to the County or Subrecipient, or any other party pertaining to any matter resulting from the Agreement.

5. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. Subrecipient acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Subrecipient's actions pertaining to this Agreement.

# CRF REPORTING FORM-EXHIBIT B

**Coronavirus Relief Fund (CRF) is funded by the CARES Act**

| **Name of City:** | **Project Title (if applicable):** |
|---|---|
| | |

| **SCOPE OF WORK** |
|---|

| **Please provide a brief description of the activities conducted:** |
|---|
| |

**Please checkbox all the activities conducted:**

**Medical expenses such as:**

☐ COVID-19-related expenses of public hospitals, clinics, and similar facilities.

☐ Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.

☐ Costs of providing COVID-19 testing, including serological testing.

☐ Emergency medical response expenses, including emergency medical transportation, related to COVID-19.

☐ Expenses for establishing and operating public telemedicine capabilities for COVID-19related treatment.

**Public health expenses such as:**

☐ Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.

☐ Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.

☐ Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.

☐ Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.

☐ Expenses for public safety measures undertaken in response to COVID-19.

☐ Expenses for quarantining individuals.

☐ **Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.**

**Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:**

- ☐ Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
- ☐ Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
- ☐ Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
- ☐ Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
- ☐ COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
- ☐ Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.

**Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:**

- ☐ Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
- ☐ Expenditures related to a State, territorial, local, or Tribal government payroll support program.
- ☐ Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

☐ **Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.**

| *Please describe other activity:* |
| --- |
| |

## COST INFORMATION

Reported activities started on _____ (MM/DD/YY) and completed on/claimed through _____ (MM/DD/YY).

| Category | Amount |
|---|---|
| Contracts | $ |
| Labor | $ |
| Equipment | $ |
| Materials and Supplies | $ |
| Other | $ |
| | |
| *Less:* | |
| *Insurance Proceeds* | *$* |
| *Proceeds from Sale of Acquired Assets purchased with CRF funds (only if disposed of before December 31, 2020)* | *$* |
| | |
| **NET TOTAL** | **$** |

## SUBRECIPIENT CERTIFICATIONS

***I certify the following:***

**Duplicate Funding Certification**

The specific activities and costs in this report were not requested from another funding source or, if they were requested, that other source has not yet approved the funding. Further, I certify that if the Subrecipient does receive funding for the specific activities and costs in this report, I must notify the Stanislaus County Auditor-Controller's Office, and funding will be reconciled to eliminate duplication.

**Activity and Cost Certification**

The costs for which the Subrecipient used CRF funds were:

- necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19);
- not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the local government; and
- incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

**Documentation Certification**

The Subrecipient will maintain all documentation that supports this CRF expenditure report in its own files. This documentation will be required in the case of any audits.

| **Subrecipient Official Name:** | **Signature:** | **Date:** |
|---|---|---|
| | | |

**Coronavirus Relief Fund**
**Guidance for State, Territorial, Local, and Tribal Governments**
**Updated June 30, 2020**[1]

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act established the Coronavirus Relief Fund (the "Fund") and appropriated $150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.[2]

The guidance that follows sets forth the Department of the Treasury's interpretation of these limitations on the permissible use of Fund payments.

***Necessary expenditures incurred due to the public health emergency***

The requirement that expenditures be incurred "due to" the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be "necessary." The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

***Costs not accounted for in the budget most recently approved as of March 27, 2020***

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the

[1] This version updates the guidance provided under "Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020".
[2] *See* Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The "most recently approved" budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

***Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020***

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the "covered period"). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID–19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period, but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient's usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, *e.g.*, the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19 public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient's control.

This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

***Nonexclusive examples of eligible expenditures***

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
   - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
   - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
   - Costs of providing COVID-19 testing, including serological testing.
   - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
   - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
   - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
   - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
   - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
   - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
   - Expenses for public safety measures undertaken in response to COVID-19.
   - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
   - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
   - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
   - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

- Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
- COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
- Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.

5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
   - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
   - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
   - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

***Nonexclusive examples of ineligible expenditures***[3]

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.[4]
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

[3] In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

[4] *See* 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

# RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.3

## SECTION 6: NEW BUSINESS

| | |
|---|---|
| **Meeting Date:** | July 28, 2020 |
| **Subject:** | Electronic Sign Update – Discussion Direction |
| **From:** | Sean Scully, City Manager |
| **Submitted by:** | Sean Scully, City Manager |

**RECOMMENDATION**

It is recommended that the City Council consider an update on the electronic sign update.

**BACKGROUND**

At the June 23, 2020 the City Council heard an update on the electronic sign project proposed at the waterfall location on Atchison/Patterson Road (Highway 108) with Valley Outdoor Sign. After Council approved the project moving forward the project struggled with a number of delays related to engineering, appropriate electrical connection, COVID delays and permitting.

Staff provided a number of alternatives to the sign project at the waterfall including a City owned and operated sign on Patterson Road on the western entrance to City limits (affixed to the Welcome to Riverbank sign). Council also raised the question of the feasibility of a trailer sign that could be moved around town to get information out to the community.

Ultimately Council direction was to inform Valley Outdoor Sign that no additional time extensions to the project would be given and that the City would be moving on in other directions. Council also directed staff to bring back estimated costs for the other signage possibilities in July for direction. In the days after the meeting staff contacted Valley Outdoor Sign to notify them of Council direction and that the City would no longer be moving forward with a sign at this location. While disappointed the developer understood the Council direction. (Further update on this in the next section of the report).

Staff has also performed research and cost comparison on other options raised by Council which is detailed in the next section of the report.

**UPDATE SINCE DIRECTION:**

**Waterfall Sign –** Approximately 3 days after staff informed Valley Outdoor Sign of the Council direction to move on from the project, one of the managers of Valley Outdoor Sign called to inform staff of two key project related developments that happened in the interim period. Specifically, all engineering related barriers that had created project hurdles have been solved by the developer and their suppliers. Due to some detailed change in circumstances staff felt it had the responsibility to make Council aware that an opportunity still exists to complete the project should Council wish to do so.

Prior to Council's direction Valley Outdoor sign had Cal Trans permits in review for their sign with Cal Trans District 10. Staff recently received a Cal from Cal Trans District 10 coordinating comment on the permit, Cal Trans staff have indicated that the permit is likely to be approved. Given this information the developers have communicated to staff that if the Cal Trans permit is issued and if Council gives the developer a second chance to cure the delays of the project they will commit to having the sign completed by September 1. If for some unknown reason this deadline is missed, the Developer has agreed to begin paying lease payments to the City of Riverbank whether or not the sign is active and completed. This could act as an added penalty to ensure completion of the project by the proposed timeframe.

**Electronic Sign at Entrance Monument West Side of Patterson/108:**
Staff have researched the currently existing "Welcome to Riverbank" monument sign on the west side of town on Patterson/Highway 108. The sign is in generally good condition and currently has a static replaceable lettering sign which is periodically used. Based on preliminary review, affixing a higher tech LED electronic billboard would be a fairly simple proposition. Electrical currently exists at this location and the current replaceable sign could be removed and replaced with a changeable electronic billboard in the same location. Sufficient space exists to slightly expand the size of the sign (to approximately 9' long by 3.5/4' wide or approximately 36 square feet). The sign has a good line of site to the roadway and because it is only 30-35 feet from the travel lanes. A LED changeable sign would allow for minor graphical messages as well as text based messaging that could be programed and then rotate on a 24/7 basis. The sign would be for City use **only**, no private advertising would be allowed and therefore would require no Cal Trans permitting.

Based on staff review of the project it is estimated the project could cost between $25,000 and $35,000. Staff has requested quotes from a number of local sign companies the quotes were still being formulated at the time this staff report was filed. Those more detailed cost estimated will be provided at the time of the meeting. Additionally, given that all facilities exist at the project location completion of the project could be done within a relatively short period (4 weeks roughly) after the contract is executed with an appropriate sign company. The sign would be very similar to signs commonly seen at various high schools and education institutions in our surrounding area.

**Trailer Sign:**
Council also discussed the concept of an additional trailer sign which could give more flexibility for getting information out to the community. Unlike a stationary sign, trailer signs can be rotated around town and have the possibility to reach more pockets of residents who may not travel on the roadways that the static signs are located. The primary drawback of trailer signs is the limited graphical capability and added staff time to coordinate setup and removal.

Since last Council meeting a traffic type trailer sign has been purchased (it was previously discussed during budget discussions). It has already been used for closure information at Jacob Meyers Park and has staff has communicated very good feedback about its ease of use etc. However, it is a more basic model compared to the concepts discussed by City Council.

For a slightly higher end trailer sign that would have a larger face for messaging as well as basic graphics the general price range is approximately $25,000 all the way up to $40,000+ depending on the size and graphical capability. There are also more sophisticated LED options that function with high level graphical capability (full color ranges to allow for a variety of sophisticated design options), however those are far more expensive and are not generally able to operate off of a battery/solar power, typically they require a diesel or gasoline generator to be mounted on the trailer. The concern with this type of trailer (aside from cost) would be theft and unnecessary air pollution for operation of the sign. Pictures of these various options will be provided during the staff report presentation.

**OPTIONS:**
Council has a variety of options to provide direction on at this stage. Council is not restricted to one options over another, in fact should Council desire all three options could be pursued. The goal discussed by Council when discussing the sign project has been to have more opportunity to communicate important City messages to the public in a variety of ways. It is possible that pursuing multiple sign options could give the widest reach in this case.

## STRATEGIC PLAN

The recommended action supports the City of Riverbank Strategic Plan Initiatives: Maintain and Improve the City's Infrastructure and Service Delivery System. In addition, this item has been an important key project on the current specific plan document.

## FINANCIAL IMPACT

Further information on this is being evaluated. More information will be provided at the time of the meeting.

## ATTACHMENT

**None**