

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**

(City Council also serves as the LRA Board)

TUESDAY, SEPTEMBER 22, 2020 –6:00 P.M.

**VIA TELECONFERENCE OR VIRTUAL PLATFORM ONLY – NO OPEN PUBLIC LOCATION
(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](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** There are no presentations.

2. PUBLIC COMMENTS (No Action Can Be Taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the City Council/LRA Board. Individual comments will be limited to a **maximum of 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 last page of this agenda for Public Comment Procedures.)

3. CONSENT CALENDAR

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

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

Item 3.B: Approval of the July 16, 2020, Special City Council Minutes.

Item 3.C: Award Bid for the Santa Fe Street Rehabilitation Project to Tom Mayo Construction, Inc. and Authorize Execution of Future Change Orders.

Item 3.D: A **Resolution** to Adopt the 2020 Citywide Park Master Plan.

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

4. UNFINISHED BUSINESS

There are no Items to consider.

5. PUBLIC HEARINGS

The public notices for Public Hearing Item 5.1 was published in the Riverbank News on 9/9/2020 and the Notice to Property Owners within 300 feet was mailed on 09/10/2020. The public notice for Item 5.2. was published in the Riverbank News on 08/27/2020 and the Notice to Property Owners within 300 feet was mailed on 09/10/2020.

Item 5.1: **First Reading by Title Only and Introduction of a Proposed Ordinance Approving a Development Agreement No. 03-2019 By and Between the City of Riverbank and DT California, LLC, Doing Business as Aeriz** – It is recommended that Council adopt an Ordinance approving a development agreement by and between the City of Riverbank and DT California LLC, a Delaware limited liability company doing business as Aeriz.

Item 5.2: **First Reading and Introduction by Title Only of a Proposed Ordinance Approving Development Agreement No. 02-2020 for the Ward Villas Affordable Housing Project to Extend the Life of the Approved Ward Villas Tentative Map 01-2015 to Real Property at 2912 Ward Avenue (APN 132-036-003)** – It is recommended that the City Council approve Ordinance No. 2020-XXX for a Development Agreement which extends the life of approved Ward Villas Tentative Map 01-2015 relating to real property located at 2912 Ward Avenue (APN 132-036-003).

6. NEW BUSINESS

Item 6.1: **Mobile Food Vendor Pilot Program Extension** – It is Staff recommends that the City Council review the report and extend the Mobile Food Vendor Pilot Program for an additional six (6) months.

Item 6.2: **Resolution Authorizing an Animal Control Services Agreement with the City of Oakdale to Provide Animal Control Services in the City of Riverbank** – It is recommended that the City Council consider adopting a Resolution authorizing an Animal Control Services Agreement with the City of Oakdale to Provide Animal Control Services in the City of Riverbank.

Item 6.3: **Award Bid for the Pavement Restoration Project 2020 to Dryco Construction, Inc. and Authorize Execution of Future Change Orders** – It is recommended that City Council approve two (2) actions by a roll call vote:

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

Item 6.4: **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 6.5: **Direction on League of California Cities Annual Conference Resolutions** – It is recommended that the City Council provide direction to the voting member regarding the City of Riverbank’s position on the resolution which will be considered at this year’s League of California Cities Annual Conference General Assembly.

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 – ANTICIPATED LITIGATION**
Pursuant to subdivision (b) of Government Code § 54956.9
Number of cases: (1) potential case

Item 8.2: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code § 54956.9(a)

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

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

Item 8.3: Threat to Public Services or Facilities

Pursuant to Government Code § 54957

Consultation with: City of Riverbank Director of Emergency Services

ADJOURNMENT – THE PUBLIC PORTION OF THE MEETING

(The next regular meeting is on Tuesday, October 13th @ 6:00 p.m.)

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 – The Tuesday, September 22, 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.

Posted this 17th day of September, 2020

/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 VIRTUAL 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.

1. 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)

2. 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:**
 - o Written comments via Email before the meeting: (Will be distributed to the City Council)
 - o **Submit No later than 4:00 p.m.** on the day of the meeting; and
 - o Indicate Agenda Item # in the ***subject line***.
 - o 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/84009405025>
- Join by accessing website: <https://zoom.us/join>
 - o Webinar ID: 840 0940 5025
- Join by telephone: +1 669 900 9128 or +1 346 248 7799 and webinar ID
- ***HOW DO I COMMENT?*** The Mayor will announce when public comment may be made for the agenda item, at which time you will:
 - o Using a computer - click on the "raise hand" feature in the webinar controls. This will let us know you wish to speak.
 - Once you confirm that you want to be unmuted, your 3 minutes will begin for you to make your comments.
 - o Using a Phone - Dial *9, which will notify us that you have a "raised hand"
 - Once you are told "you may make your comments" you will have 3 minutes to make your comments.

3. *Learn about using ZOOM* - Visit <https://support.zoom.us/hc/en-us/categories/201146643>

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 22, 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:	September 22, 2020
Subject:	Approval of the July 16, 2020, Special City Council Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the July 16, 2020, Special City Council meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. July 16, 2020, Special City Council Minutes



(BY VIRTUAL PLATFORM ONLY)
CITY OF RIVERBANK
SPECIAL CITY COUNCIL MEETING
MINUTES OF
THURSDAY, JULY 16, 2020



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

Notice: *This meeting was held in accordance with the Governor's Executive Order N-29-20, issued on March 12, 2020, in regards to the open meeting requirements of the Ralph M. Brown Act (California Government Code Section 54950, et seq.), and the Federal Americans With Disabilities Act.*

CALL TO ORDER:

The City Council of the City of Riverbank met at 5:30 p.m. on this date by ZOOM virtual platform with Mayor O'Brien presiding.

FLAG SALUTE

Mayor Richard D. O'Brien

INVOCATION

Riverbank Ministerial Association

ROLL CALL

Virtually Present

Mayor/Chair Richard D. O'Brien

Vice Mayor 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

Staff Present: City Manager Sean Scully, City Attorney Nubia Goldstein, City Clerk Annabelle Aguilar, and Planning and Building Manager Donna Kenney

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

Pursuant to Government Code in reference to a special meeting, the public has the opportunity to address the City Council/Planning Commission only on items appearing on this special meeting notice. Individual comments are limited to a **maximum of 3 minutes** per person and each person may speak once during this time. Time cannot be yielded to another person.

*Written public comments received via email **no later than 4:00 p.m.** will be provided to the City Council for consideration. Email cityclerk@riverbank.org and indicate Item Number in the subject line. For comments during the ZOOM meeting, refer to the procedures page.*

No one spoke.

2. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council unless requested by an individual Council 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.

Item 2.A: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 2.B: A **Resolution [No. 2020-060]** Approving the Permanent Local Housing Allocation (PLHA) Formula Allocation Plan.

ACTION: *By motion moved and seconded (Uribe / Barber-Martinez / passed 5-0) to approve Consent Calendar Items 2.A and 2.B as presented; Motion carried by unanimous City Council roll call vote.*

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

NAYS: None / ABSENT: None / ABSTAINED: None

3. BUSINESS

Item 3.1: ~~Introduction by Title Only of an Urgency Ordinance of the City Council of the City of Riverbank, California, (1) Adopting the Stanislaus County Health Officer's March 31, 2020, Order Directing All Individuals Living in the County to Shelter at Their Place of Residence; (2) Adopting the Governor's Executive Order N-33-20, Directing All Individuals in the State to Shelter at Their Place of Residence; (3) Adopting Any Subsequent Orders That the Stanislaus County Health Officer or Any Official of the State of California May Issue to Limit the Spread of Covid-19 During the Duration of the Covid-19 State of Emergency; and (4) Ordering All Individuals in the City of Riverbank to Shelter at Their Place of Residence and Setting Forth Enforcement Rules~~ It is recommended that the City Council consider the proposed Urgency Ordinance No. 2020-010, reading by title only, waiving further reading, and adoption of an Urgency Ordinance of the City Council requiring that all businesses within the City must require every person entering the business, and continuing until their departure, to wear a face mask or covering that covers the nose and mouth (the "Ordinance").

City Manager Sean Scully presented the staff report; there is concern with noncompliance of the State mask order.

City Council and Staff discussed the ordinance. Council commented on enforcement, nonpayment of fees, signs by businesses informing customers of requirements, assistance with providing masks, public awareness of this new ordinance, addressing customers that claim an ADA exemption or freedom rights, and the "no shirt – no service" rule.

Mayor O'Brien requested to address noncompliance by those whom are confirmed contagious, but do not quarantined themselves.

There were no public comments.

A motion by Councilmember Campbell and a second by Vice Mayor Uribe was made; City Attorney Nubia Goldstein intervened prior to roll call and stated that the ordinance attached to the agenda was incorrect.

Mayor O'Brien recessed the meeting at 6:03 p.m.

Mayor O'Brien reconvened the meeting at 6:13 p.m.

City Manager Sean Scully reported that the staff report and the details discussed were accurate. City Attorney Nubia Goldstein presented a visual copy of the amended ordinance titled:

An Urgency Ordinance of the City Council of the City of Riverbank, California, Requiring That All Businesses Within the City Must Require Every Person Entering the Business, and Continuing Until Their Departure, to Wear a Face Mask or Covering That Covers the Nose and Mouth

She introduced the ordinance and its details, and stated that the amended ordinance would be posted by the City Clerk for public viewing.

There was no further discussion by Council; there were no public comments.

ACTION: *By motion moved and seconded (Campbell / Uribe / passed 5-0) to adopt Urgency Ordinance No 2020-010 (amended version) to be effective immediately as presented.*

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

NAYS: None / ABSENT: None / ABSTAINED: None

ADJOURNMENT

There being no further business, Mayor O'Brien adjourned the meeting at 6:33 p.m.

ATTEST: *(Adopted 9/22/2020)*

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 22, 2020
Subject/ Title:	Award Bid for the Santa Fe Street Rehabilitation Project to Tom Mayo Construction, Inc. and Authorize Execution of Future Change Orders
From:	Sean Scully, City Manager
Submitted by:	Kathleen Cleek, Development Services Administration Manager Laura Graybill, Project Coordinator

RECOMMENDATION

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

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

SUMMARY

The Santa Fe Rehabilitation Project is one of the projects approved by Council for using funding received through Senate Bill (SB) 1, the Road Repair and Accountability Act of 2017. This Act was passed by the Legislature and signed into law by Governor Brown in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide. SB 1 includes accountability and transparency provisions that ensure residents of the City of Riverbank are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year.

The bid opening was held on Tuesday, September 15, 2020 to consider the bids for the Santa Fe Street Rehabilitation Project. The following bids were received:

Tom Mayo Construction, Inc.	\$104,253.00
Ross F. Carroll, Inc.	\$109,573.00
Hensley's Paving & General Engineering Inc.	\$115,059.00
McFadden Construction	\$118,740.40
George Reed, Inc.	\$122,390.00
Rolfe Construction Company	\$137,992.00
United Pavement Maintenance	\$144,487.80
DSS Company dba Knife River Construction	\$180,481.10

Work on the project includes, but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary for removal and replacement of asphalt and base rock, grading of roadway and shoulder, removal and installation of dry well, installation of new striping, traffic control and all other work included on the plans for the above mentioned project.

Bids have been reviewed and Tom Mayo Construction, Inc. has been identified as the lowest responsible bidder for the project.

Staff originally budgeted \$119,160.00 in SB1 Funds. The lowest responsible bidder came in lower than anticipated.

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

FINANCIAL IMPACT

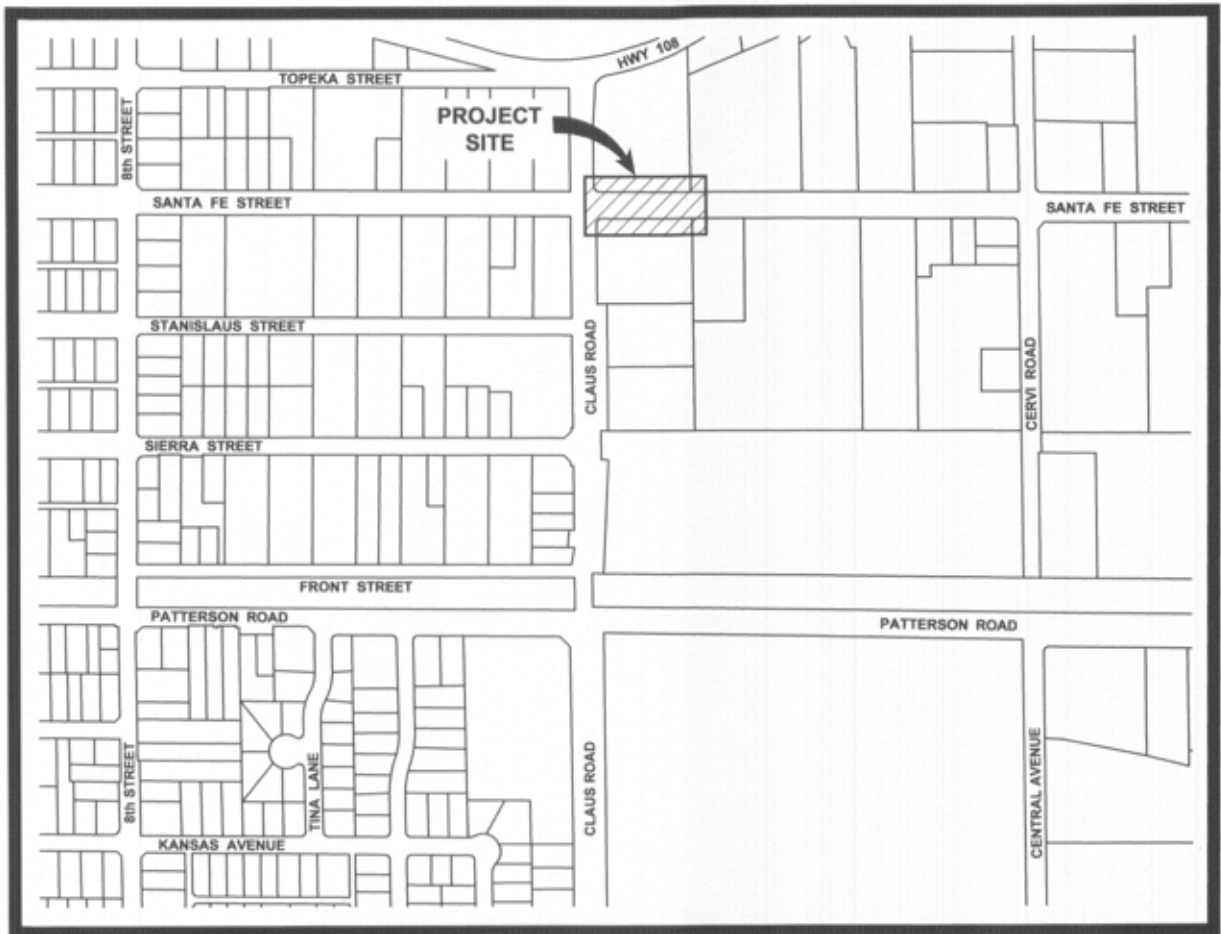
The funding source programmed for this project is SB-1 Road Maintenance and Rehabilitation Funds - \$119,160.00

ATTACHMENT

- 1) Site Map

SANTA FE STREET REHABILITATION

IN THE CITY OF RIVERBANK, STANISLAUS COUNTY



VICINITY MAP

NOT TO SCALE

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.D

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 22, 2020
Subject:	A Resolution to Adopt the 2020 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 consider approving the Resolution to Adopt the 2020 Citywide Park Master Plan.

SUMMARY

At the April 23, 2019 City Council meeting Resolution No. 2019-030 was approved authorizing the City to award the bid to PROS Consulting for completion of the Citywide Park Master Plan. This Resolution is to approve the adoption of the complete Citywide Park Master Plan.

BACKGROUND

The City of Riverbank did not have a Citywide Park Master Plan. The City is currently operating at capacity at most of its facilities and parks and saw the need to prepare for growth to ensure that adequate recreation facilities are included as the population of the City increases. One of the City's goals for the plan was to research existing parks and facilities and map out the amenities that will be needed in the future.

PROS consulting worked with City staff and the community over the past year on the Citywide Park Master Plan document. The final draft was presented to the City Council on August 25, 2020. The plan is now ready for adoption by the City Council.

STRATEGIC PLAN

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

FINANCIAL IMPACT

There would be no financial impact to the General Fund as there is adequate funding within the Parks System Development Fee Fund.

ATTACHMENT

1. Resolution

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, TO ADOPT THE 2020 RIVERBANK CITYWIDE PARK MASTER PLAN**

WHEREAS, the City of Riverbank, as part of the Strategic Plan, recognized the need for a Citywide Park Master Plan; and

WHEREAS, on April 23, 2019 Resolution No. 2019-030 was approved that awarded the bid to PROS Consulting, Inc for completion of the Citywide Park Master Plan; and

WHEREAS, one of the City's goals for the plan was to research existing parks and facilities and map out the amenities that will be needed in the future; and

WHEREAS, the City Council was presented with the final draft of the completed document of the Citywide Park Master Plan at the August 25, 2020 City Council Meeting and it was recommended to Adopt the Parks and Recreation Citywide Park Master Plan; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank Approved the adoption of the 2020 Citywide Park Master Plan Master Plan.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22nd day of September, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of _____ :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment: 2020 Riverbank Citywide Park Master Plan



City of Riverbank Parks and Recreation Master Plan 2020



RIVERBANK PARKS AND RECREATION DEPARTMENT
MISSION

TO PROVIDE COMMUNITY THROUGH PEOPLE, PARKS, AND PROGRAMS.





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CHAPTER ONE – EXECUTIVE SUMMARY

1.1 PROJECT PURPOSE AND GOAL

The purpose of the City of Riverbank's Parks and Recreation Master Plan is to provide a roadmap for future development of recreational facilities and opportunities for the City over the next 10 years, consistent with the General Plan 2025 requirements. This plan is based on recognized park planning principles and standards and reflects input from residents and stakeholders in Riverbank, City staff, and City Council.

The City of Riverbank Parks and Recreation Master Plan (Master Plan) focuses on identifying the City's current and future recreation needs to aid City staff and decision-makers in providing and expanding and equitable distribution of recreational facilities and opportunities to Riverbank residents and stakeholders. This includes preserving the City's open space areas and expanding the City's trails network to better connect people to nature, recreation and outdoor education opportunities. Primary outcomes of the Master Plan include:

- Evaluation of the existing parks, trails and open space system;
- Establishing the vision, goals and policies to guide decision-making;
- Documenting priorities and needs of the current and projected population growth based on data-driven input;
- Creating design standards to guide the development of new parks;
- Developing a 10-year capital improvement plan that outlines projects, anticipated costs, potential funding sources, operation and maintenance implications and implementation strategy;
- Providing a record of issues discussed and decisions made;
- Evaluation of current user fees charged and establishing cost thresholds; and
- Evaluation of total cost of ownership of constructing and operating the parks and recreation system.

1.2 PROJECT PROCESS

The foundation of the Master Plan was to incorporate a variety of data and mine local knowledge using a comprehensive stakeholder participation process and community surveys. The stakeholder input process incorporated a variety of methods that included interviews, focus group meetings, and public forums/presentations. The data generated from these critical community interactions helped to define the true unmet recreation needs of the community, as well as address key operational issues, provide recommendations for business-related changes, and strategize on how to best position the City and Parks and Recreation Department to move forward for optimum results.



1.2.1 PLANNING EFFORTS CONSIDERED

A number of local planning efforts helped guide the development of the Master Plan. The following highlights some of these efforts:

- City of Riverbank 2025 General Plan
- Parks and Recreation Performance Reports
- Park Development Guidelines
- Department Policies and Procedures

1.2.2 ELEMENTS OF THE PLAN

The planning process for the *Master Plan* was completed with City staff and included:

- The collection of available information;
- Data analysis to determine inventory and condition of current facilities;
- Determination of supply and demand within the community; and
- Developing recommendations for meeting the needs of the community through an analysis of programs and facilities.

The data collected from the staff and onsite facility assessments was utilized to identify key factors, issues, and concerns regarding the parks and recreation system and how the City's Parks and Recreation Department manages operations.

1.3 RIVERBANK MASTER PLAN ORGANIZATION

This *Master Plan* presents the overall analysis, findings, and recommendations for the next 10 years. This study begins with an Executive Summary that provides an overview, and the following sections respond to the primary outcomes, determine needs and offer operational and capital improvement recommendations.





1.4 SUMMARY OF COMMUNITY PROFILE AND NEEDS

Following the assessment of the City's parks and recreation system, a variety of key findings were identified to support the implementation of the *Master Plan*. These key findings help to guide decision-making for the next five to ten years.

POPULATION

- The population is increasing and is projected to experience 82% population growth over the next 15 years.
- With a fast-growing population due to annexation, park and recreation services will need to strategically invest, develop, and maintain parks and facilities in relation to current and future housing development areas.

AGE SEGMENTATION

- Riverbank currently has a very broad and balanced age segmentation with the largest group being 0-17.
- Over the next 15 years, the 0-17 age segment, which currently is the largest age segment in Riverbank, will decrease by 42.8% while those who are 55 and older are projected to increase by 3.2%, making up 24.1% of the population by 2035.
- This is assumed to be a consequence of a vast amount of the Baby Boomer generation shifting into the senior age segment.
- This is significant as providing access to services and programs will need to be focused on multitude of age segments simultaneously as age segmentation is a strong determinant of recreational preferences.
- Equal distribution across all age segments will require the City to continue to provide programs, services, parks and facilities that appeal to all residents of the community.

RACE AND ETHNICITY

- A diverse and diversifying population will likely focus the City on providing traditional and non-traditional programming and service offerings while always seeking to identify emerging activities and sports.

HOUSEHOLDS AND INCOME

- With median and per capita household income averages at or below, local state and national averages, it is important for the City to prioritize providing offerings that are first class with exceptional customer service while modestly seeking opportunities to create revenue generation.

1.5 COMMUNITY INPUT KEY FINDINGS

Input from the community confirmed that Riverbank's parks are loved by many, but there are gaps in service and amenities and additional City investment is needed to maintain and develop new parks for the growing community. Participants see the system as one that is well-maintained with great staff. They also enjoy the numerous programs and amenities offered. Unmet needs exist as the demand for select services is currently outweighing the available facilities and/or existing amenities. The following summarizes the themes of community input:

ECONOMIC DEVELOPMENT THROUGH PARK DEVELOPMENT

Opportunity exists for park development to enhance and/or advance economic development. There is also an opportunity for economic development to enhance and support park development.

- Parks and recreation can play a significant role in business attraction, residential development, and the overall quality of life attributes desired by the community.
- Investment in parks reflects the community's value set and the City's overall attitude of being an active player in the betterment of the community.
- The further development of Jacob Myers Park can potentially serve as an economic catalyst.

INVESTING IN THE EXISTING PARKS SYSTEM

- Continue to focus on reinvesting in, and maintaining existing parks.
- Opportunities exist to, in part, help meet the recreational needs of the community, in partnership with the development community given recent annexation, the Riverbank Unified School District and the Army Corps of Engineers and the Friends of Jacob Myers Park.

TRAILS AND CONNECTIVITY

- Desire for a connected, accessible recreational trail system that also supports active transportation and Safe Routes to School initiatives.

ADVOCACY AND AWARENESS

- Increased and targeted Communication/Marketing is needed to develop more advocacy for, and the awareness of, the parks and recreation system.

FUNDING THE PARKS AND RECREATION SYSTEM

- Multiple funding strategies are required to meet the needs of the community.
- Securing funding through Prop 68 and other grant programs will be critical for funding park development over the next 10 years.
- Sustainable funding for park maintenance, park renovations and lifecycle replacement.



1.6 PROGRAM AND FACILITY PRIORITY RANKINGS

The purpose of the Program and Facility Priority Rankings is to provide a prioritized list of facility/amenity needs, art and culture program needs and recreation program needs for the community served by the City. The analysis completed evaluated both quantitative and qualitative data.

The results of the priority rankings are tabulated into three categories: High Priority (top third), Medium Priority (middle third), and Low Priority (bottom third) and are summarized below:

Recreation Program/Service	Priority	Facility/Amenity	Priority
Programs & services for adults 55+	High	Paved walking and biking trails	High
Fitness & wellness programs		Soft surface walking and biking trails	
Community special events		Covered picnic areas	
Performing arts programs		Small neighborhood parks	
After school programs/out-of-school camps		Open space conservation areas/trails	
Outdoor environmental programs		Indoor exercise facility	
Picnic shelter reservations		Swimming pools/water parks/splash pads	
Water fitness programs/lap swimming		Off-leash dog parks	
Youth learn to swim programs	Medium	Adventure area	Medium
Open swim		Community gardens	
Youth enrichment programs		Large community parks	
Indoor meeting space reservations		Playgrounds	
Programs for people with special needs		Environmental education center	
Youth basketball/volleyball programs		Outdoor basketball/volleyball courts	
Golf lessons/clinics		Baseball/softball fields	
Youth soccer programs		Gymnasium	Low
Youth baseball/softball programs		Tennis courts	
Tennis lessons & leagues		Football/lacrosse/soccer fields	
Open gymnasium for pick-up basketball/volleyball	Low	Equestrian trails	
Adult basketball/volleyball programs		Pickleball courts	
Recreation/competitive swim team		Skateboarding/bicycle parks	
Youth football programs		Historical facilities	
Athletic field reservations			
Pickleball programs			
Sand Volleyball programs			

1.7 SUMMARY OF LEVEL OF SERVICE ANALYSIS

Based on a thorough review of the parks and recreation system and public input, it is recommended that the City pursue further development of specific parks and recreation amenities that meet the needs listed in the *High Priority Program and Facility Rankings* and address the gaps per park type to increase the current level of service standard for the projected population in 2035.

- Riverbank currently provides a **total LOS of ONLY 3.52 acres of parks per 1,000 residents based on the City's population.**
- **The consulting team is recommending to increase the LOS standard for community and neighborhood parks to 5.0 acres/1,000 population as a goal.**
- The top two park needs the City is deficient in the future are Community parks, Regional parks and Sports Complex parks.
- The City will need to add amenities to the park system to meet 2035 standards for most outdoor park amenities, including an athletic fields, outdoor sport courts, a dog park, picnic shelters and playgrounds.

The table on the following page details the current and recommended LOS for the Riverbank's Parks and Recreation System. PLEASE NOTE: Trails were not calculated in this population-based service level analysis because they are based on connected networks rather than population.

RIVERBANK LEVEL OF SERVICE STANDARDS										
2019 Park Inventory		Current Service Levels		Recommended Developed Park Service Levels		2020 Standards		2035 Standards		
Park Type	City of Riverbank	Total Inventory	Current Service Level	Recommended Developed Park Service Levels		Meet Standard/ Need Exists	Additional Developed Parks/Facilities/ Amenities Needed	Meet Standard/ Need Exists	Additional Developed Parks/Facilities/ Amenities Needed	
Mini Park	6.99	6.99	0.27 acres per	1,000	0.10 acres per	1,000	Meets Standard	- Acres(s)	Meets Standard	- Acres(s)
Neighborhood Parks	64.11	64.11	2.51 acres per	1,000	1.50 acres per	1,000	Meets Standard	- Acres(s)	Need Exists	6 Acres(s)
Community Parks	12.20	12.20	0.48 acres per	1,000	1.00 acres per	1,000	Need Exists	13 Acres(s)	Need Exists	34 Acres(s)
Regional Parks	0.50	0.50	0.02 acres per	1,000	1.25 acres per	1,000	Need Exists	31 Acres(s)	Need Exists	58 Acres(s)
Sports Complex Parks	5.00	5.00	0.20 acres per	1,000	1.00 acres per	1,000	Need Exists	21 Acres(s)	Need Exists	41 Acres(s)
Special Use Parks	1.00	1.00	0.04 acres per	1,000	0.15 acres per	1,000	Need Exists	3 Acres(s)	Need Exists	6 Acres(s)
Total Developed Neighborhood Park Acreage	89.81	89.81	3.52 acres per	1,000	5.00 acres per	1,000	Need Exists	68 Acres(s)	Need Exists	145 Acres(s)
OUTDOOR AMENITIES										
Baseball Field	2	2.00	1.00 field per	12,759	1.00 field per	12,000	Meets Standard	- Field(s)	Need Exists	2 Field(s)
Outdoor Basketball Courts	6	1.00	4.00 court per	6,380	1.00 court per	6,500	Meets Standard	- Court(s)	Need Exists	6 Court(s)
Football Field	1	1.00	1.00 site per	25,518	1.00 site per	30,000	Meets Standard	- Site(s)	Need Exists	1 Site(s)
Picnic Shelter	4	4.00	1.00 site per	6,380	1.00 site per	6,500	Meets Standard	- Site(s)	Need Exists	3 Site(s)
Playground Equipment	11	11.00	1.00 site per	2,320	1.00 site per	3,000	Meets Standard	- Site(s)	Need Exists	4 Site(s)
Skate Park	1	1.00	1.00 site per	25,518	1.00 site per	50,000	Meets Standard	- Site(s)	Meets Standard	- Site(s)
Soccer Field	1	1.00	1.00 field per	25,518	1.00 field per	10,000	Need Exists	2 Field(s)	Need Exists	4 Field(s)
Swimming Pool	1	1.00	1.00 site per	25,518	1.00 site per	50,000	Meets Standard	- Site(s)	Meets Standard	- Site(s)
Tennis Court	1	1.00	1.00 court per	25,518	1.00 court per	30,000	Meets Standard	- Court(s)	Need Exists	1 Court(s)
Pickleball Court	4	4.00	1.00 court per	6,380	1.00 court per	6,000	Meets Standard	- Court(s)	Need Exists	4 Court(s)
Volleyball Court	-	-	1.00 court per	#DIV/0!	1.00 court per	30,000	Need Exists	1 Court(s)	Need Exists	2 Court(s)
Dog Park	1	1.00	1.00 site per	25,518	1.00 site per	30,000	Meets Standard	- Site(s)	Need Exists	1 Site(s)
INDOOR RECREATION CENTER										
Indoor Recreation Center Space (square feet)	21,164	21,164	0.83 SF per person	1	1 SF per Person		Need Exists	4,354 Square Feet	Need Exists	25,328 Square Feet



1.8 CAPITAL IMPROVEMENT PLAN

To plan and prioritize capital improvement projects, recommendations include balancing the maintenance of current assets with the development of new facilities. The departmental Capital Improvement Plan (CIP) framework is utilized to determine CIP projects in concert with an implementable financial plan. A key priority is also focused on maintaining the integrity of the current infrastructure and facilities before expanding and/or enhancing programs and facilities. Maintaining current infrastructure with limited funding will inhibit the City's ability to take care of all existing assets and build new facilities.

A three-tier plan is recommended to help guide the decision-making process for CIP investments. The three-tiered plan acknowledges a fiscal reality, leading to the continuous rebalancing of priorities and their associated expenditures. Each tier reflects different assumptions about available resources. A complete list of the projects in each is identified in Chapter 7. The three tiers include:

- **Sustainable** - Critical maintenance projects, including lifecycle replacement, repair of existing equipment, and safety and ADA improvements. Many of these types of improvements typically require one-time funding and are not likely to increase annual operations and maintenance costs. In many cases, these types of projects may reduce annual operations and maintenance costs.
- **Expanded Services** - Projects that include strategic changes to the existing parks system to better meet the unmet needs of the community. These types of improvements typically require one-time funding and may trigger slight increases in annual operations and maintenance costs, depending on the nature of the improvements.
- **Visionary** - Complete park renovation, land acquisition and new park/trail development. These improvements will likely increase annual operations and maintenance costs. Visionary projects also include planning efforts to support new/future development.

1.8.1 CAPITAL IMPROVEMENT PLAN SUMMARY

The following tables summarize the three-tier approach to the development of the capital improvement plan associated with the Master Plan.

Tier	Estimated Total Project Cost
Sustainable Projects	\$2,700,000
Expanded Service Projects	\$1,850,000
Visionary Projects	\$55,100,000
TOTAL	\$59,650,000

Term	Estimated Total Project Cost
Short Term (Years 1-5)	\$9,600,000
Long Term (Years 6-10)	\$50,050,000
TOTAL	\$59,650,000

1.9 FUNDING THE MASTER PLAN

To achieve the outcomes identified in the key findings and recommendations as presented in the Master Plan, a reliable and sustainable funding plan is needed. Staff identified and analyzed 36 funding sources that may be used to fund portions of the capital improvement plan as part of the Master Plan process. The following summarizes the primary funding sources that should be pursued to develop the CIP.

1.10 PRIMARY FUNDING SOURCES

1.10.1 GRANTS

The grant market continues to grow annually. Grant writers and researchers are essential if the Department is to pursue grants. Matching dollars are required for most federal grants and many state grants.

1.10.2 COMMUNITY PARKS FOUNDATION

The creation of a Riverbank Parks Foundation would be a joint-development funding source with Riverbank. The foundation would operate as a non-profit organization, working on behalf of the public agency to raise needed dollars to support its vision and operational needs.

The dollars that would be raised by the foundation are tax-exempt. Foundations promote specific causes, activities, or issues that Riverbank's Parks and Recreation Department needs to address. They offer a variety of means to fund capital projects, including capital campaigns, gifts catalogs, fundraisers, endowments, sales of park-related memorabilia, etc.

Private donations may be received in the form of cash, securities, land, facilities, recreation equipment, art, or in-kind services.

1.10.3 CAPITAL IMPROVEMENT FEES

Many park and recreation systems add a capital-improvement fee onto an existing user fee when they develop or enhance major recreation facilities. This is usually applied to golf courses, aquatic facilities, recreation centers, ice rinks, amphitheaters, and special-use facilities like sports complexes. The dollars gained either offset the cost of the capital improvement or the revenue bond that was used to develop or enhance the special-use facility. Once the capital improvement is paid off, the fee typically expires and is discontinued.

1.10.4 PARK DEVELOPMENT FEES

Many municipalities seek developer contributions for parklands and for the development of trails that run through the property being developed. The developer perceives the enhanced value such improvements mean for her or his development. Park or trail dedication as a requirement of subdivision development is a reliable means for maintaining equity of access to parks and trails.

1.10.5 PARK, OPEN SPACE, AND TRAIL BOND ISSUES

Agencies typically seek park bonds to meet park related needs. The key is to use debt financing through bonds to address needs that are both unmet and clearly a community priority. It is best to propose a capital-bond project that serves a variety of users and needs. Even in the worst economic downturn, most bond issues have been passing because communities are the direct recipient of the money, and the funding directly benefits residents.



1.10.6 PARTNERSHIPS

Partnerships are joint-development funding sources or operational funding sources formed between separate agencies, such as two government entities, a non-profit and a public agency, or a private business and a public agency. Partners jointly develop revenue-producing park and recreation facilities and share risk, operational costs, responsibilities, and asset management based on the strengths of each partner.

1.10.7 FRIENDS ASSOCIATION

Friends associations are typically formed to raise money for a single purpose, such as a specific park facility or program that will better the community.

1.11 IMPLEMENTING THE MASTER PLAN

The Master Plan Implementation Matrix can be utilized by the Department to develop and prioritize work plans. The key to success for the Department is to continue to build on current achievements while adding programs, services, and facility improvements that will generate revenue, reduce operational expenditures, and enhance recreation experiences for the residents of Riverbank.



CHAPTER TWO – ECONOMIC IMPACT OF PARKS AND RECREATION

The following summarizes the research findings from 2015 when the National Recreation and Parks Association (NRPA) joined forces with the Center for Regional Analysis at George Mason University to estimate the impact of spending by local park and recreation agencies on the U.S. economy. The research adds to the growing body of evidence that the benefits of parks extend well beyond their role as a public amenity and an enhancement to quality of life in their communities.

The analyses covered three areas: a national-level study, state-level assessments, and economic impacts of selected case study parks. Key characteristics of the research include the following:

- The study is focused exclusively on the direct, indirect (business transactions of park agency vendors) and induced (employees spending their earnings) effects local and regional park agencies' spending have on economic activity. The research does not measure the effects of visitor spending or the benefits local and regional park agencies generate for the environment, health and wellness, and property values.
- Data for this analysis comes from the U.S. Census Bureau survey of local government employment and spending data from 1,169 local and regional park agencies accessed from NRPA's PRORAGIS database and/or park system budget data posted online. Data for the case study park analyses were supplied by the relevant park agencies.
- The analyses provide estimates of economic activity (output or the value of transactions), value added (equivalent to gross domestic product), labor income (salaries, wages and benefits) and employment (headcount jobs).





2.1 KEY FINDINGS FROM THE NATIONAL STUDY

The U.S. Census Bureau reports that local park and recreation agencies had nearly 371,000 people on their payrolls in 2015. That translates into nearly \$31 billion of operations spending by these agencies. That \$31 billion ripples through the U.S. economy as park and recreation employees spend their paychecks, and park and recreation agency vendors hire workers and purchase products and services to serve their clients.

As a result, \$31 billion of local park and recreation agency operations spending expanded to nearly \$91 billion in total economic activity during 2015. That activity boosted real gross domestic product (GDP) by \$48.7 billion and supported more than 732,000 jobs that accounted for nearly \$34 billion in salaries, wages and benefits across the nation.

Further, local park and recreation agencies also invested an estimated \$23.2 billion on capital programs in 2015. The capital spending led to an additional \$63.6 billion in economic activity, a contribution of \$32.3 billion to GDP, \$21.3 billion in labor-related income and nearly 378,000 jobs.

Combining the impact of operations and capital spending finds the nation's local park and recreation agencies generated \$154.4 billion in economic activity in 2015, nearly \$81.1 billion in value added and more than 1.1 million jobs that boosted labor income by \$55.1 billion. Operations and capital spending by local and regional public park agencies generated over \$154 billion in economic activity and supported almost 1.1 million jobs in 2015.

2.2 WHAT THE RESULTS MEAN

These estimates of the economic impact generated from park and recreation agency spending come from an input-output model that estimates direct, indirect and induced effects of those expenditures.

- Direct Effects are the spending by local park and recreation agencies, whether for operations or capital programs, and include spending for equipment, utilities, goods, services and personnel.
- Indirect Effects capture the spending associated with local park and recreation agencies' vendors. An example is an agency contracting with a local company to spray for mosquitoes. The pest control company will need to hire employees, purchase pesticides and contract with a bookkeeping service. The bookkeeping service rents office space, hires workers, and purchases office supplies, etc.
- Induced Effects reflect the impact of consumer spending (from wages) by park and recreation agency employees and employees working for an agency's vendors.

The model estimates the total effects on output, labor income, value added and employment. Output is essentially a measure of the value of transactions. Labor income includes salaries, wages and benefits. Value added is the measure most equivalent to GDP and includes property income, dividends, corporate profits and other measures. Employment is the number of headcount jobs. The databases used to build the economic input-output model account for fulltime versus part-time employment in the relevant sectors of the economy.

2.3 ADDITIONAL ECONOMIC BENEFITS

Riverbank's Parks and Recreation Department generates additional economic benefits. While the figures presented in this report are significant, they represent only one aspect of the economic benefits of public parks, and consequently are conservative estimates of the full economic benefits of local parks and recreation.

Beyond the impact of local park and recreation agency spending, other critical economic contributions from public parks include:

- **Economic Development:** Parks and recreation improves the quality of life in communities and benefits the local economic development of a region. A recent survey notes that three-quarters of corporate executives' rate quality-of-life features as important factors when choosing a location for a headquarters, factory or other company facility.
- **Visitor Spending:** Many local park and recreation agency amenities spur tourism to their respective locales, generating significant economic activity, including (but not limited to) increased sales at local restaurants/bars and hotels. The August 2017 NRPA Park Pulse poll found that park and recreation amenities—such as beaches, parks, trails and secluded and relaxing places—are important to people when choosing a vacation destination.
- **Health and Wellness:** Parks and recreation promotes improved physical and mental health. This not only helps people feel better but can also help lower medical and insurance costs for those people taking advantage of those facilities and activities. Three in five respondents to the November 2017 NRPA Park Pulse poll indicate they would take up walking or jogging in local parks, trails or around their neighborhoods if advised by their doctors to be more physically active.
- **Conservation and Resiliency:** Park and recreation agencies' protection of land, water, trees, open spaces and wildlife improves air and water quality in communities. Through effective land management methods and green infrastructure investments, parks and recreation services make communities more resilient to natural disasters, reducing disaster recovery and insurance costs. Eighty-seven percent of respondents to the 2017 NRPA Americans' Engagement with Parks Survey agree that their local government and local park and recreation agency should make the needed investments to ensure their communities are more resilient to natural disasters.
- **Property Values:** Economic research has demonstrated consistently that homes and properties located near parklands have higher values than those farther away. Higher home values not only benefit the owners of these properties but, in many communities across the United States, add to the tax base of local governments. Eighty-five percent of respondents to the 2017 NRPA Americans' Engagement with Parks Survey seek high-quality park and recreation amenities when they are choosing a place to live.

2.4 SUMMARY

Park and recreation agencies advance our nation's communities in many ways. Not only are parks leading the way in terms of conservation, health and wellness and social equity, they are also engines of significant economic activity.

The powerful impact parks and recreation has on economic activity, when combined with the ability to deliver healthier and happier communities, highlights the fact that these offerings are not merely a "nice-to-have," luxury government service. Rather, parks and recreation facilities, programs and services are a critical aspect of what makes a City, City or County a vibrant and prosperous community.



CHAPTER THREE - COMMUNITY PROFILE

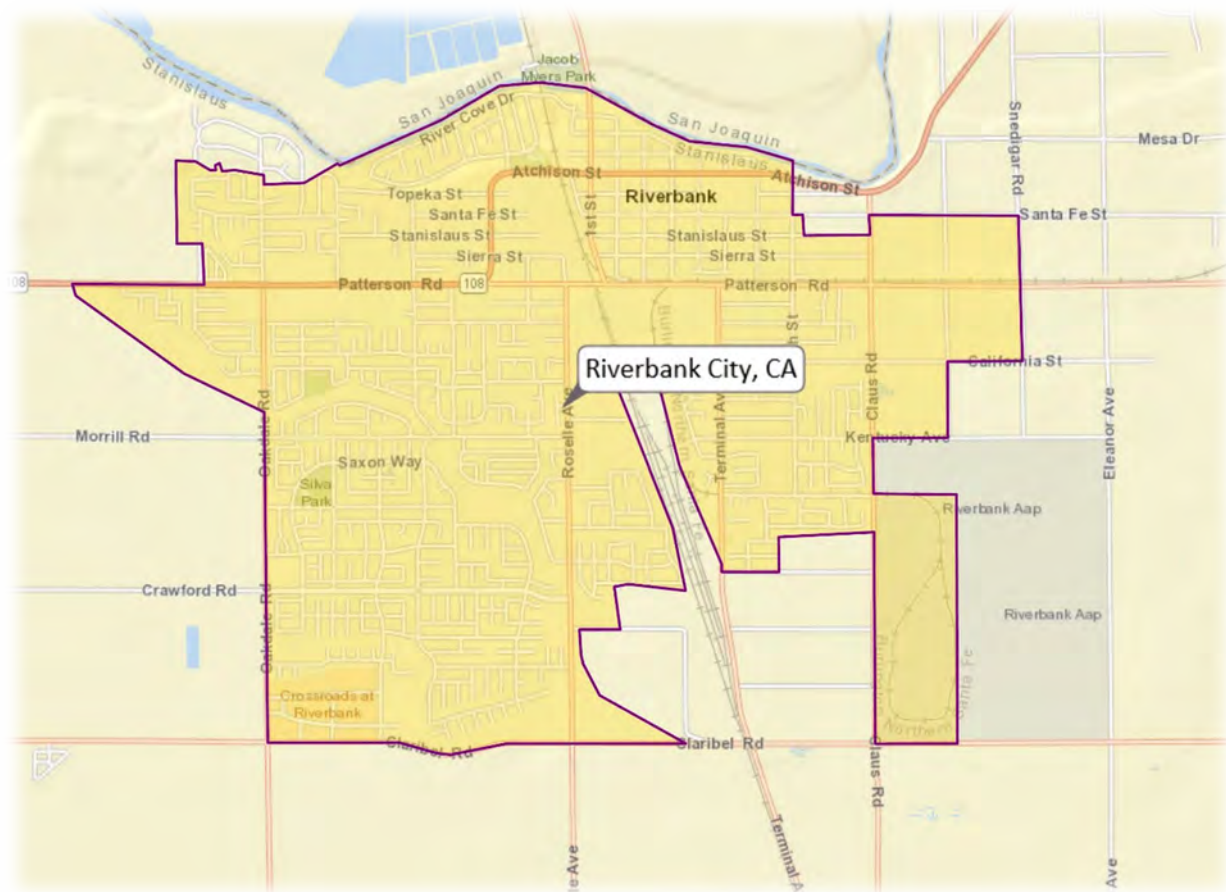
3.1 DEMOGRAPHIC ANALYSIS

The Demographic Analysis provides an understanding of the population of Riverbank, California. This analysis reflects the total population, and its key characteristics such as age segments, income levels, race, and ethnicity.

Future projections are all based on historical patterns. Unforeseen circumstances during or after the time of the projections could have a significant bearing on the validity of the final projections.

3.2 METHODOLOGY

Demographic data used for the analysis was obtained from U.S. Census Bureau and from ESRI, the largest research and development organization dedicated to Geographical Information Systems (GIS) and specializing in population projections and market trends. All data was acquired in March 2020 and reflects actual numbers as reported in the 2010 Censuses, and estimates for 2020 and 2025 as obtained by ESRI and the City of Riverbank. Straight line linear regression was utilized for projected 2030 and 2035 demographics. This information will help support the development of the Parks and Recreation Master Plan Update.



3.3 RACE AND ETHNICITY DEFINITIONS

The Census 2010 data on race are not directly comparable with data from the 2000 Census and earlier censuses; caution must be used when interpreting changes in the racial composition of the US population over time. The latest (Census 2010) definitions and nomenclature are used within this analysis as follows:

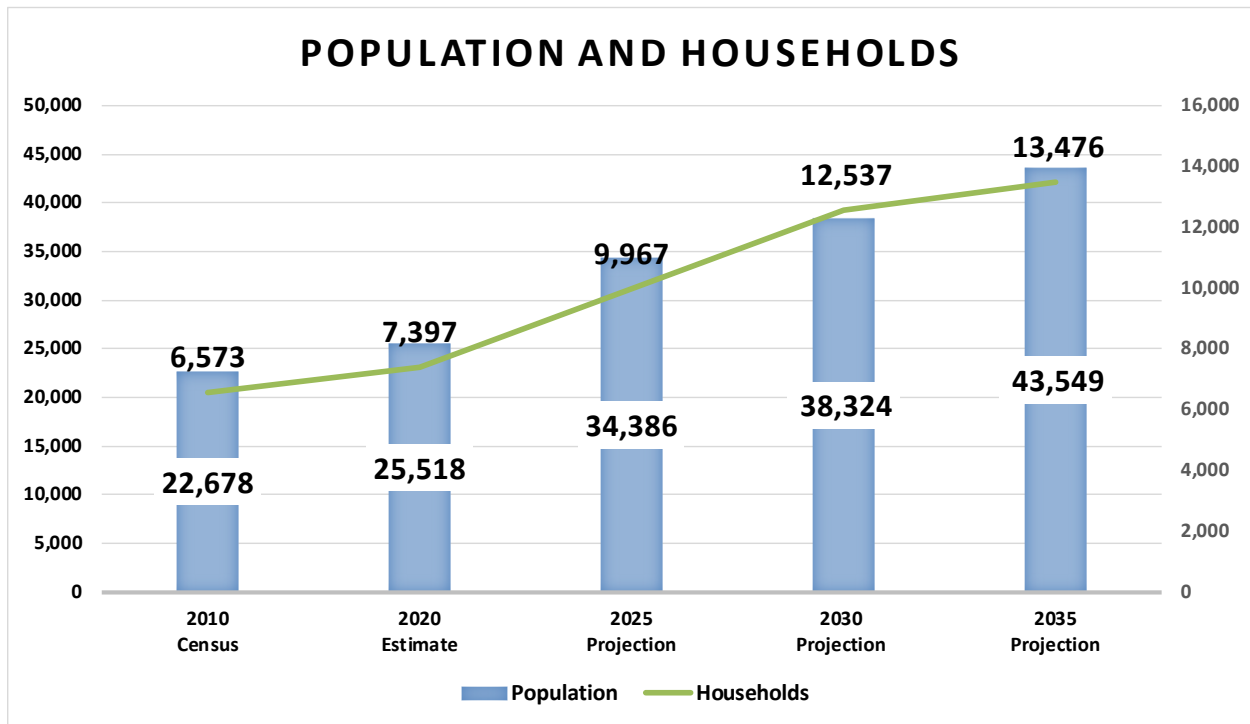
- American Indian – This includes a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment
- Asian – This includes a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam
- Black – This includes a person having origins in any of the black racial groups of Africa
- Native Hawaiian or Other Pacific Islander – This includes a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands
- White – This includes a person having origins in any of the original peoples of Europe, the Middle East, or North Africa
- Some Other Race - Includes all other responses not included in the "White", "Black or African American", "American Indian and Alaska Native", "Asian" and "Native Hawaiian and Other Pacific Islander" race categories described above.
- Two or more races - People may have chosen to provide two or more races either by checking two or more race responses
- Hispanic or Latino – This is an ethnic distinction, a subset of a race as defined by the Federal Government; this includes a person of Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race



3.4 RIVERBANK POPULACE

3.4.1 POPULATION

The City's population has experienced a growing trend in recent years and is estimated at 25,518 individuals in 2020. Projecting ahead, the total population is expected to continue to grow aggressively due to annexation over the next 15 years. Based on predictions through 2035, the City is expected to have 43,549 residents living within 13,476 households.

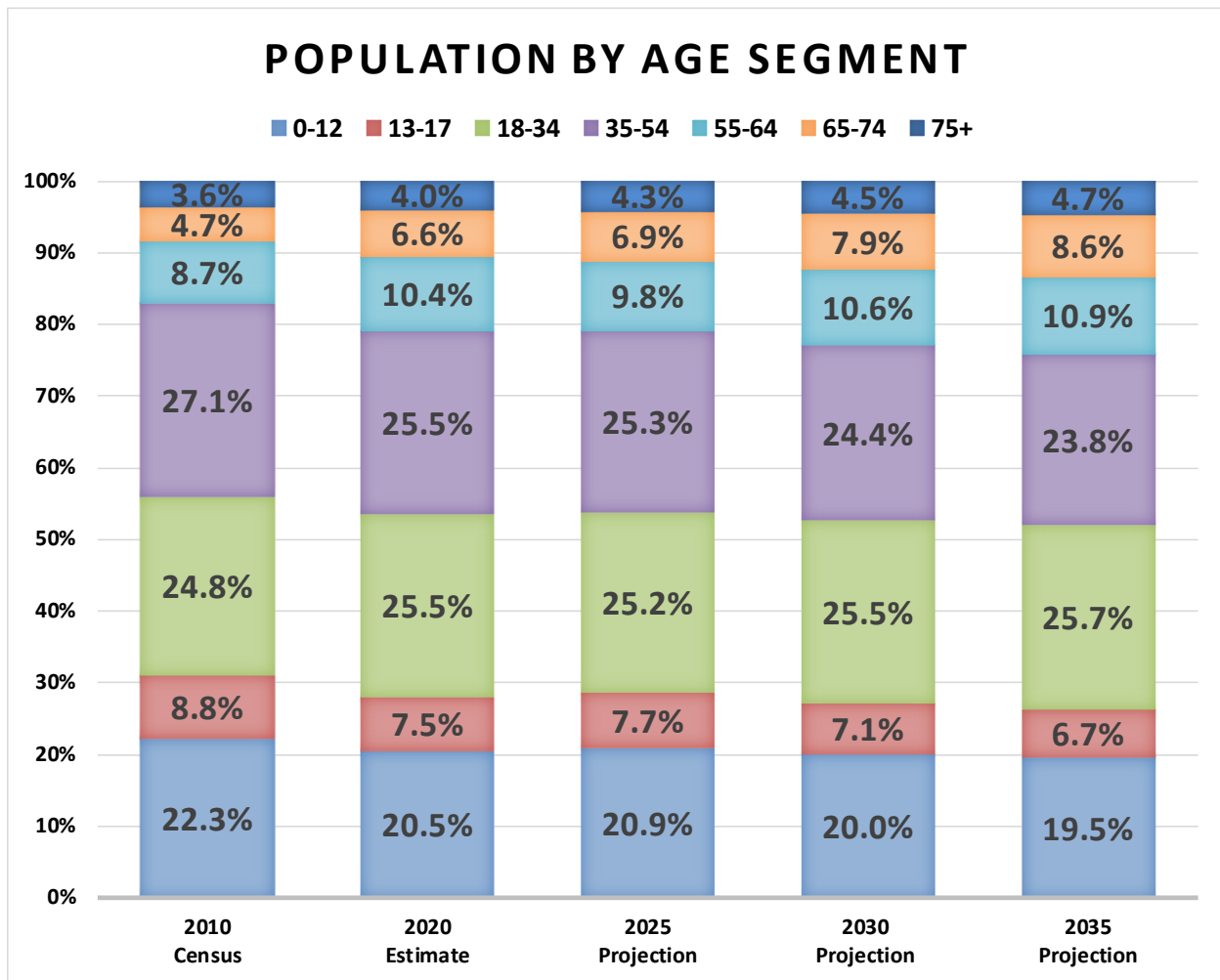


3.4.2 AGE SEGMENT

Evaluating the population by age segments, the City exhibits a balanced distribution among the major age segments. Currently, the largest grouping of age segments is the 0-17 segment, making up 28% of the population.

The overall age composition of the population within the City is projected to undergo an aging trend while still remaining balanced. Over the next 15 years, the 0-17 age segment, which currently is the largest age segment in Riverbank, will decrease by 2.8% while those who are 55 and older are projected to increase by 3.2%, making up 24.1% of the population by 2035. This is assumed to be a consequence of a vast amount of the Baby Boomer generation shifting into the senior age segment.

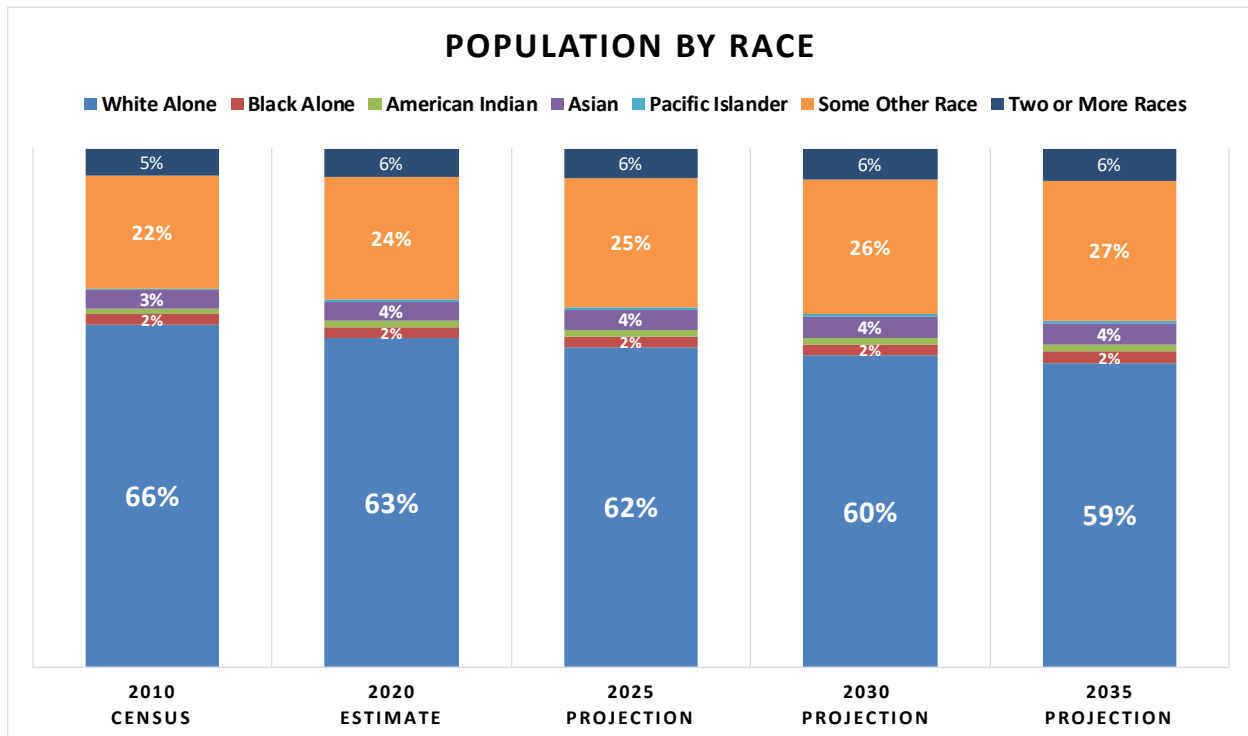
Given the differences in how the active adults (55 and older) participate in recreation programs, the trend is moving toward having at least two to three different program age segments for older adults. When developing the park and recreation system, the City should evaluate recreation experiences that would cater to active adults who are 55-64, 65-74, and 75+ age segments.



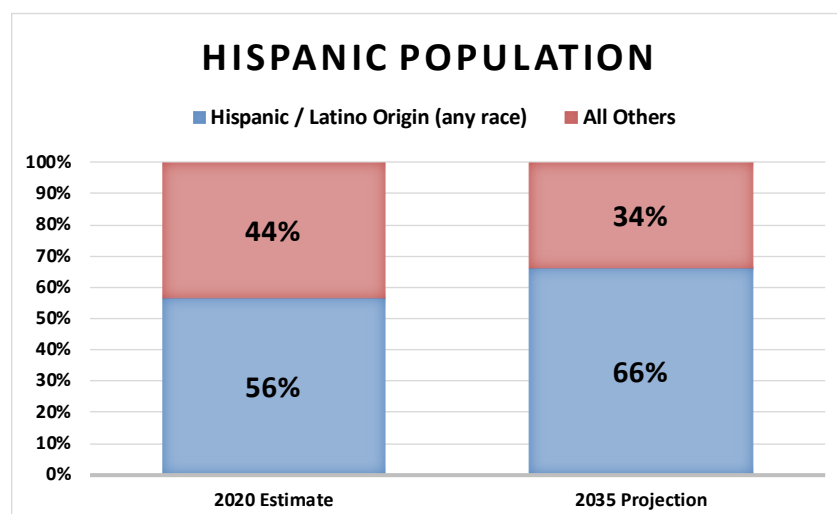


3.4.3 RACE AND ETHNICITY

In analyzing race, the City's current population is diverse. The 2020 estimates show that 63% of the City's population falls into the White Alone category, while the Some Other Race category (24%) represents the largest minority. The predictions for 2035 project that the City's population by race will diversity even more with a decrease in the White Alone population by approximately 4% while the Some Other Race Category will increase by 3%.

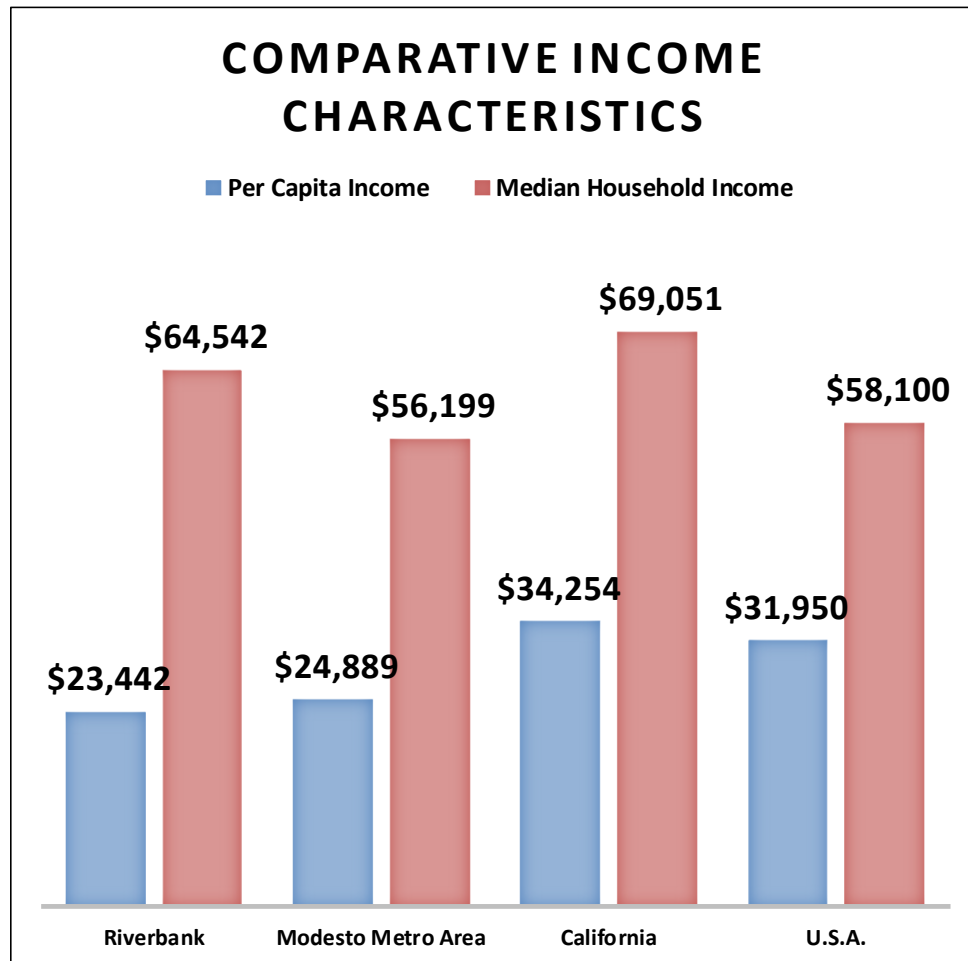


Based on the 2020 estimate, those of Hispanic/Latino origin represented 41% of the City's total population. The Hispanic/Latino population is expected to experience a significant increase to 48% by 2035.



3.4.4 HOUSEHOLDS AND INCOME

The City's per capita income level is in-line with the Modesto Metro Area but below that of state and national averages. The City's median household income levels are higher than both the Modesto Metro Area and national averages, but lower than that of the state.





3.5 RIVERBANK DEMOGRAPHIC IMPLICATIONS SUMMARY

The following implications are derived from the analyses provided above.

POPULATION

- The population is increasing and is projected to experience 82% population growth over the next 15 years.
- With a fast-growing population due to annexation, park and recreation services will need to strategically invest, develop, and maintain parks and facilities in relation to current and future housing development areas.

AGE SEGMENTATION

- Riverbank currently has a very broad and balanced age segmentation with the largest group being 0-17.
- Over the next 15 years, the 0-17 age segment, which currently is the largest age segment in Riverbank, will decrease by 2.8% while those who are 55 and older are projected to increase by 3.2%, making up 24.1% of the population by 2035.
- This is assumed to be a consequence of a vast amount of the Baby Boomer generation shifting into the senior age segment.
- This is significant as providing access to services and programs will need to be focused on multitude of age segments simultaneously as age segmentation is a strong determinant of recreational preferences.
- Equal distribution across all age segments will require the City to continue to provide programs, services, parks and facilities that appeal to all residents of the community.

RACE AND ETHNICITY

- A diverse and diversifying population will likely focus the City on providing traditional and non-traditional programming and service offerings while always seeking to identify emerging activities and sports.

HOUSEHOLDS AND INCOME

- With median and per capita household income averages at or below, local state and national averages, it is important for the City to prioritize providing offerings that are first class with exceptional customer service while modestly seeking opportunities to create revenue generation.

3.6 NATIONAL RECREATION TRENDS ANALYSIS

The Trends Analysis provides an understanding of national, regional, and local recreational trends as well recreational interest by age segments. Trends data used for this analysis was obtained from Sports & Fitness Industry Association's (SFIA), National Recreation and Park Association (NRPA), and Environmental Systems Research Institute, Inc. (ESRI). All trends data is based on current and/or historical participation rates, statistically-valid survey results, or NRPA Park Metrics.

3.6.1 METHODOLOGY

The Sports & Fitness Industry Association's (SFIA) *Sports, Fitness & Recreational Activities Topline Participation Report 2020* was utilized in evaluating the following trends:

- National Recreation Participatory Trends
- Core vs. Casual Participation Trends
- Non-Participant Interest by Age Segment



The study is based on findings from surveys carried out in 2019 by the Physical Activity Council (PAC), resulting in a total of 18,000 online interviews. Surveys were administered to all genders, ages, income levels, regions, and ethnicities to allow for statistical accuracy of the national population. A sample size of 18,000 completed interviews is considered by SFIA to result in a high degree of statistical accuracy. A sport with a participation rate of five percent has a confidence interval of plus or minus 0.32 percentage points at a 95 percent confidence level. Using a weighting technique, survey results are applied to the total U.S. population figure of 302,756,603 people (ages six and older).

The purpose of the report is to establish levels of activity and identify key participatory trends in recreation across the U.S. This study looked at 122 different sports/activities and subdivided them into various categories including: sports, fitness, outdoor activities, aquatics, etc.

CORE VS. CASUAL PARTICIPATION

In addition to overall participation rates, SFIA further categorizes active participants as either core or casual participants based on frequency of participation. Core participants have higher participatory frequency than casual participants. The thresholds that define casual versus core participation may vary based on the nature of each individual activity. For instance, core participants engage in most fitness activities more than 50-times per year, while for sports, the threshold for core participation is typically 13-times per year.

In a given activity, core participants are more committed and tend to be less likely to switch to other activities or become inactive (engage in no physical activity) than casual participants. This may also explain why activities with more core participants tend to experience less pattern shifts in participation rates than those with larger groups of casual participants.



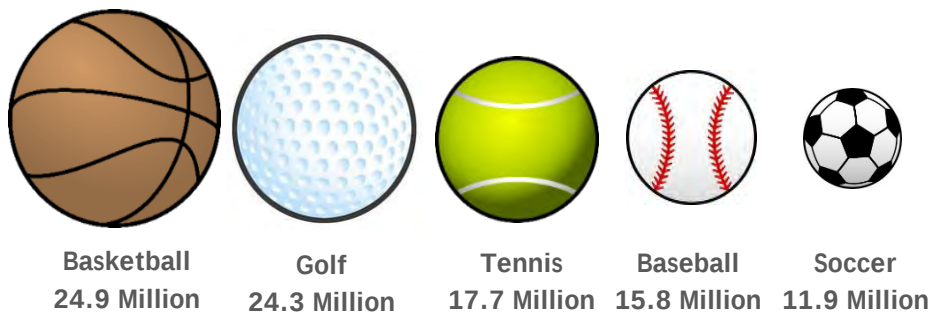
3.7 NATIONAL SPORT AND FITNESS PARTICIPATORY TRENDS

3.7.1 NATIONAL TRENDS IN GENERAL SPORTS

PARTICIPATION LEVELS

The sports most heavily participated in the United States were Basketball (24.9 million) and Golf (24.3 million), which have participation figures well in excess of the other activities within the general sports category. Followed by Tennis (17.7 million), Baseball (15.8 million), and Outdoor Soccer (11.9 million).

The popularity of Basketball, Golf, and Tennis can be attributed to the ability to compete with relatively small number of participants. Basketball's success can also be attributed to the limited amount of equipment needed to participate and the limited space requirements necessary, which make basketball the only traditional sport that can be played at the majority of American dwellings as a drive-way pickup game. Even though Golf has experienced a recent decrease in participation in the last 5-years, it still continues to benefit from its wide age segment appeal and is considered a life-long sport. In Addition, target type game venues or Golf Entertainment Venues have increased drastically (84.7%) as a 5-year trend. Using Golf Entertainment has a new alternative to breathe life back into the game of golf.



FIVE-YEAR TREND

Since 2014, Golf- Entertainment Venues (84.7%), Pickleball (40.5%), and Flag Football (23.1%) have emerged as the overall fastest growing sports. During the last five-years. Similarly, Baseball (20.2%) and Indoor Soccer (17.8%) have also experienced significant growth. Based on the trend from 2014-2019, the sports that are most rapidly declining include Ultimate Frisbee (-49.4%), Squash (-23.4%), Touch Football (-21.5%), Badminton (-15.1%), and Tackle Football (-14.6%).

ONE-YEAR TREND

In general, the most recent year shares a similar pattern with the five-year trends; with Boxing for Competition (8.2%), Golf- Entertainment Venues (6.7%), and Pickleball (4.8%) experiencing the greatest increases in participation this past year. However, some sports that increased rapidly over the past five years have experienced recent decreases in participation, such as Rugby (-10.8%) and Gymnastics (-1.5%). Other sports including Ultimate Frisbee (-15.5%), Sand Volleyball (-7.8%), Roller Hockey (-6.8%), and Touch Football (-6.3) have also seen a significant decrease in participate over the last year.

CORE VS. CASUAL TRENDS IN GENERAL SPORTS

Highly participated in sports, such as Basketball, Baseball, and Slow Pitch Softball, have a larger core participant base (participate 13+ times per year) than casual participant base (participate 1-12 times per year). In the past year, Ice Hockey and Softball -Fast Pitch have increased core participation, while less mainstream sports, such as Boxing for Competition, Roller Hockey, Badminton, and Racquetball have larger casual participation base.

National Participatory Trends - General Sports					
Activity	Participation Levels			% Change	
	2014	2018	2019	5-Year Trend	1-Year Trend
Basketball	23,067	24,225	24,917	8.0%	2.9%
Golf (9 or 18-Hole Course)	24,700	24,240	24,271	-1.7%	0.1%
Tennis	17,904	17,841	17,684	-1.2%	-0.9%
Baseball	13,152	15,877	15,804	20.2%	-0.5%
Soccer (Outdoor)	12,592	11,405	11,913	-5.4%	4.5%
Golf (Entertainment Venue)	5,362	9,279	9,905	84.7%	6.7%
Softball (Slow Pitch)	7,077	7,386	7,071	-0.1%	-4.3%
Football, (Flag)	5,508	6,572	6,783	23.1%	3.2%
Volleyball (Court)	6,304	6,317	6,487	2.9%	2.7%
Badminton	7,176	6,337	6,095	-15.1%	-3.8%
Soccer (Indoor)	4,530	5,233	5,336	17.8%	2.0%
Football, (Touch)	6,586	5,517	5,171	-21.5%	-6.3%
Football, (Tackle)	5,978	5,157	5,107	-14.6%	-1.0%
Gymnastics	4,621	4,770	4,699	1.7%	-1.5%
Volleyball (Sand/Beach)	4,651	4,770	4,400	-5.4%	-7.8%
Track and Field	4,105	4,143	4,139	0.8%	-0.1%
Cheerleading	3,456	3,841	3,752	8.6%	-2.3%
Pickleball	2,462	3,301	3,460	40.5%	4.8%
Racquetball	3,594	3,480	3,453	-3.9%	-0.8%
Ice Hockey	2,421	2,447	2,357	-2.6%	-3.7%
Ultimate Frisbee	4,530	2,710	2,290	-49.4%	-15.5%
Softball (Fast Pitch)	2,424	2,303	2,242	-7.5%	-2.6%
Lacrosse	2,011	2,098	2,115	5.2%	0.8%
Wrestling	1,891	1,908	1,944	2.8%	1.9%
Roller Hockey	1,736	1,734	1,616	-6.9%	-6.8%
Boxing for Competition	1,278	1,310	1,417	10.9%	8.2%
Rugby	1,276	1,560	1,392	9.1%	-10.8%
Squash	1,596	1,285	1,222	-23.4%	-4.9%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
Legend:	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	



3.7.2 NATIONAL TRENDS IN GENERAL FITNESS

PARTICIPATION LEVELS

Overall, national participatory trends in fitness have experienced strong growth in recent years. Many of these activities have become popular due to an increased interest among Americans to improve their health and enhance quality of life by engaging in an active lifestyle. These activities also have very few barriers to entry, which provides a variety of options that are relatively inexpensive to participate in and can be performed by most individuals. The most popular general fitness activities amongst the U.S. population include: Fitness Walking (111.4 million), Treadmill (56.8 million), Free Weights (51.4 million), Running/Jogging (49.5 million), and Stationary Cycling (37.1 million).



**Fitness
Walking
111.4 Million**



**Treadmill
56.8 Million**



**Dumbbell
Free Weights
51.4 Million**



**Running/
Jogging
49.5 Million**



**Stationary
Cycling
37.1 Million**

FIVE-YEAR TREND

Over the last five years (2014-2019), the activities growing most rapidly are Trail Running (46.0%), Yoga (20.6%), Cross Training Style Workout (20.2%), and Stationary Group Cycling (17.5%). Over the same time frame, the activities that have undergone the biggest decline include: Traditional Triathlon (-9.2%), Running/Jogging (-8.7%), Free Weights (-8.3%), and Fitness Walking (-1.0%).

ONE-YEAR TREND

In the last year, activities with the largest gains in participation were Trail Running (9.9%), Dance, Step, & Choreographed Exercise (7.0%), and Yoga (6.0%). From 2018-2019, the activities that had the largest decline in participation were Traditional Triathlons (-7.7%), Non-Traditional Triathlon (-7.4%), Bodyweight Exercise (-2.8%), and Running/Jogging (-2.6%).

CORE VS. CASUAL TRENDS IN GENERAL FITNESS

The most participated in fitness activities all have a strong core users base (participating 50+ times per year). These fitness activities include: Fitness Walking, Treadmill, Free Weights, Running/Jogging, Stationary Cycling, Weight/Resistant Machines, and Elliptical Motion/Cross Training, all having 48% or greater core users.

National Participatory Trends - General Fitness					
Activity	Participation Levels			% Change	
	2014	2018	2019	5-Year Trend	1-Year Trend
Fitness Walking	112,583	111,001	111,439	-1.0%	0.4%
Treadmill	50,241	53,737	56,823	13.1%	5.7%
Free Weights (Dumbbells/Hand Weights)	56,124	51,291	51,450	-8.3%	0.3%
Running/Jogging	54,188	50,770	49,459	-8.7%	-2.6%
Stationary Cycling (Recumbent/Upright)	35,693	36,668	37,085	3.9%	1.1%
Weight/Resistant Machines	35,841	36,372	36,181	0.9%	-0.5%
Elliptical Motion Trainer	31,826	33,238	33,056	3.9%	-0.5%
Yoga	25,262	28,745	30,456	20.6%	6.0%
Free Weights (Barbells)	25,623	27,834	28,379	10.8%	2.0%
Dance, Step, & Choreographed Exercise	21,455	22,391	23,957	11.7%	7.0%
Bodyweight Exercise	22,390	24,183	23,504	5.0%	-2.8%
Aerobics (High Impact/Intensity Training HIIT)	19,746	21,611	22,044	11.6%	2.0%
Stair Climbing Machine	13,216	15,025	15,359	16.2%	2.2%
Cross-Training Style Workout	11,265	13,338	13,542	20.2%	1.5%
Trail Running	7,531	10,010	10,997	46.0%	9.9%
Stationary Cycling (Group)	8,449	9,434	9,930	17.5%	5.3%
Pilates Training	8,504	9,084	9,243	8.7%	1.8%
Cardio Kickboxing	6,747	6,838	7,026	4.1%	2.7%
Boot Camp Style Cross-Training	6,774	6,695	6,830	0.8%	2.0%
Martial Arts	5,364	5,821	6,068	13.1%	4.2%
Boxing for Fitness	5,113	5,166	5,198	1.7%	0.6%
Tai Chi	3,446	3,761	3,793	10.1%	0.9%
Barre	3,200	3,532	3,665	14.5%	3.8%
Triathlon (Traditional/Road)	2,203	2,168	2,001	-9.2%	-7.7%
Triathlon (Non-Traditional/Off Road)	1,411	1,589	1,472	4.3%	-7.4%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
Legend:	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	



3.7.3 NATIONAL TRENDS IN OUTDOOR RECREATION

PARTICIPATION LEVELS

Results from the SFIA report demonstrate a contrast of growth and decline in participation regarding outdoor/adventure recreation activities. Much like the general fitness activities, these activities encourage an active lifestyle, can be performed individually or within a group, and are not as limited by time constraints. In 2019, the most popular activities, in terms of total participants, from the outdoor/adventure recreation category include: Day Hiking (49.7 million), Road Bicycling (39.4 million), Freshwater Fishing (39.2 million), and Camping within ¼ mile of Vehicle/Home (28.2 million), and Recreational Vehicle Camping (15.4 million).



**Hiking
(Day)
49.7 Million**



**Bicycling
(Road)
39.4 Million**



**Fishing
(Freshwater)
39.2 Million**



**Camping
(<¼mi. of Car/Home)
28.2 Million**



**Camping
(Recreational Vehicle)
15.4 Million**

FIVE-YEAR TREND

From 2014-2019, BMX Bicycling (55.2%), Day Hiking (37.2%), Fly Fishing (20.1%), Salt Water Fishing (11.6%), and Mountain Bicycling (7.2%) have undergone the largest increases in participation. The five-year trend also shows activities such as In-Line Roller Skating (-20.5%), Archery (-11.7%), and Adventure Racing (-9.5%) experiencing the largest decreases in participation.

ONE-YEAR TREND

The one-year trend shows activities growing most rapidly being BMX Bicycling (6.1%), Day Hiking (3.8%), and Birdwatching (3.8%). Over the last year, activities that underwent the largest decreases in participation include: Climbing (-5.5%), In-Line Roller Skating (-4.4%), and Camping with a Recreation Vehicle (-3.5%).

CORE VS. CASUAL TRENDS IN OUTDOOR RECREATION

A majority of outdoor activities have experienced participation growth in the last five- years. Although this a positive trend, it should be noted that all outdoor activities participation, besides adventure racing, consist primarily of casual users. This is likely why we see a lot of fluctuation in participation numbers, as the casual users likely found alternative activities to participate in.

National Participatory Trends - Outdoor / Adventure Recreation					
Activity	Participation Levels			% Change	
	2014	2018	2019	5-Year Trend	1-Year Trend
Hiking (Day)	36,222	47,860	49,697	37.2%	3.8%
Bicycling (Road)	39,725	39,041	39,388	-0.8%	0.9%
Fishing (Freshwater)	37,821	38,998	39,185	3.6%	0.5%
Camping (< 1/4 Mile of Vehicle/Home)	28,660	27,416	28,183	-1.7%	2.8%
Camping (Recreational Vehicle)	14,633	15,980	15,426	5.4%	-3.5%
Fishing (Saltwater)	11,817	12,830	13,193	11.6%	2.8%
Birdwatching (>1/4 mile of Vehicle/Home)	13,179	12,344	12,817	-2.7%	3.8%
Backpacking Overnight	10,101	10,540	10,660	5.5%	1.1%
Bicycling (Mountain)	8,044	8,690	8,622	7.2%	-0.8%
Archery	8,435	7,654	7,449	-11.7%	-2.7%
Fishing (Fly)	5,842	6,939	7,014	20.1%	1.1%
Skateboarding	6,582	6,500	6,610	0.4%	1.7%
Roller Skating, In-Line	6,061	5,040	4,816	-20.5%	-4.4%
Bicycling (BMX)	2,350	3,439	3,648	55.2%	6.1%
Climbing (Traditional/Ice/Mountaineering)	2,457	2,541	2,400	-2.3%	-5.5%
Adventure Racing	2,368	2,215	2,143	-9.5%	-3.3%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
Legend:	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	



3.7.4 NATIONAL TRENDS IN AQUATICS

PARTICIPATION LEVELS

Swimming is deemed as a lifetime activity, which is most likely why it continues to have such strong participation. In 2019, Fitness Swimming was the absolute leader in overall participation (28.2 million) amongst aquatic activities, largely due to its broad, multigenerational appeal.



**Swimming
(Fitness)
28.2 Million**



**Aquatic
Exercise
11.2 Million**



**Swimming
(Competition)
2.8 Million**

FIVE-YEAR TREND

Assessing the five-year trend, all aquatic activities have experienced growth. Aquatic Exercise stands out having increased (22.7%) from 2014-2019, most likely due to the ongoing research that demonstrates the activity's great therapeutic benefit, followed by Fitness Swimming (11.5%) and Competition Swimming (4.1%).

ONE-YEAR TREND

From 2018-2019, Competitive Swimming (-7.3%) was the only aquatic activity that declined in participation. While both Aquatic Exercise (6.4%) and Fitness swimming (2.3%) experienced increases when assessing their one-year trend.

CORE VS. CASUAL TRENDS IN AQUATICS

All aquatic activities have undergone increases in participation over the last five years, primarily due to large increases in casual participation (1-49 times per year). From 2014 to 2019, casual participants for Aquatic Exercise (35.7%), Competition Swimming (22.7%), and Fitness Swimming (18.4%) have all grown significantly. However, all core participation (50+ times per year) for aquatic activities have decreased over the last five-years.

National Participatory Trends - Aquatics					
Activity	Participation Levels			% Change	
	2014	2018	2019	5-Year Trend	1-Year Trend
Swimming (Fitness)	25,304	27,575	28,219	11.5%	2.3%
Aquatic Exercise	9,122	10,518	11,189	22.7%	6.4%
Swimming (Competition)	2,710	3,045	2,822	4.1%	-7.3%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
Legend:	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	

3.7.5 NATIONAL TRENDS IN WATER SPORTS / ACTIVITIES

PARTICIPATION LEVELS

The most popular water sports / activities based on total participants in 2019 were Recreational Kayaking (11.4 million), Canoeing (8.9 million), and Snorkeling (7.7 million). It should be noted that water activity participation tends to vary based on regional, seasonal, and environmental factors. A region with more water access and a warmer climate is more likely to have a higher participation rate in water activities than a region that has a long winter season or limited water access. Therefore, when assessing trends in water sports and activities, it is important to understand that fluctuations may be the result of environmental barriers which can greatly influence water activity participation.



Kayaking
11.4 Million



Canoeing
9.0 Million



Snorkeling
7.7 Million



Jet Skiing
5.1 Million



Sailing
3.6 Million

FIVE-YEAR TREND

Over the last five years, Stand-Up Paddling (29.5%) and Recreational Kayaking (28.5%) were the fastest growing water activity, followed by White Water Kayaking (9.9%) and Surfing (8.9%). From 2014-2019, activities declining in participation most rapidly were Water Skiing (-20.1%), Jet Skiing (-19.6%), Scuba Diving (-13.7%), Wakeboarding (-12.7%), and Snorkeling (-12.5%).

ONE-YEAR TREND

Similarly, to the five-year trend, Recreational Kayaking (3.3%) and Stand-Up Paddling (3.2%) also had the greatest one-year growth in participation, from 2018-2019. Activities which experienced the largest decreases in participation in the most recent year include: Boardsailing/Windsurfing (-9.7%), Sea Kayaking (-5.5%), and Water Skiing (-4.8%).

CORE VS. CASUAL TRENDS IN WATER SPORTS/ACTIVITIES

As mentioned previously, regional, seasonal, and environmental limiting factors may influence the participation rate of water sport and activities. These factors may also explain why all water-based activities have drastically more casual participants than core participants, since frequencies of activities may be constrained by uncontrollable factors. These high causal user numbers are likely why a majority of water sports/activities have experienced decreases in participation in recent years.



National Participatory Trends - Water Sports / Activities					
Activity	Participation Levels			% Change	
	2014	2018	2019	5-Year Trend	1-Year Trend
Kayaking (Recreational)	8,855	11,017	11,382	28.5%	3.3%
Canoeing	10,044	9,129	8,995	-10.4%	-1.5%
Snorkeling	8,752	7,815	7,659	-12.5%	-2.0%
Jet Skiing	6,355	5,324	5,108	-19.6%	-4.1%
Sailing	3,924	3,754	3,618	-7.8%	-3.6%
Stand-Up Paddling	2,751	3,453	3,562	29.5%	3.2%
Rafting	3,781	3,404	3,438	-9.1%	1.0%
Water Skiing	4,007	3,363	3,203	-20.1%	-4.8%
Surfing	2,721	2,874	2,964	8.9%	3.1%
Wakeboarding	3,125	2,796	2,729	-12.7%	-2.4%
Scuba Diving	3,145	2,849	2,715	-13.7%	-4.7%
Kayaking (Sea/Touring)	2,912	2,805	2,652	-8.9%	-5.5%
Kayaking (White Water)	2,351	2,562	2,583	9.9%	0.8%
Boardsailing/Windsurfing	1,562	1,556	1,405	-10.1%	-9.7%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
Legend:	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	

3.8 NON-PARTICIPANT INTEREST BY AGE SEGMENT

In addition to participation rates by generation, SFIA also tracks non-participant interest. These are activities that the U.S. population currently does not participate in due to physical or monetary barriers, but is interested in participating in. Below are the top five activities that each age segment would be most likely to partake in, if they were readily available.

Overall, the activities most age segments are interested in include: Camping, Bicycling, Fishing, and Swimming for Fitness. All of which are deemed as low-impact activities, making them obtainable for any age segment to enjoy.





3.9 NATIONAL AND REGIONAL PROGRAMMING TRENDS

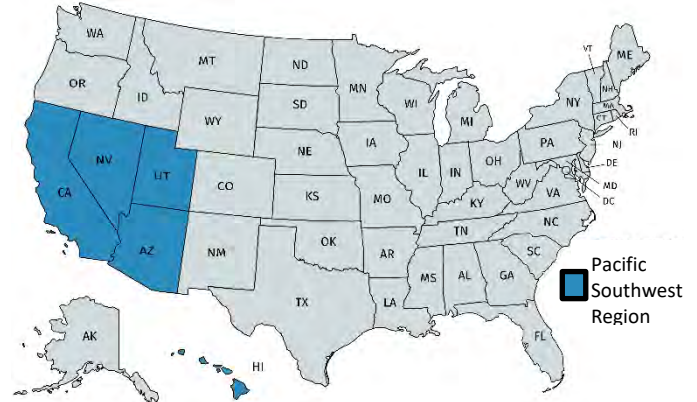
PROGRAMS OFFERED BY PARK AND RECREATION AGENCIES (PACIFIC SOUTHWEST REGION)

NRPA's *Agency Performance Review 2019* summarize key findings from NRPA Park Metrics, which is a benchmark tool that compares the management and planning of operating resources and capital facilities of park and recreation agencies. The report contains data from 1,069 park and recreation agencies across the U.S. as reported between 2015 and 2019.

The report shows that the typical agencies (i.e., those at the median values) offer 161 programs annually, with roughly 60% of those programs being fee-based activities/events.

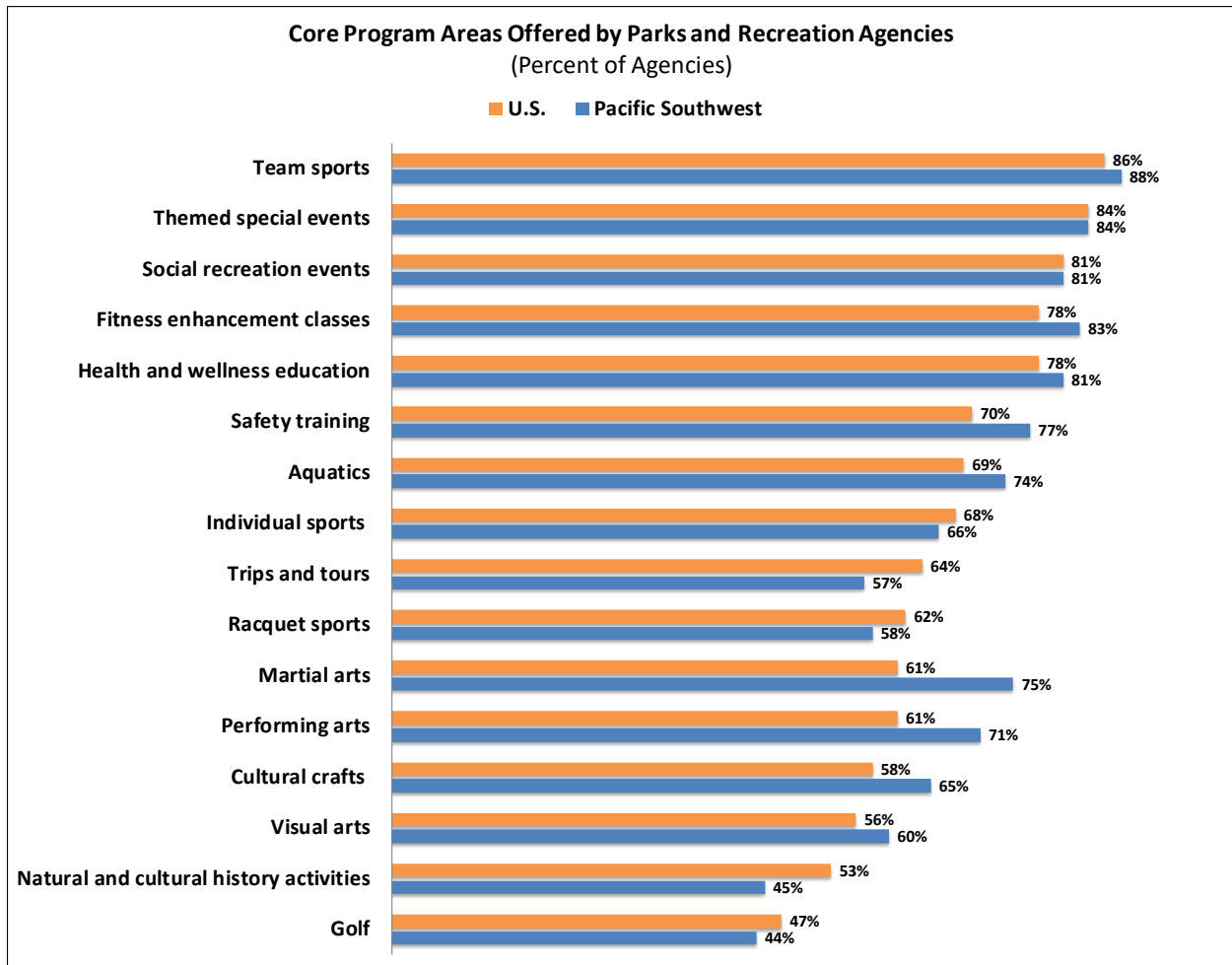
According to the information reported to the NRPA, the top five programming activities most frequently offered by park and recreation agencies, both in the U.S. and regionally, are described in the table below.

When comparing Pacific Southwest agencies to the U.S. average, team sports, themed special events, social recreation events, fitness enhancement classes, and health and wellness education were all identified as the top five most commonly provided program areas offered regionally and nationally.



Top 5 Most Offered Core Program Areas (Offered by Parks and Recreation Agencies)	
U.S. (% of agencies offering)	Pacific Southwest Region (% of agencies offering)
• Team sports (86%)	• Team sports (88%)
• Themed special events (84%)	• Themed special events (84%)
• Social recreation events (81%)	• Fitness enhancement classes (83%)
• Fitness enhancement classes (78%)	• Social recreation events (81%)
• Health and wellness education (78%)	• Health and wellness education (81%)

In general, Pacific Southwest park and recreation agencies offered programs at a slightly higher rate than the national average. Based on a discrepancy threshold of 5% or more, Pacific Southwest agencies are offering fitness enhancement classes, safety training, aquatics, martial arts, performing arts, and cultural crafts at a higher rate than the national average. Contradictory, the Pacific Southwest Region is trailing the national average in regards to trips and tours and natural and cultural history activities. A complete comparison of regional and national programs offered by agencies can be found below.





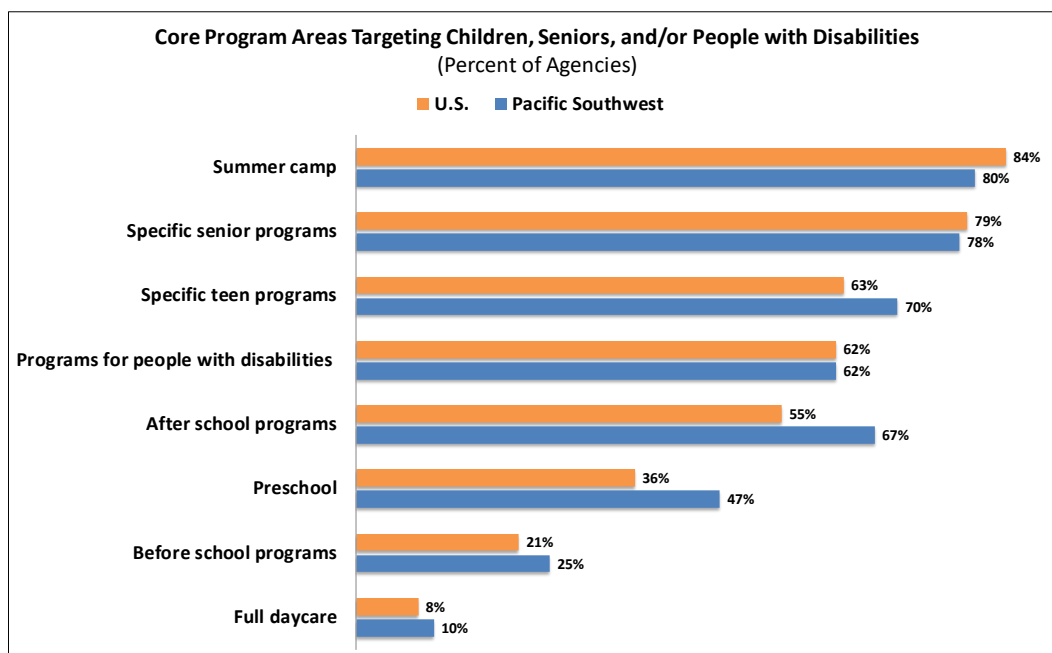
3.9.1 TARGETED PROGRAMS FOR CHILDREN, SENIORS, AND PEOPLE WITH DISABILITIES

For better understanding of targeted programs by age segment, the NRPA also tracks program offerings that cater specifically to children, seniors, and people with disabilities, on a national and regional basis. This allows for further analysis of these commonly targeted populations. According to the 2018 NRPA Agency Performance Review, approximately 79% of agencies offer dedicated senior programming, while 62% of park and recreation agencies provide adaptive programming for individuals with disabilities.

Based on information reported to the NRPA, the top three activities that target children, seniors, and/or people with disabilities most frequently offered by park and recreation agencies are described in the table below.

Top 3 Most Offered Core Program Areas (Targeting Children, Seniors, and/or People with Disabilities)	
U.S. (% of agencies offering)	Pacific Southwest Region (% of agencies offering)
• Summer camp (84%)	• Summer camp (80%)
• Senior programs (79%)	• Senior programs 78%)
• Teen programs (63%)	• Teen programs (70%)

Agencies in the Pacific Southwest tend to offer targeted programs at a significantly higher rate than the national average. This is especially evident when looking at specific teen programs, after school programs, and preschool school programs. A complete comparison of regional and national programs offered by agencies can be found below.



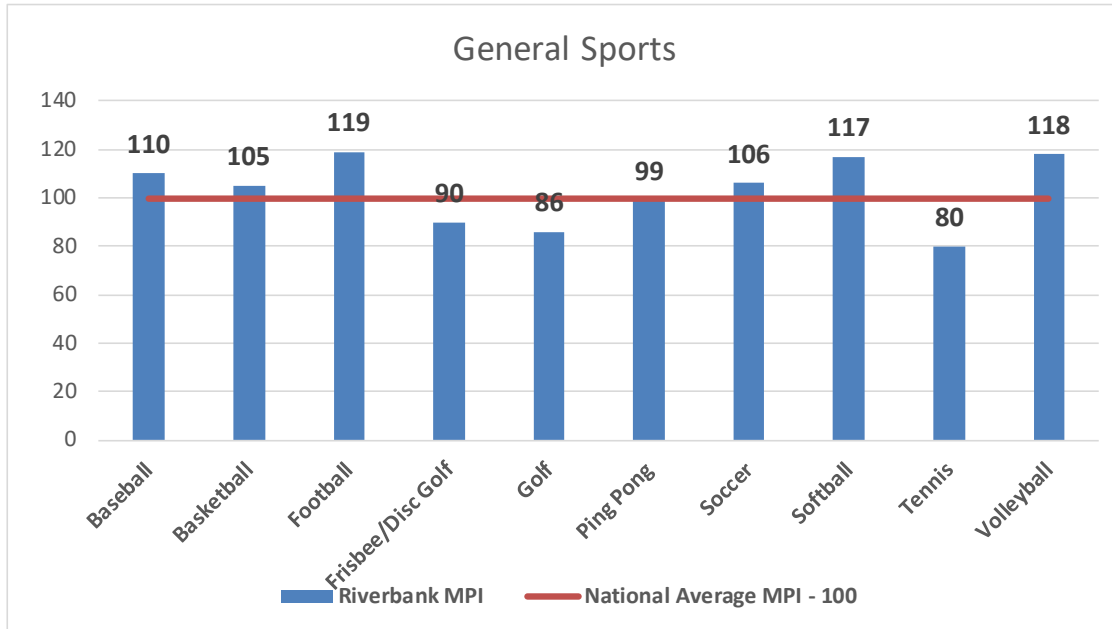
3.10 LOCAL SPORT AND MARKET POTENTIAL

The following charts show sport and leisure market potential data from ESRI. A Market Potential Data (MPI) measures the probable demand for a product or service within the City and its surrounding City of Riverbank. The MPI shows the likelihood that an adult resident of the target area will participate in certain activities when compared to the US National average. The national average is 100, therefore numbers below 100 would represent a lower than average participation rate, and numbers above 100 would represent higher than average participation rate. The City is compared to the national average in three (3) categories – general sports, fitness and outdoor activity.

Overall, Riverbank demonstrates average to below average market potential index (MPI) numbers. Looking at the three categories (general sports, fitness and outdoor activity), even though they each have a few activities with MPI scores at or above the national averages, a majority of the activities' MPI scores are below 100+. These overall MPI scores show that Riverbank has below average participation rates when it comes to recreational activities. This becomes significant for when the City considers building new facilities or starting up new programs; giving them a strong tool to estimate resident attendance when utilized in combination of other data points.

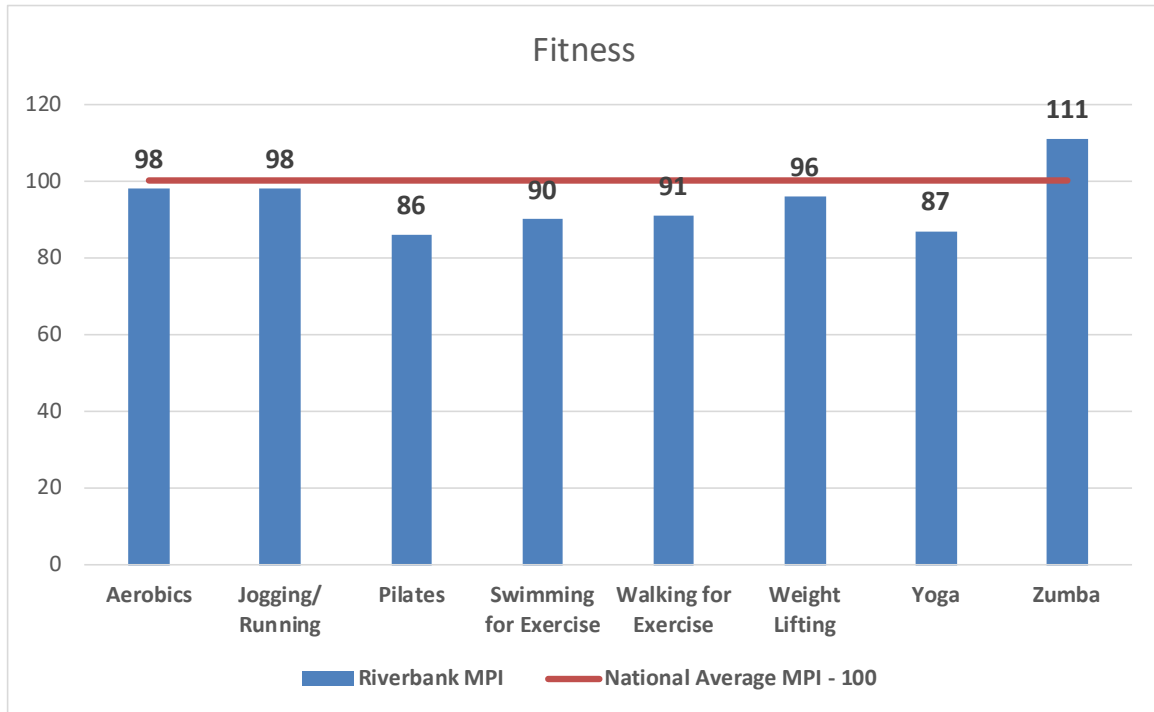
High index numbers (100+) are significant because they demonstrate that there is a greater potential that residents of the City will actively participate in offerings provided by the City.

3.10.1 GENERAL SPORTS MPI

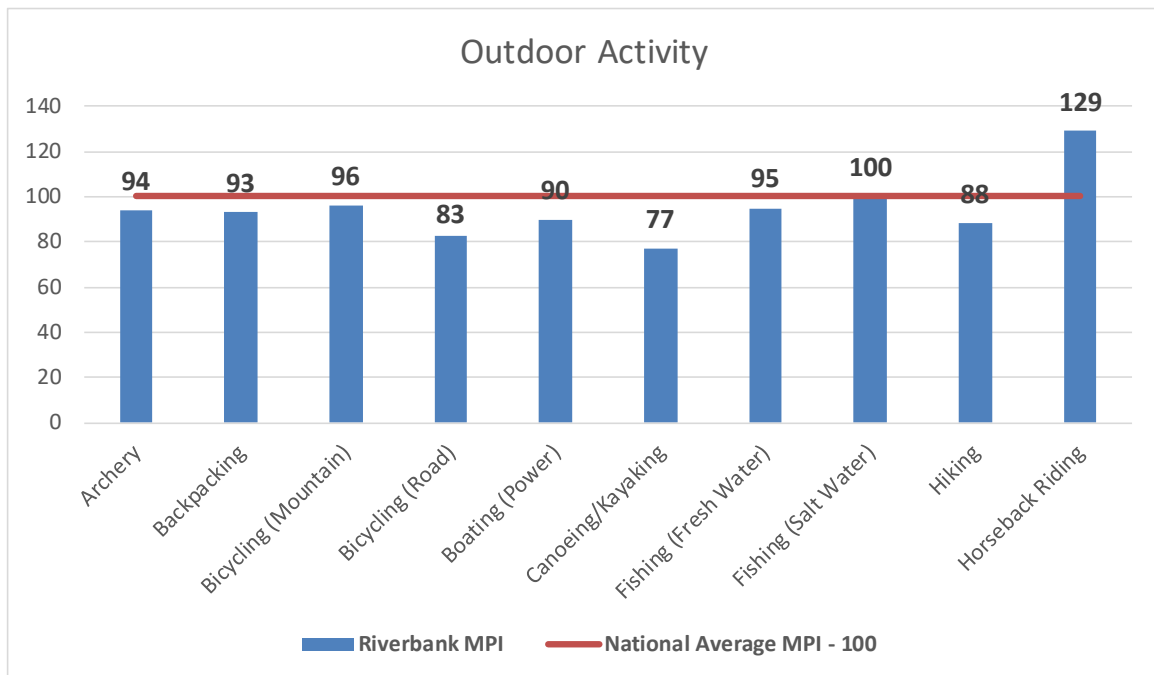




3.10.2 GENERAL FITNESS MPI



3.10.3 OUTDOOR ACTIVITY MPI



3.11 TRENDS SUMMARY

It is critically important for the Riverbank Parks and Recreation Department to understand the local and national participation trends in recreation activities. In doing so, the Department can gain general insight into the lifecycle stage of recreation programs and activities (emerging, stable and declining) and thereby anticipate potential changes in need and demand for the programs and activities that it provides to the residents of Riverbank. Here are some major takeaways for local and national recreation trends:

- Basketball remained the most popular sport nationally while football is the most popular sport locally.
- Nationally, pickleball has emerged as the overall fastest growing sport offered at by local park and recreation agencies and it has made its presence felt in Riverbank.
- Tackle football and touch football are losing participants nationally, however participation remains strong in Riverbank.
- All listed aquatic activities have experienced strong participation growth over the last five years, both locally and nationally though competition swimming has seen a decrease in the last year.
- Fitness walking remained the most popular fitness activity nationally and will likely grow in popularity in Riverbank as the trail system expands over the next 10 years.
- Outdoor recreational activities are on the rise nationally. Hiking is extremely popular both nationally and locally.
- Based on national measurements, income level has a negative impact on inactivity rate. Lower income households tend to have higher inactivity rate.
- Age is also a significant factor to inactivity level. Generation Z (age 6-17) had the lowest inactivity rate while the boomers (age 55+) had the highest inactivity rate.
- Besides income and age factors, non-participants are more likely to join sports or fitness activities if a friend accompanies them.
- Ownership of health and fitness tracking devices has increased in recent years.



CHAPTER FOUR - COMMUNITY NEEDS ASSESSMENT

The efforts in creating this Master Plan were based in an evaluation of existing resources and capacity as well as community input. Thus, a key consideration to creating a vision for parks and recreation in Riverbank is to understand current community values, needs, and desires. The assessment of these values is accomplished by triangulating information generated from focus groups with staff, public input received via the project website, a statistically valid survey, and reinforced through intercept and electronic surveys. The surveys were written to reflect issues and wishes that emerged from the qualitative data gathered through discussions with staff. Triangulation occurs when findings of the qualitative work is supported by the quantitative work. The following sections discuss this process and resulting findings.

4.1 QUALITATIVE INPUT SUMMARY

In the spring and summer of 2019, the consultant team conducted a series of focus group, stakeholder and public meetings, in partnership with Riverbank staff, that included, but wasn't limited to, representatives from various stakeholder groups, including Riverbank Unified School District, business owners, athletic organizations, the Army Corps of Engineers, Friends of Jacob Myers Park and the development community. The results of these focus group discussions were condensed to a series of key themes that emerged.

Discussion with staff, community leaders and citizens revealed the following key themes related to parks and recreation in Riverbank.

ECONOMIC DEVELOPMENT THROUGH PARK DEVELOPMENT

Opportunity exists for park development to enhance and/or advance economic development. There is also an opportunity for economic development to enhance and support park development.

- Parks and recreation can play a significant role in business attraction, residential development, and the overall quality of life attributes desired by the community.
- Investment in parks reflects the community's value set and the City's overall attitude of being an active player in the betterment of the community.
- The further development of Jacob Myers Park can potentially serve as an economic catalyst.

INVESTING IN THE EXISTING PARKS SYSTEM

- Continue to focus on reinvesting in, and maintaining existing parks.
- Opportunities exist to, in part, help meet the recreational needs of the community, in partnership with the development community given recent annexation, the Riverbank Unified School District and the Army Corps of Engineers and the Friends of Jacob Myers Park.

TRAILS AND CONNECTIVITY

- Desire for a connected, accessible recreational trail system that also supports active transportation and Safe Routes to School initiatives.

ADVOCACY AND AWARENESS

- Increased and targeted Communication/Marketing is needed to develop more advocacy for, and the awareness of, the parks and recreation system.

FUNDING THE PARKS AND RECREATION SYSTEM

- Multiple funding strategies are required to meet the needs of the community.
- Securing funding through Prop 68 and other grant programs will be critical for funding park development over the next 10 years.
- Sustainable funding for park maintenance, park renovations and lifecycle replacement.





4.2 STATISTICALLY VALID SURVEY

4.2.1 OVERVIEW

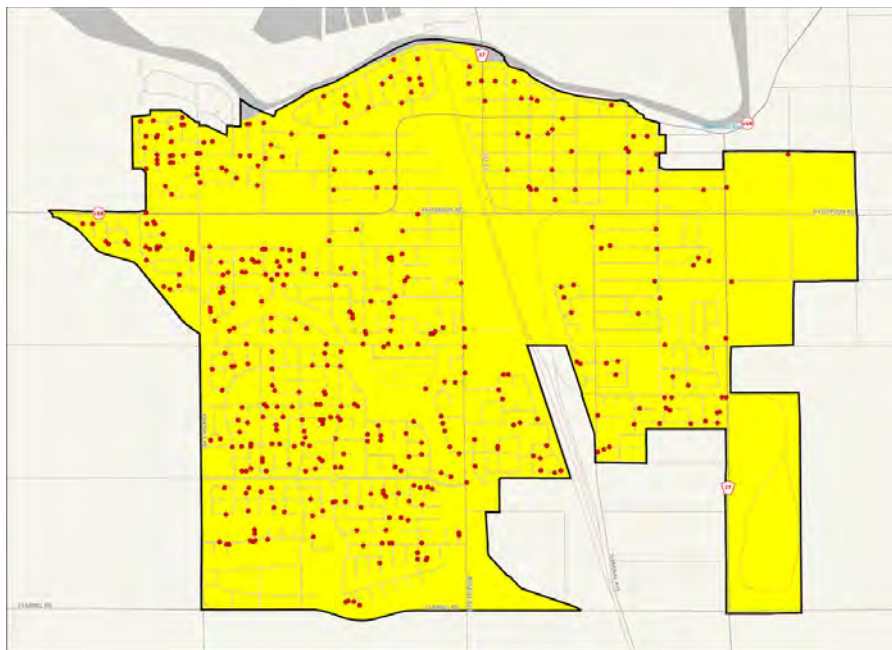
ETC Institute administered a needs assessment survey for Riverbank during the fall of 2019. The survey was administered as part of the City's Parks and Recreation Master Plan for their residents. The survey results will aid Riverbank in taking a resident-driven approach to making decisions that will enrich and positively affect the lives of residents.

4.2.2 METHODOLOGY

ETC Institute mailed a survey packet to a random sample of households in Riverbank. Each survey packet contained a cover letter, a copy of the survey, and a postage-paid return envelope. Residents who received the survey were given the option of returning the survey by mail or completing it on-line.

A few days after the surveys were mailed, ETC Institute sent emails and placed phone calls to the households that received the survey to encourage participation. The emails contained a link to the on-line version of the survey to make it easy for residents to complete the survey. To prevent people who were not residents of Riverbank from participating, everyone who completed the survey on-line was required to enter their home address prior to submitting the survey. ETC Institute then matched the addresses that were entered on-line with the addresses that were originally selected for the random sample. If the address from a survey completed online did not match one of the addresses selected for the sample, the on-line survey was not counted.

The goal was to obtain completed surveys from at least 375 residents. The goal was exceeded with a total of 421 households completing the survey. The overall results for the sample of 421 households have a precision of at least $\pm 4.8\%$ at the 95% level of confidence. The following scatterplot graph indicates where completed surveys were received from residents in Riverbank.



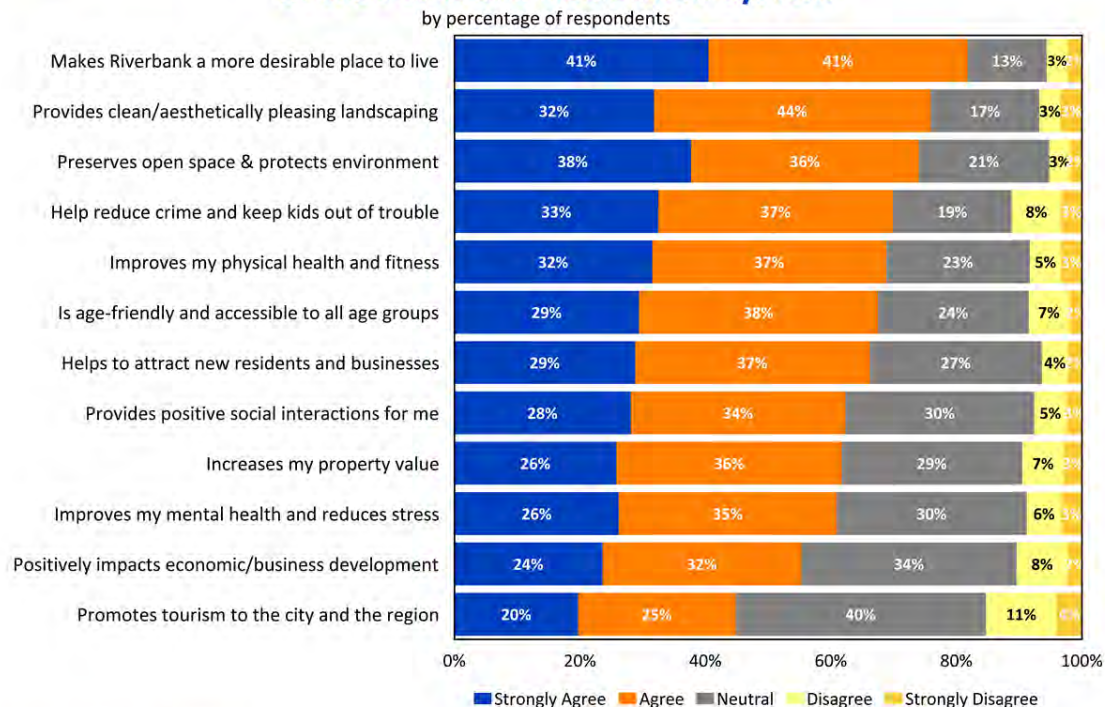
The major findings of the survey are summarized below and on the following pages. Complete survey results are provided as a separate document.

4.2.3 AGREEMENT WITH THE BENEFITS OF PARKS AND RECREATION

Respondents were asked to indicate their level of agreement with the benefits of Riverbank's Recreation system.

- Eighty-seven percent (82%) indicated that the system Makes Riverbank a More Desirable Place to Live.
 - o Other benefits most agreed with include:
 - Provides Clean/Aesthetically pleasing Landscaping (76%).
 - Preserves Open Space and Protects the Environment (74%).
 - Helps to Reduce Crime (70%).
 - Improves My Physical Health and Fitness (69%).
 - Is Age-Friendly to All People (67%).
 - Helps to Attract New Residents and Businesses (67%).
 - Provides Positive Social Interactions for Me (66%).
 - Increases My Property Value (62%).

Q5. Agreement With Various Statements Concerning Potential Benefits of the Parks and Recreation System



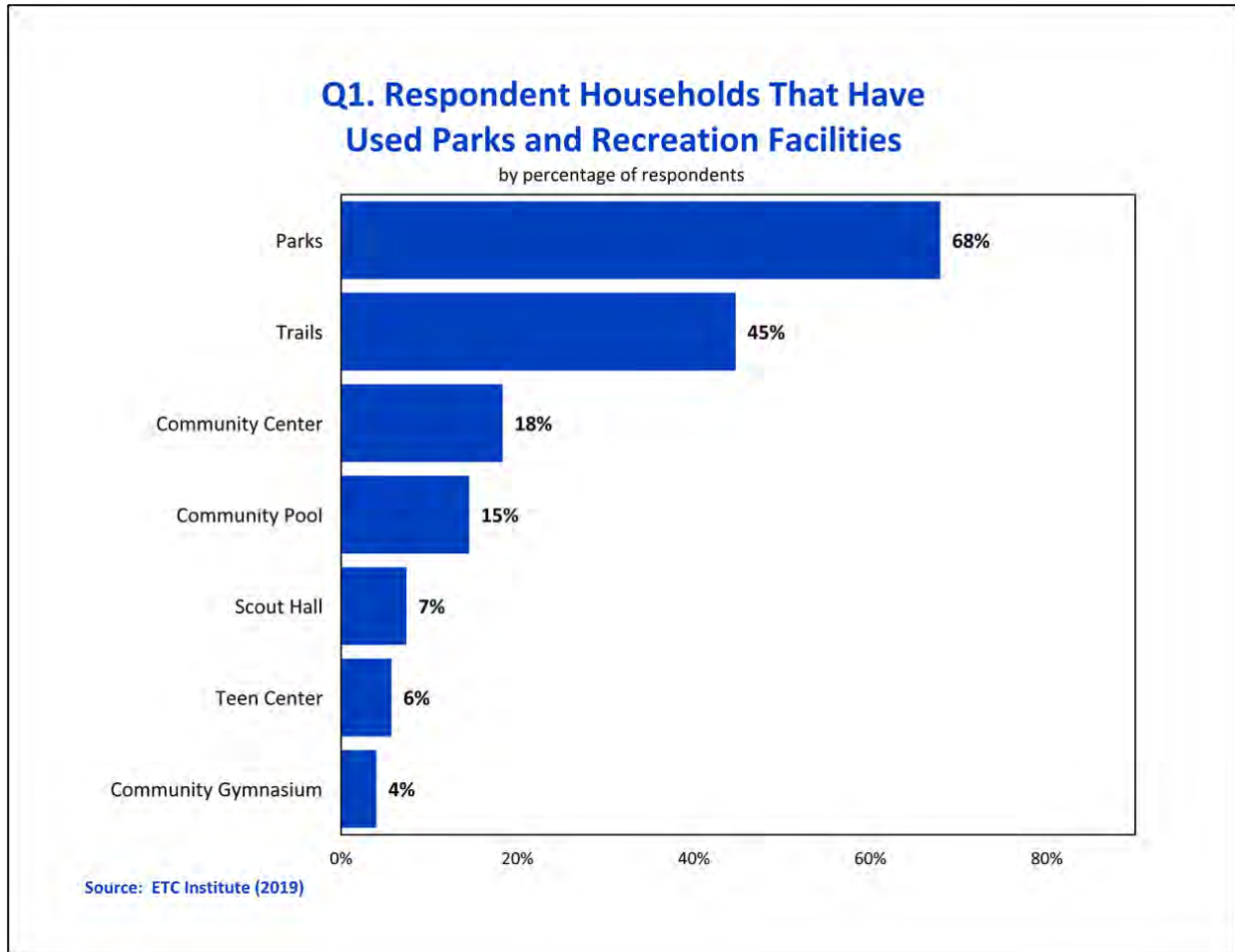
Source: ETC Institute (2019)



4.2.4 PARK AND FACILITY UTILIZATION AND CONDITION RATINGS

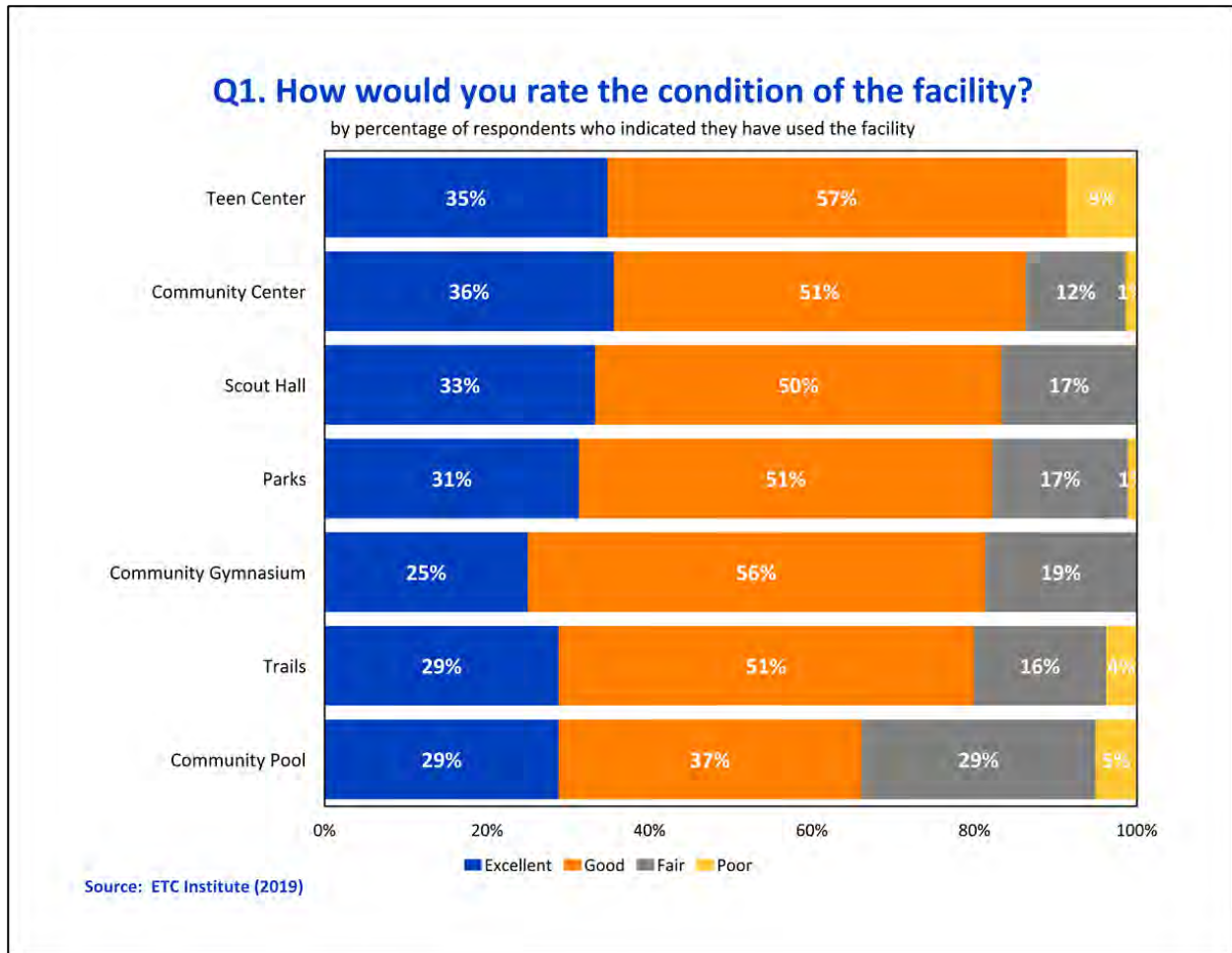
- **Utilization:**
 - o Eighty-eight percent (68%) of households used parks and 45% used trails over the past 12 months.

The national benchmark for park and trail utilization is 76%.



- **Condition Ratings of Parks:**
 - o Twenty-nine percent (29%) of households rated the condition of the parks and facilities as excellent.

The national benchmark for excellent is 29%.





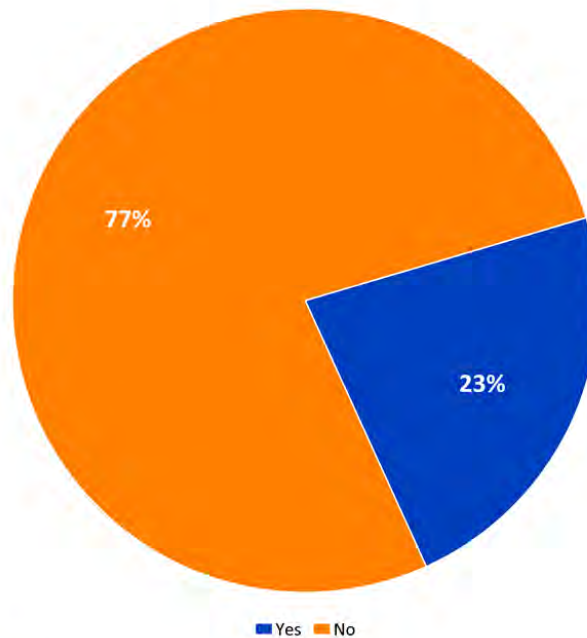
4.2.5 PROGRAM PARTICIPATION AND QUALITY RATINGS

- **Program Participation and Ratings:**
 - o Twenty-three percent (23%) of households participated in Riverbank Parks and Recreation Department programs and services over the past 12 months.

The national benchmark for program participation is 33%.

Q4. Has your household participated in any recreation programs offered by the City of Riverbank during the past 12 months?

by percentage of respondents



Source: ETC Institute (2019)

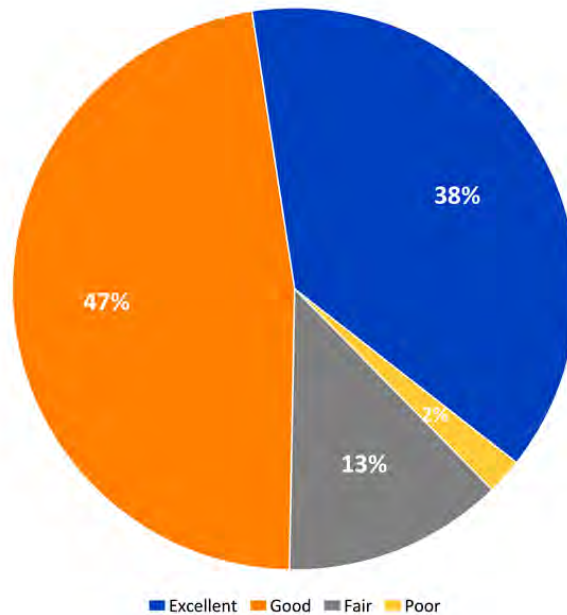
- **Program Quality:**

- o Of households who participated in programs, 38% rated the programs as “excellent”.

The national benchmark for excellent is 33%.

Q4a. How would you rate the overall quality of recreation programs in which your household has participated?

by percentage of respondents



Source: ETC Institute (2019)

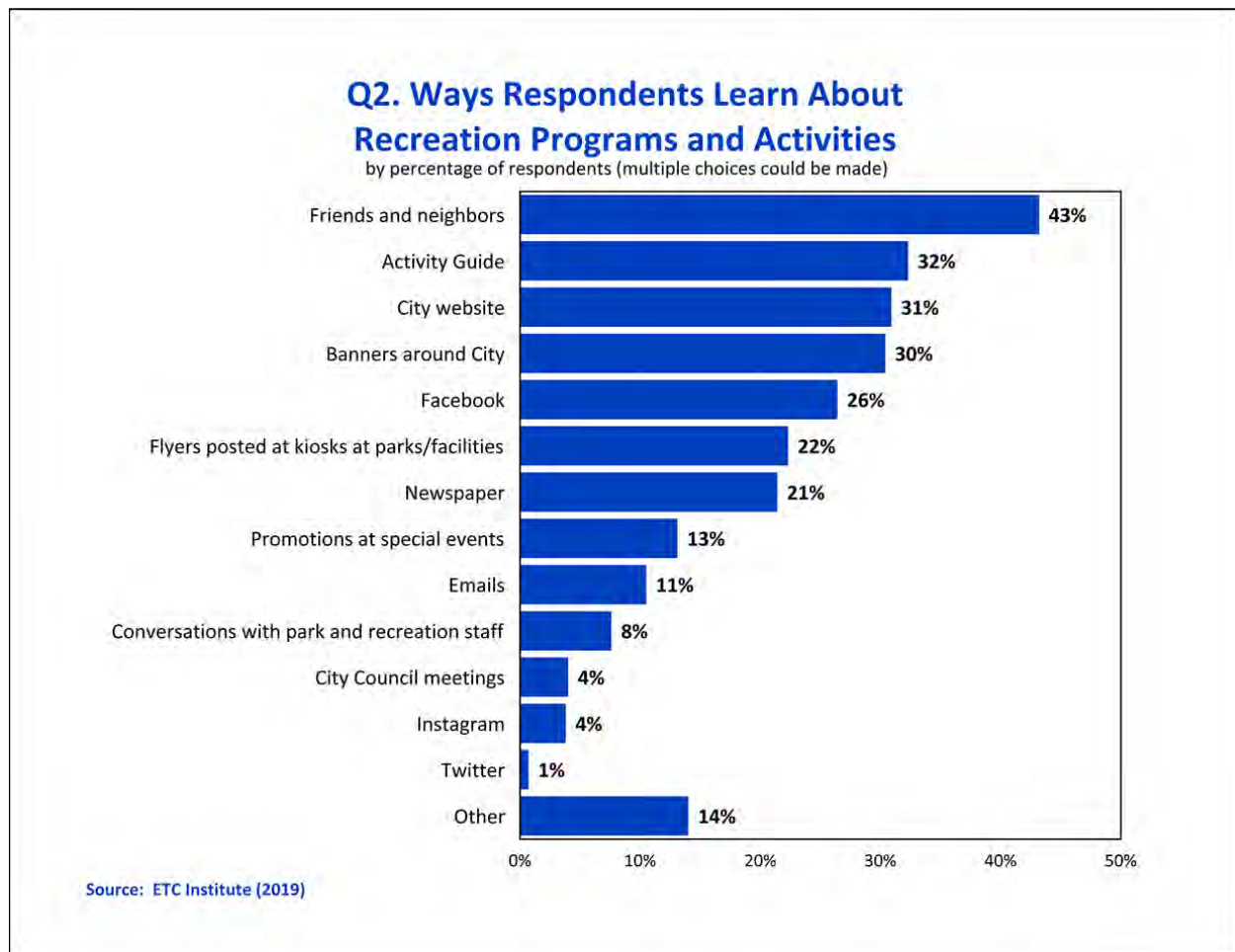


4.2.6 WAYS HOUSEHOLDS CURRENTLY LEARN ABOUT PROGRAMS AND ACTIVITIES

- **From Friends and Neighbors Was the Most Utilized Source of Information When Learning About Program and Activity Offerings.**
 - o Forty-three percent (43%) of households indicated they utilize Friends and Neighbors as an information source.
 - o Other most used sources include:
 - Activity Guide (32%).
 - City Website (31%).
 - Banners around the City (30%).
 - Facebook (26%).

The national benchmark for from friends and neighbors is 43%.

The national benchmark for website is 31%.

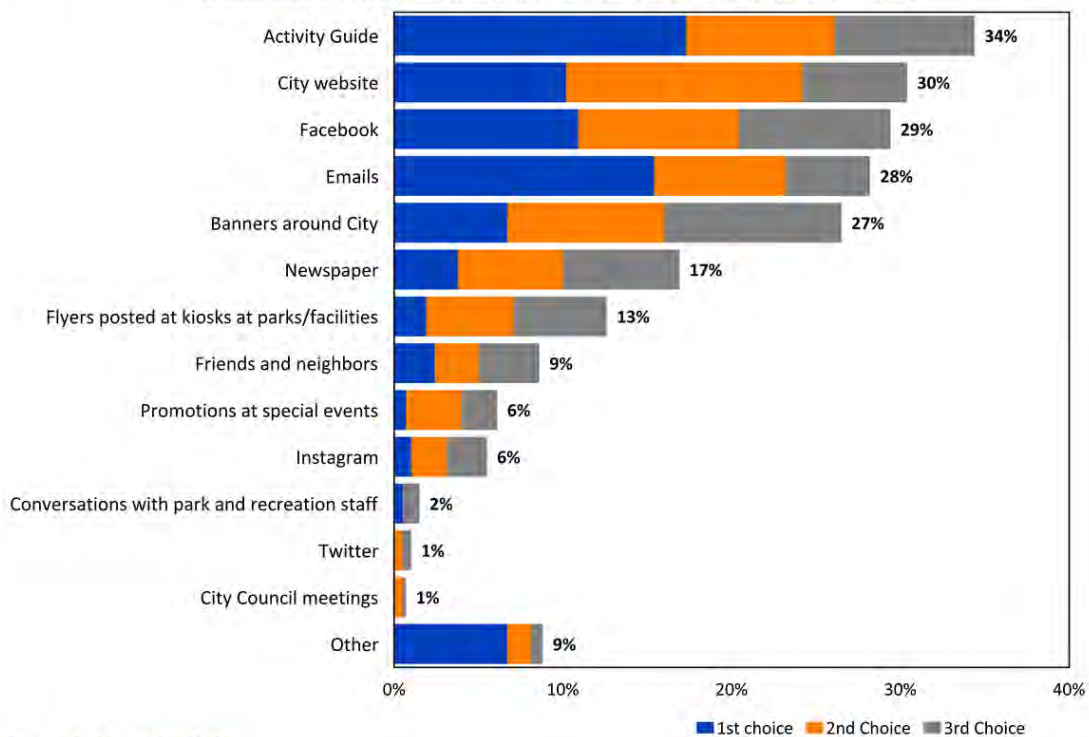


4.2.7 WAYS HOUSEHOLDS WOULD PREFER TO LEARN ABOUT PROGRAMS AND ACTIVITIES

- **Activity Guide Was the Most Preferred Source of Information When Learning About Program and Activity Offerings.**
 - o Thirty-four percent (34%) of households indicated they would prefer to continue to receive parks and recreation information source via the Activity Guide.
 - o Other most preferred sources include:
 - City Website (30%).
 - Facebook (29%).
 - Emails (28%).
 - Banners Around the City (27%).

Q3. Methods of Communication Respondent Households Most Prefer

by percentage of respondents who selected the items as one of their top three choices

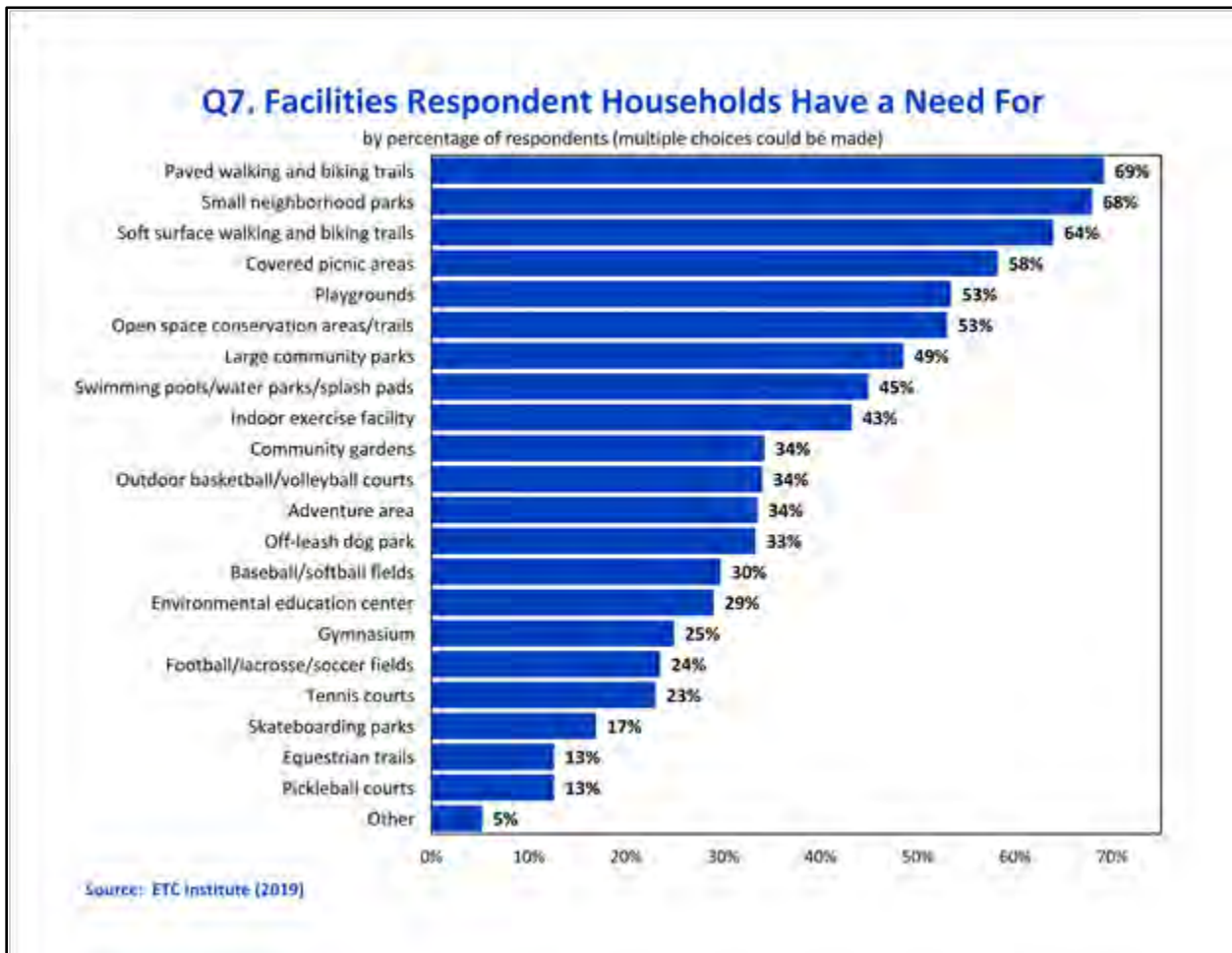




4.2.8 FACILITY IMPORTANCE AND UNMET NEEDS

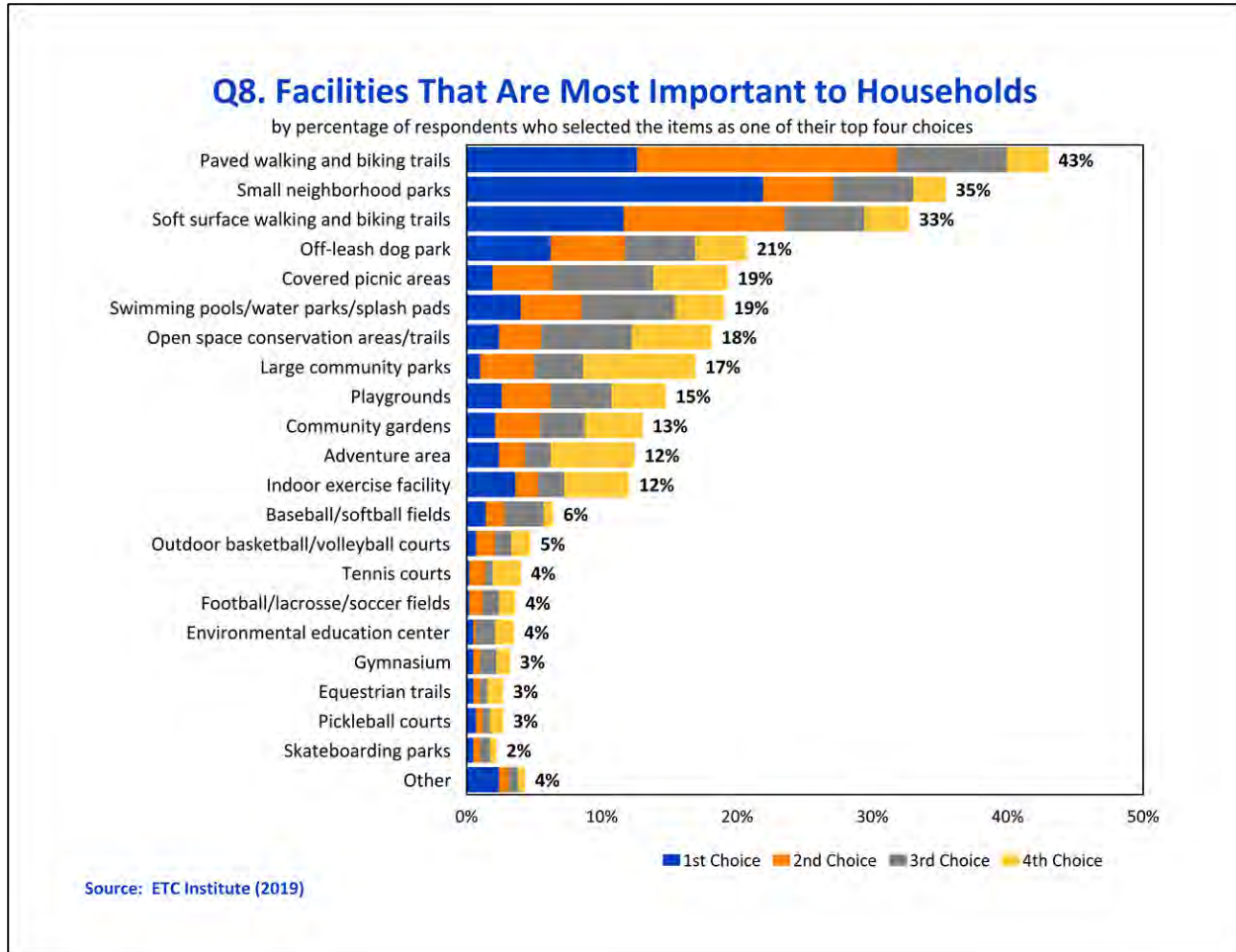
Respondents were asked to indicate from a list of facilities/amenities whether or not they had a need. If the respondent indicated a need for the facility, they were then asked to rate how well their needs were being met.

- **Facility Needs:**
 - o Sixty-nine percent (69%) indicated a need for paved walking and biking trails.
 - o Other most needed facilities include:
 - Small Neighborhood Parks (multi-use paved) (68%).
 - Soft Surface Walking and Biking Trails (64%).
 - Covered Picnic Areas (58%).
 - Playgrounds (53%).
 - Open Space Conservation Areas/Trails (53%).



- **Facility Importance:**

- o Based on the sum of respondents' top four choices, 43% indicated Paved Walking and Biking Trails were the most important to their household.
- o Other most important facilities include:
 - Small Neighborhood Parks (35%).
 - Soft Surface Walking and Biking Trails (33%).



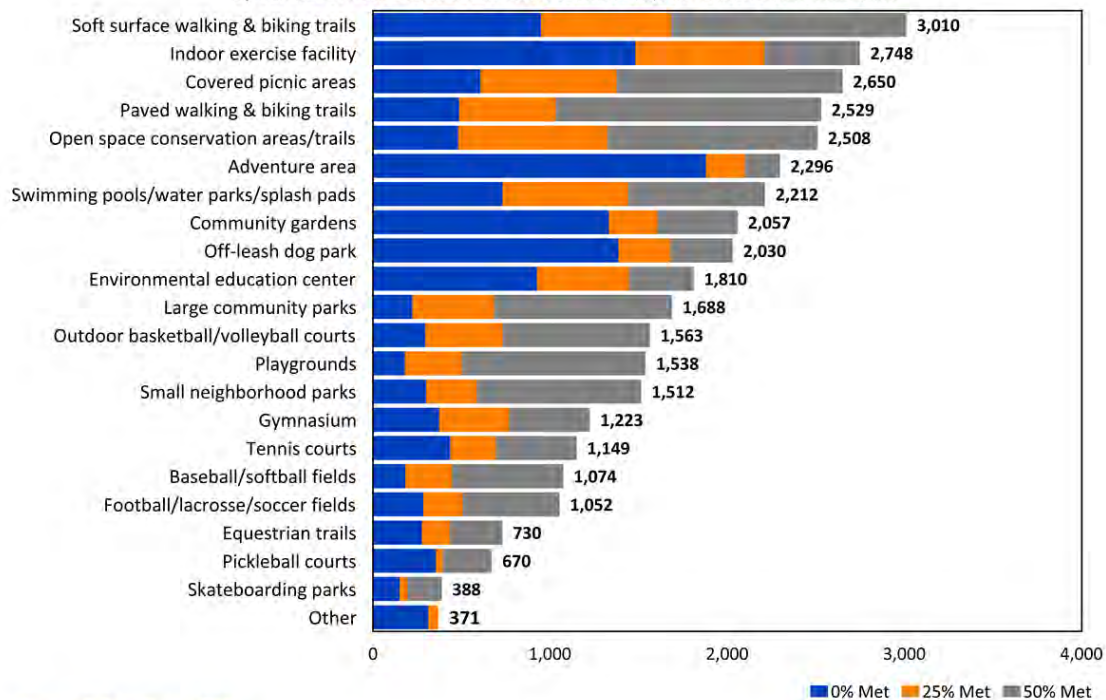


- **How Well Household Needs Are Being Met for Facilities:**

- o Based on the number of households who indicated their needs were only being met 50% or less, 3,010 households (or 40%) indicated an unmet need for Soft Surface Walking and Biking Trails.
- o Other unmet needs include:
 - Indoor Exercise Facility (2,748 households or 37%).
 - Covered Picnic Areas (2,650 households or 35%).
 - Paved Walking and Biking Trails (2,529 households or 34%).
 - Open Space Conservation Areas/Trails (2,508 households or 33%).
 - Adventure Area (2,296 households or 31%).
 - Swimming Pools/Water Parks/Splash Pads (2,212 households or 30%).

Q7-3. Estimated Number of Households Whose Needs for Parks/Facilities Are Being Met 50% or Less

by number of households based on an estimated 7,500 households in Riverbank

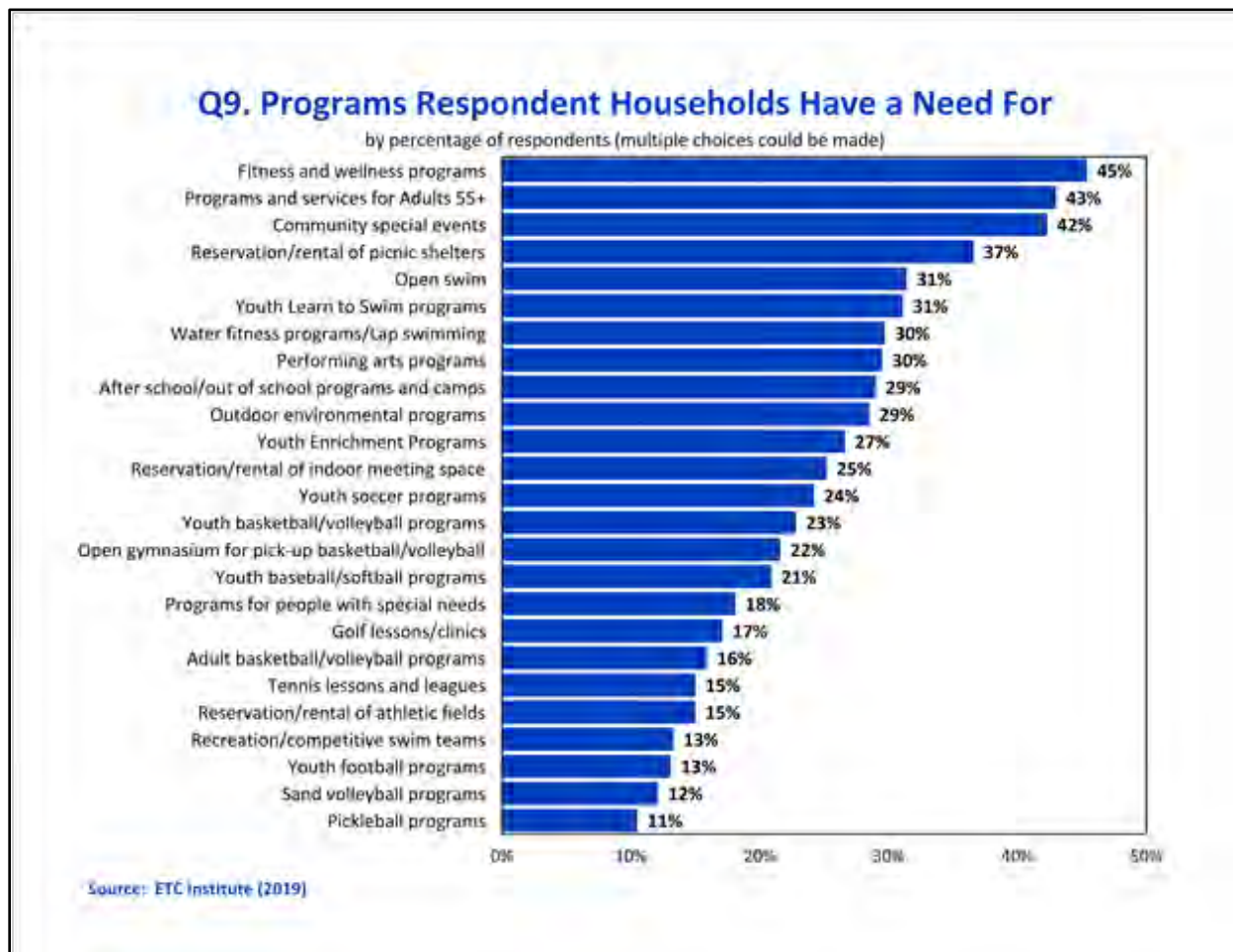


Source: ETC Institute (2019)

4.2.9 PROGRAM NEEDS, UNMET NEEDS AND IMPORTANCE

- **Recreation Program Needs:**

- o Forty-five percent (45%) of households indicated a need for Fitness and Wellness Programs. 7
- o Other most needed programs include:
 - Programs and Services for Adults 55+ (43% of households).
 - Community Special Events (42% of households).
 - Reservation/Rental of Picnic Shelters (37% of households).



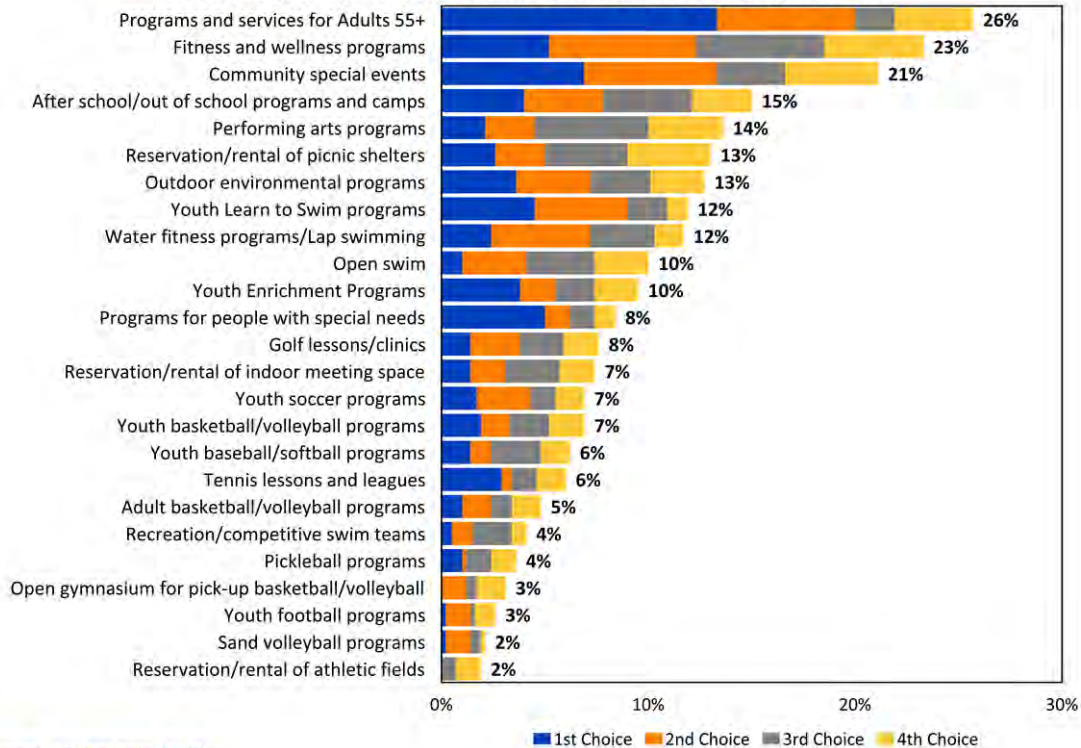


- **Recreation Program Importance:**

- o Based on the percentage of households who indicated the program as one of their top four choices, 26% indicated Programs and Services for Adults 55+ were the most important to their household.
- o Other most important recreation programs include:
 - Fitness and Wellness Programs (23%).
 - Community Special Events (21%).
 - After School/Out-of-School Programs and Camps (15%).

Q10. Programs That Are Most Important to Households

by percentage of respondents who selected the items as one of their top four choices



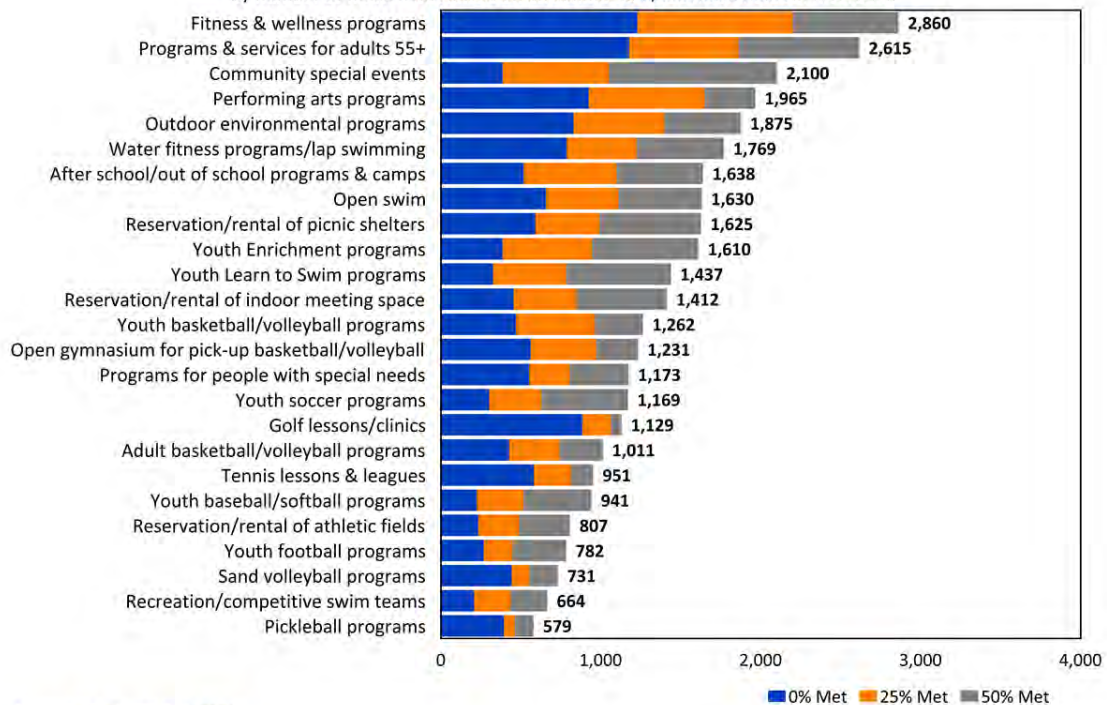
Source: ETC Institute (2019)

- **How Well Needs Are Being Met for Programs:**

- o Based on the number of households who indicated their needs were only being met 50% or less, 2,860 households (or 38%) responded that Fitness and Wellness Programs had the greatest level of unmet need.
- o Other unmet needs include:
 - Programs and Services for Adults 55+ (2,615 households or 35%).
 - Community Special Events (2,100 households or 28%).
 - Performing Arts Programs (1,965 households or 26%).
 - Outdoor Environmental Programs (1,875 households or 25%).

Q9-3. Estimated Number of Households Whose Needs for Programs Are Being Met 50% or Less

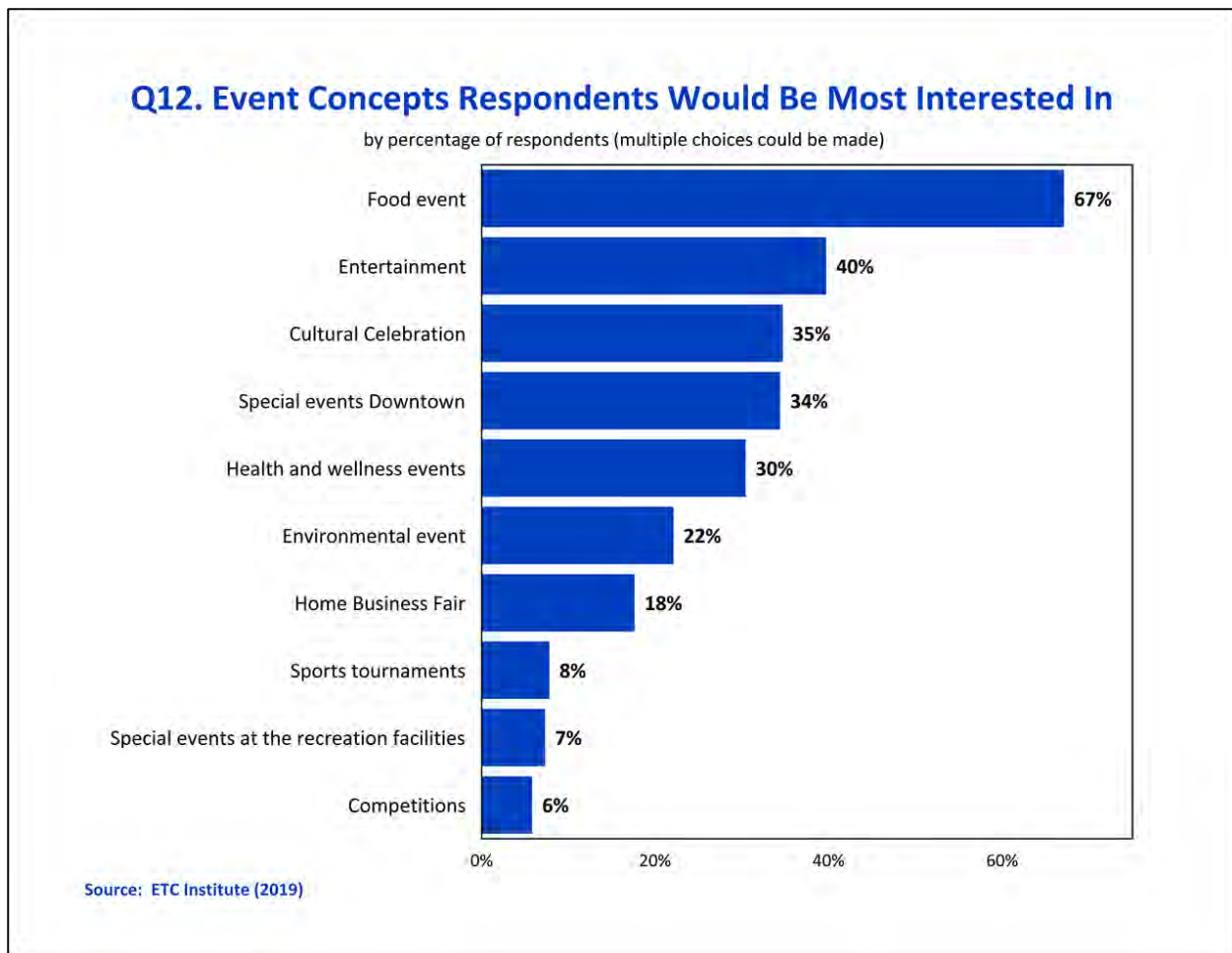
by number of households based on an estimated 7,500 households in Riverbank





4.2.10 SPECIAL EVENT CONCEPTS MOST INTERESTED IN

- Based on the percentage of households who indicated a concept as one of their top three choices, 67% indicated Food Events were the concept most interesting to their household.
 - o Other special event concepts most interested in include:
 - Entertainment (40% of households).
 - Cultural Celebration (35% of households).
 - Special Events Downtown (34% of households).
 - Health and Wellness Events (30% of households).



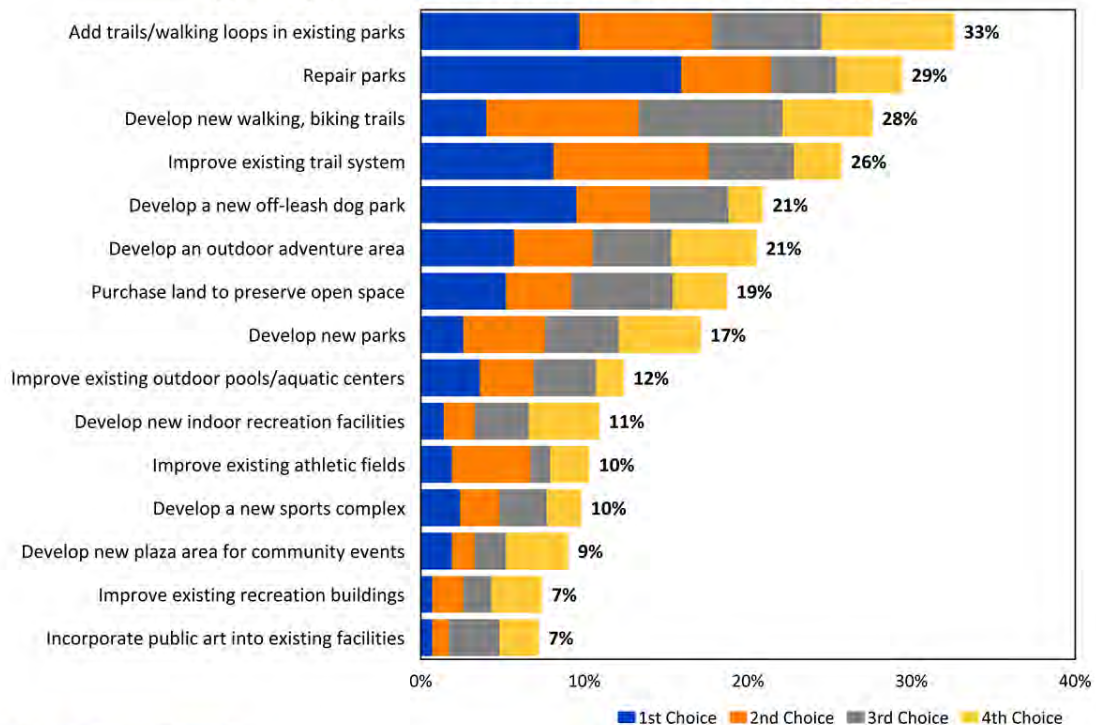
4.2.11 POTENTIAL IMPROVEMENTS MOST WILLING TO FUND

Respondents were asked to indicate their level of funding support for the improvements to the Riverbank parks, trails, and recreation system.

- Based on the percentage of households who indicated support for improvements, 33% were most supportive of Adding Trails/Walking Loops in Existing Parks.
- Other most supported actions include:
 - o Repair Parks (29%).
 - o Develop New Walking and Biking Trails (28%).
 - o Improve Existing Trail System (26%).
 - o Develop a New Off-Leash Dog Park (21%).
 - Please note: a new off-leash dog park at Jacob Myers Park opened shortly after the completion of the survey.
 - o Develop an Outdoor Adventure Area (21%).

Q14. Items Respondents Would Be Most Willing To Fund

by percentage of respondents who selected the items as one of their top four choices





4.3 NEEDS ASSESSMENT PRIORITY RANKINGS

The purpose of the Program and Facility Priority Rankings is to provide a prioritized list of facility/amenity needs and recreation program needs for the community served by Riverbank Parks and Recreation. This model evaluates both quantitative and qualitative data.

- Quantitative data includes the statistically valid survey and the electronic community survey, which asked residents to list unmet needs and rank their importance.
- Qualitative data includes resident feedback obtained in community input, stakeholder interviews, staff input, local demographics, recreation trends, and planning team observations.
- A weighted scoring system was used to determine the priorities for recreation programs.

These weighted scores provide an overall score and priority ranking for the system as a whole. The results of the priority ranking are tabulated into three categories: High Priority (top third), Medium Priority (middle third), and Low Priority (bottom third).

4.3.1 PROGRAM RANKINGS – RECREATION AND ARTS/ENTERTAINMENT

Recreation Program/Service	Priority
Programs & services for adults 55+	High
Fitness & wellness programs	
Community special events	
Performing arts programs	
After school programs/out-of-school camps	
Outdoor environmental programs	
Picnic shelter reservations	
Water fitness programs/lap swimming	
Youth learn to swim programs	Medium
Open swim	
Youth enrichment programs	
Indoor meeting space reservations	
Programs for people with special needs	
Youth basketball/volleyball programs	
Golf lessons/clinics	
Youth soccer programs	
Youth baseball/softball programs	
Tennis lessons & leagues	
Open gymnasium for pick-up basketball/volleyball	
Adult basketball/volleyball programs	
Recreation/competitive swim team	Low
Youth football programs	
Athletic field reservations	
Pickleball programs	
Sand Volleyball programs	

4.3.2 FACILITY RANKINGS - OVERALL

Facility/Amenity	Priority
Paved walking and biking trails	High
Soft surface walking and biking trails	
Covered picnic areas	
Small neighborhood parks	
Open space conservation areas/trails	
Indoor exercise facility	
Swimming pools/water parks/splash pads	
Off-leash dog parks	
Adventure area	Medium
Community gardens	
Large community parks	
Playgrounds	
Environmental education center	
Outdoor basketball/volleyball courts	
Baseball/softball fields	
Gymnasium	Low
Tennis courts	
Football/lacrosse/soccer fields	
Equestrian trails	
Pickleball courts	
Skateboarding/bicycle parks	
Historical facilities	





CHAPTER FIVE - PROGRAM AND SERVICES ASSESSMENT

5.1 ASSESSMENT FRAMEWORK

As part of the Master Plan development process, the consulting team performed a Recreation Program Assessment of the services offered by the Riverbank Parks and Recreation Department. The assessment offers an in-depth perspective of program and service offerings and helps identify strengths, challenges, and opportunities regarding programming. The assessment also assists in identifying core programs, program gaps within the community, key system-wide issues, areas of improvement, and future programs and services for residents and visitors.

The consulting team based these program findings and comments from a review of information provided by the Agency including program descriptions, financial data, statistically significant survey feedback, demographic information, and workshops with staff. This report addresses the program offerings from a systems perspective for the entire portfolio of programs, including programming that is important to energize facilities.

5.2 OVERVIEW OF PRIORITIES AND CORE PROGRAM AREAS

The Riverbank Parks and Recreation Department has a professional staff that annually provides and/or facilitates over 60 programs and services. Department staff are responsible for the management and implementation of a diverse array of recreation programs, special community-wide events, and the operation of multiple facilities. Employees are engaged year-round in planning, implementing, conducting, and evaluating programs and events. All functions within the Department combine to provide hundreds of offerings in the areas of athletics & classes, summer camps, aquatics, teens and therapeutic recreation. But in addition to the provision of services provided directly by the Department, partnerships with other organizations are utilized throughout the service area.

5.2.1 CORE PROGRAM APPROACH

The mission of the Riverbank Parks and Recreation Department is to ensure access to outstanding programs, services and community amenities that contribute to the quality of life in Riverbank. Part of realizing this vision involves identifying *Core Program Areas* to create a sense of focus around activities and outcomes of greatest importance to the community as informed by current and future needs. However, public recreation is challenged by the premise of being all things to all people. The philosophy of the Core Program Area assists staff, policy makers, and the public focus on what is most important. Program areas are considered as Core if they meet a majority of the following categories:

- Offered to the community for a long period of time (over 4-5 years)
- Utilizes a relatively large portion (5% or more) of the agency's overall budget
- Programs/services provided to the community 3-4 seasons per year
- Wide demographic appeal
- Tiered level of skill development available within the programs area's offerings
- Full-time staff responsible for the program area
- Existing facilities designed specifically to support the program area
- Agency controls a significant percentage (20% or more) of the local market

5.2.2 THE RIVERBANK PARKS AND RECREATION CORE PROGRAM AREAS

The Department currently offers programs and services in seven Core Program Areas, identified in the table below:

Core Program Area	Brief Description	Internal Goals and/or Desired Outcomes
Aquatics	Swim Lessons, Recreational Swim, Swim Team, Pool Rentals, and Aquatics Classes at the Riverbank Community Pool	Teach residents of all ages and abilities how to swim, provide lifeguards for recreational swim hours daily, pool rentals, and aquatic fitness to the community.
Camps	Provide camps as a quality method of day care for adults who work in the summer and on long school breaks and provide opportunities for kids to have fun over the summer and during school breaks.	Provide a place for children to go in the summer for families where both parents are working. Also to provide a quality program that teaches kids something throughout the week, builds them socially, and creates a space to have fun!
Community Events	Large and small events that bring the community together including residents, surrounding communities and local businesses.	Celebrate a season, bring the community together, provide spaces to promote local businesses/vendors, elevate the work that non-profits are doing, and bring people to downtown Riverbank.
Enrichment Programs	Provide classes and programs that promote growth and development, or teach a skill for target age groups.	Prepare toddlers for Kindergarten through socialization, give participants avenues for creativity, develop youth and teenagers in skills and personal growth, and provide all ages opportunities to engage in activities that they are interested in.
Health & Wellness	Provide opportunities to increase physical and mental health through movement, exercise, engagement in life-giving activities	Offer classes that give people options and opportunities to get active and improve their overall health. I believe from a broader perspective, the goal is to increase physical health, decrease mental health issues such as anxiety and depression, and give participants a way to engage in activity with others that they enjoy.
Rental Spaces	Provide quality indoor and outdoor spaces that residents and non-residents can reserve to administer their personal events and activities, and special groups a space to have meetings	Provide a space for weddings, quinceneras, birthday parties, work gatherings, baby and bridal showers, etc. Our community has many large families that need a space to gather. We provide large and small, indoor and outdoor spaces to do so through our reservations system.
Teen Center	Provides a space for Junior High and High School Students to go after school that allows them the appropriate amount of freedom.	Provide a safe positive low cost environment for teens with activities that students are interested in engaging in, and staff that care about their personal development. Service is provided at no or low cost for those that might not have the financial means to participate in fee based activities.
Therapeutic Recreation	Programs for children with physical and developmental disabilities. These programs are usually volunteer-run and free for participants. Programs include E-Basketball, E-Dance, E-Drums, and Sharks & Mermaids Sensory Swim.	For the population of residents who have disabilities, or family members have disabilities, the goal is that we have a place for them to recreate in a safe, fun environment. Another priority is to bring families together that have similar situations, and be able to connect and engage with each other.

5.2.3 ENSURING THE RIGHT CORE PROGRAM MIX

The Core Program Areas provided by the Riverbank currently appears to meet some of the major needs of the Riverbank community, but the program mix must be evaluated on a regular and reoccurring basis to ensure that the offerings within each Core Program Area – and the Core Program Areas themselves – align with changing leisure and recreation trends, demographics, and needs of residents. The National Recreation and Park Association (NRPA) recommends that six determinants be used to inform what programs and services are provided by the Department. According to NRPA, those determinants are:

- 1. Conceptual foundations of play, recreation, and leisure** – Programs and services should encourage and promote a degree of freedom, choice, and voluntary engagement in their structure and design. Programs should reflect positive themes aimed at improving quality of life for both individuals and the overall community.
- 2. Organizational philosophy, mission, and vision** – Programs and services should support the Department's mission and vision statements, values, goals, and objectives. These generally



center on promoting personal health, community well-being, social equality, environmental awareness, and economic vitality.

3. **Constituent interests and desired needs** – Departments should actively seek to understand the recreational needs and interests of their constituency. This not only ensures an effective (and ethical) use of taxpayer dollars, but also helps to make sure that programs perform well and are valued by residents.
4. **Creation of a constituent-centered culture** – Programs and services do reflect a Departmental culture where constituents’ needs are the prime factor in creating and providing programs. This should be reflected not only in program design, but in terms of staff behaviors, architecture, furniture, technology, dress, forms of address, decision-making style, planning processes, and forms of communication.
5. **Experiences desirable for clientele** – Programs and services should be designed to provide the experiences desirable to meet the needs of the participants/clients in a community and identified target markets. This involves not only identifying and understanding the diversity of needs in a community, but also applying recreation programming expertise and skills to design, implement, and evaluate a variety of desirable experiences for residents to meet those needs.
6. **Community opportunities** – When planning programs and services, a Department should consider the network of opportunities afforded by other organizations such as nonprofits, schools, other public agencies, and the private sector. Departments should also recognize where gaps in service provision occur and consider how unmet needs can be addressed.

5.3 SURVEY FINDINGS

The program and service priority rankings resulting from this analysis are as follows: As part of the process for developing a Park and Recreation Master Plan, the results of the statistically valid survey conducted by ETC Institute in the fall of 2019 to identify satisfaction with park and recreation facilities, identify needed park and recreation facilities and programs, and gain input from citizens that will assist City officials in park and recreation resource allocation, budget and policy decisions. The program and service priority rankings resulting from this analysis are shown in the table to the right:

Recreation Program/Service	Priority
Programs & services for adults 55+	High
Fitness & wellness programs	
Community special events	
Performing arts programs	
After school programs/out of school camps	
Outdoor environmental programs	
Picnic shelter reservations	
Water fitness programs/lap swimming	
Youth learn to swim programs	
Open swim	Medium
Youth enrichment programs	
Indoor meeting space reservations	
Programs for people with special needs	
Youth basketball/volleyball programs	
Golf lessons/clinics	
Youth soccer programs	
Youth baseball/softball programs	
Tennis lessons & leagues	
Open gymnasium for pick-up basketball/volleyball	
Adult basketball/volleyball programs	
Recreation/competitive swim team	Low
Youth football programs	
Athletic field reservations	
Pickleball programs	
Sand Volleyball programs	

5.4 AGE SEGMENT ANALYSIS

The table below depicts each program along with the age segments they serve. Recognizing that many programs serve multiple age segments, primary and secondary markets were identified.

AGES SERVED							
Primary Market or Secondary Market							
Core Program Area	Preschool (5 and Under)	Elementary (6-12)	Teens (13-17)	Young Adult (18-34)	Adult (35-54)	Active Older Adult (55-64)	Senior (65+)
Aquatics	Primary	Primary	Primary	Secondary	Primary	Secondary	Secondary
Camps	Primary	Primary		Secondary	Secondary		
Community Events	Primary	Primary	Primary	Primary	Primary	Primary	Primary
Enrichment Programs	Primary	Primary	Primary	Primary	Primary	Primary	Primary
Health & Wellness		Primary		Primary	Primary	Primary	Primary
Rental Spaces				Primary	Primary	Primary	Primary
Teen Center			Primary		Secondary		
Therapeutic Recreation	Primary	Primary	Secondary		Secondary		
Total	5	6	4	4	5	4	4

5.4.1 AGE SEGMENT ANALYSIS – CURRENT SEGMENTS SERVED

Findings from the analysis show that the Department does provide a balance of programs across all age segments as each age segment falls into the category of primary market served by three or more core program areas.

This Department should continue to provide best practice age segment balance by targeting each age segment as a primary market served by three or more core program areas. The Department should update this Age Segment Analysis every year to note changes or to refine age segment categories. Given the growing population trend for residents ages 55 and over and the growing demand for services in this age bracket, it is also recommended that the Department further segment this group into 65-74 and 75+. These two sub-segments will have increasingly different needs and expectations for programs and services in coming years, and program planning will be needed to provide differing requirements.

Age Segment Analyses should ideally be done for every program offered by the Department. Program coordinators/managers should include this information when creating or updating program plans for individual programs. An Age Segment Analysis can also be incorporated into Mini Business Plans for comprehensive program planning.

5.5 LIFECYCLE ANALYSIS

A lifecycle analysis involves reviewing every program identified by City staff to determine the stage of growth or decline for each as a way of informing strategic decisions about the overall recreation program portfolio. The various stages of program lifecycles are as follows:

- Introduction - New program; modest participation
- Take-Off - Rapid participation growth
- Growth - Moderate, but consistent participation growth
- Mature - Slow participation growth
- Saturated - Minimal to no participation growth; extreme competition
- Decline - Declining participation



This analysis is not based on strict quantitative data, but rather on staff's knowledge of their program areas. The table below shows the percentage distribution of the various lifecycle categories of the Department's recreation programs. These percentages were obtained by comparing the number of programs in each individual stage with the total number of programs listed by staff.

Overall Programs: Lifecycle Stage				
	Percentage	Number	Actual Distribution	Best Practice Distribution
Introduction	8%	4	42.0%	50-60%
Take-Off	8%	4		
Growth	26%	13		
Mature	30%	15	30.0%	40%
Saturated	24%	12	28.0%	0-10%
Decline	4%	2		
Total	100%	50		

Recreation Program Lifecycle Analysis - Current Distribution and Recommendations

Overall, the lifecycle analysis results indicate an adequate distribution of all programs across the lifecycle. A combined total of 28% of programs fall into the Saturated and Declined. The core program areas most responsible for the higher than desired percentage of programs in this distribution segment are Aquatics and Camps. The consulting team recommends keeping as few programs as possible in these two stages, but it is understood that programs eventually evolve into saturation and decline. If programs never reach these stages, it is an indication that staff may be "over-tweaking" their offerings and abbreviating the natural evolution of programs. This prevents programs from reaching their maximum participation, efficiency, and effectiveness. For Departments challenged with doing the most they can with limited resources, this has the potential to be an area of concern.

As programs enter into the Decline stage, they must be closely reviewed and evaluated for repositioning or elimination. When this occurs, the consulting team's recommendation is to modify these programs to begin a new lifecycle with the introductory stage or to add new programs based upon community needs and trends.

While it is important to provide new programs to align with trends and help meet the evolving needs of the community, it is also important to have a stable core segment of programs that are in the **Mature** stage. Currently, the Department has 30% of its programs in this category. The consulting team recommends this be approximately 40% so as to provide stability to the overall program portfolio, but without dominating the portfolio with programs that are advancing to the later stages of the lifecycle. Programs in the **Mature** stage should be closely monitored to determine if they are entering the Saturated or Decline stages. There should be an ongoing process to evaluate program participation and trends to ensure that program offerings continue to meet the community's needs.

A total of 42% of programs are in the Introduction, Take-Off and Growth stages, which is in relative alignment with the recommended distribution point of 50-60%. The consulting team recommends that the City practice patience and allow these programs one to two years to reach the maturation stage. This patience will prevent the City from canceling programs too soon after introducing them to the community.

Staff should complete a lifecycle review on an annual basis and ensure that the percentage distribution closely aligns with desired performance.

Lifecycle analysis of the City's recreation programs by Core program area have been provided separately to Department staff.

5.6 PARTICIPATION ANALYSIS

A participation analysis involves reviewing every program identified by Division staff to determine participation rates for each as a way of informing strategic decisions about the overall recreation program portfolio. The levels of program participation rates are as follows:

- 0% - indicates that program had no enrollment
- 1-24% - indicates enrollment of 1-24% of the maximum enrollment for the program
- 25-49% - indicates enrollment of 25-49% of the maximum enrollment for the program
- *50-74% - Indicates enrollment of 50-74% of the maximum enrollment for the program
- 75-99% - Indicates enrollment of 75-99% of the maximum enrollment for the program
- 100+% - indicates enrollment of 100% or greater of the maximum enrollment for the program

* Achieving 50% enrollment is typically viewed as the threshold in which a program will be held.

This analysis is based on strict quantitative data collected for program enrollment for calendar year 2019. The tables below show the distribution of the various program participation categories of the Division's recreation programs.

TOTAL PROGRAMS OFFERED	TOTAL POSSIBLE MAXIMUM ENROLLMENT	ACTUAL ENROLLMENT	PERCENTAGE OF ACTUAL ENROLLMENT TO MAX ENROLLMENT
50	43,612	26,966	62%

TOTAL PROGRAMS OFFERED	PERCENTAGE of Programs with 0% of Max enrollment	PERCENTAGE of Programs with 1-24% of Max Enrollment	PERCENTAGE of Programs with 25-49% of Max Enrollment	PERCENTAGE of Programs with 50-74% of Max Enrollment	PERCENTAGE of Programs with 75-99% of Max Enrollment	PERCENTAGE of Programs with 100+% of Max Enrollment
50	2.0%	2.0%	22.0%	34.0%	38.0%	2.0%
	1	1	11	17	19	1

With an overall participation rate of 62% coupled with 74% of all programs offered meeting the minimum 50% enrollment rate, the overall analysis indicates an effective and efficient approach to delivering recreation programs to Riverbank residents.

The Consulting Team recommends least a 50% enrollment rate and no more than 10% of programs offered falling below this threshold. The majority of programs that fall below the 50% threshold are within the Aquatics and Camps core program areas.



5.7 PROGRAM AND SERVICE CLASSIFICATION

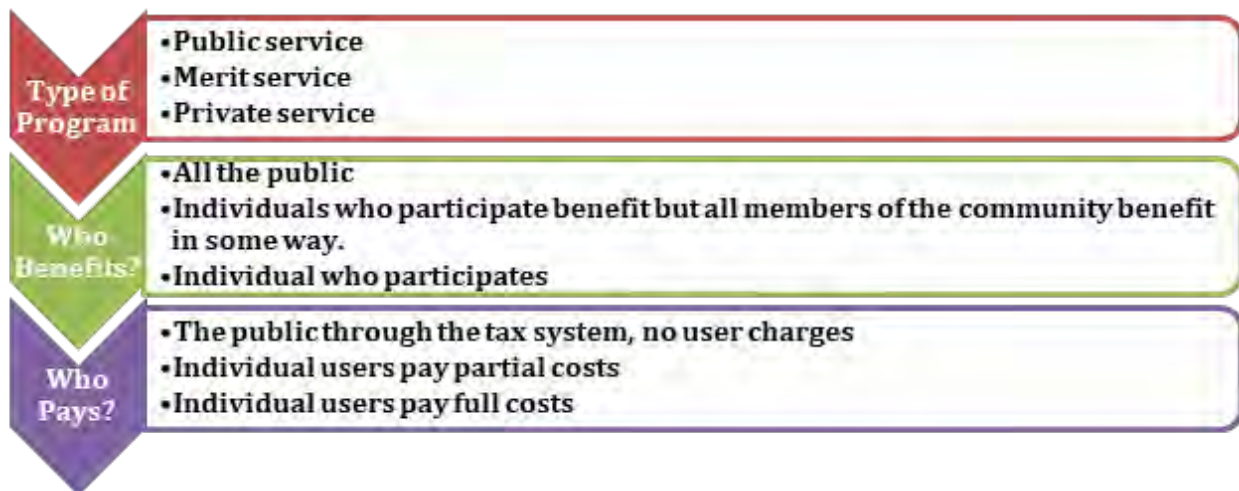
The Parks and Recreation Department currently does not classify its programs and services. Classifying programs and services is an important process for an agency to follow in order to remain aligned with the community's interests and needs, the mission of the organization, and to sustainably operate within the bounds of the financial resources that support it. The criteria utilized and recommended in program classification stems from the foundation's concept detailed by Dr. John Crompton and Dr. Charles Lamb. *In Marketing Government and Social Services*, they purport that programs need to be evaluated on the criteria of type, who benefits, and who bears the cost of the program. This is illustrated below:

The approach taken in this analysis expands classifying services in the following ways:

- For whom the program is targeting
- For what purpose
- For what benefits
- For what cost
- For what outcome

5.7.1 PARAMETERS FOR CLASSIFYING PROGRAM TYPES

The first milestone is to develop a classification system for the services and functions of the department. These systems need to reflect the statutory obligations of the agency, the support functions performed, and the value-added programs that enrich both the customer's experience and generate earned revenues in mission-aligned ways to help support operating costs. In order to identify how the costs of services are supported and by what funding source, the programs are to be classified by their intended purpose and what benefits they provide. Then funding source expectations can be assigned and these data used in future cost analysis. The results of this process are a summary of classification definitions and criteria, classification of programs within the Riverbank Parks and Recreation Department and recommended cost recovery targets for each service based on these assumptions.



Program classification is important as financial performance (cost recovery) goals are established for each category of services. This is then linked to the recommendations and strategies for each program or future site business plan. These classifications need to be organized to correspond with cost recovery

expectations defined for each category. In this section of the Master Plan, each program area will be assigned specific cost recovery targets that align with these expectations.

5.7.2 SERVICE CLASSIFICATION PROCESS

The service classification process consists of the following steps:

1. Develop a definition for each program classification that fits the legislative intent and expectations of the division; the ability of the Department to meet public needs within the appropriate areas of service; and the mission and core values of the Riverbank Parks and Recreation Department.
2. Develop criteria that can be used to evaluate each program and function within the division and determine the classification that best fits.

5.7.3 PROGRAM CLASSIFICATION DESCRIPTIONS

The program classification matrix was developed as a guide for the division staff to follow when classifying programs, and how that program needs to be managed regarding cost recovery. By establishing clarification of what constitutes a “Essential Public Service”, “Important Public Service”, and “Value Added Service” it will provide the division and its stakeholders a better understanding of why and how to manage each program area as it applies to public value and private value.

Additionally, the effectiveness of the criteria linked to performance management expectations relies on the true cost of programs (direct and indirect cost) being identified. Where a program falls within this matrix can help to determine the most appropriate cost recovery rate that should be pursued and measured. This includes being able to determine what level of public benefit and private benefit exists as they apply to each program area. Public benefit is described as, “everyone receives the same level of benefit with equal access”. Private benefit is described as “the user receives exclusive benefit above what a general taxpayer receives for their personal benefit”.

5.7.4 CLASSIFICATION OF SERVICES-KEY RECOMMENDATIONS

In order to improve the fiscal performance and delivery of programs and services, the consulting team makes the following recommendations.

- **Implement the Classification of Services and Cost Recovery Goals:** Through the program assessment analysis, the major functional program areas were assessed and classified based on the criteria established in the previous section of the plan. This process included determining which programs and services fit into each classification criteria. Then cost recovery goals were established based on the guidelines included in this plan. The percentage of cost recovery is based on the classification of services and will typically fall within these ranges, although anomalies will exist:
 - Essential 0-25%
 - Important 25-75%
 - Value Added 75%+

The following tables represent a summary of programs and services, the classification of those programs, as well as, recommended cost recovery goals.



AQUATICS

Core Program/Service Area	Core Program/Service Area	Benefit Level	Classification	Pricing Strategy	Cost Recovery Goal
AQUATICS	Aquatic Fitness & Lap Swim	Merit	Important	User Fees/General Fund	50%
AQUATICS	Free Family Swim (Fridays)	Individual	Value Added	User Fees	75 - 100%
AQUATICS	Log Rolling	Individual	Value Added	User Fees	75 - 100%
AQUATICS	Pool Rentals	Individual	Value Added	User Fees	75 - 100%
AQUATICS	Recreational Swim	Community	Essential	General Fund	0-25%
AQUATICS	Swim Lessons	Community	Essential	General Fund	0-25%
AQUATICS	Swim Team	Individual	Value Added	User Fees	75 - 100%

CAMPS

Core Program/Service Area	Core Program/Service Area	Benefit Level	Classification	Pricing Strategy	Cost Recovery Goal
CAMPS	Day Camps	Merit	Important	User Fees/General Fund	50%
CAMPS	Half Day Camps	Individual	Value Added	User Fees	75 - 100%
CAMPS	Mini Camps	Merit	Important	User Fees/General Fund	50%

COMMUNITY EVENTS

Core Program/Service Area	Core Program/Service Area	Benefit Level	Classification	Pricing Strategy	Cost Recovery Goal
COMMUNITY EVENTS	Cheese & Wine Festival	Individual	Value Added	User Fees	75 - 100%
COMMUNITY EVENTS	Christmas Parade Craft Fair	Individual	Value Added	User Fees	75 - 100%
COMMUNITY EVENTS	Fun Run Events	Individual	Value Added	User Fees	75 - 100%
COMMUNITY EVENTS	Halloween Haunted Hayride	Individual	Value Added	User Fees	75 - 100%
COMMUNITY EVENTS	Movies in the Park	Individual	Value Added	User Fees	75 - 100%
COMMUNITY EVENTS	Summer Concert Series	Individual	Value Added	User Fees	75 - 100%

HEALTH AND FITNESS

Core Program/Service Area	Core Program/Service Area	Benefit Level	Classification	Pricing Strategy	Cost Recovery Goal
ENRICHMENT	Ballet Folklórico	Individual	Value Added	User Fees	75 - 100%
ENRICHMENT	Creative Arts	Individual	Value Added	User Fees	75 - 100%
ENRICHMENT	Golden Agers	Merit	Important	User Fees/General Fund	50%
ENRICHMENT	Paint Nights	Individual	Value Added	User Fees	75 - 100%
ENRICHMENT	Senior Meals	Community	Essential	General Fund	0-25%
ENRICHMENT	Tot Time	Merit	Important	User Fees/General Fund	50%
ENRICHMENT	Volunteer Opportunities	Community	Essential	General Fund	0-25%

RENTALS

Core Program/Service Area	Core Program/Service Area	Benefit Level	Classification	Pricing Strategy	Cost Recovery Goal
RENTALS	Facility Rentals	Individual	Value Added	User Fees	75 - 100%
RENTALS	Park Rentals	Merit	Important	User Fees/General Fund	50%

TEEN CENTER

Core Program/Service Area	Core Program/Service Area	Benefit Level	Classification	Pricing Strategy	Cost Recovery Goal
TEEN CENTER	Drop-In	Community	Essential	General Fund	0-25%
TEEN CENTER	Teen Trips	Merit	Important	User Fees/General Fund	50%

THERAPEUTIC RECREATION

Core Program/Service Area	Core Program/Service Area	Benefit Level	Classification	Pricing Strategy	Cost Recovery Goal
THERAPEUTICS	E-Basketball	Community	Essential	General Fund	0-25%
THERAPEUTICS	E-Dance	Community	Essential	General Fund	0-25%
THERAPEUTICS	E-Drums	Community	Essential	General Fund	0-25%
THERAPEUTICS	Sensory Sharks & Mermaids	Community	Essential	General Fund	0-25%

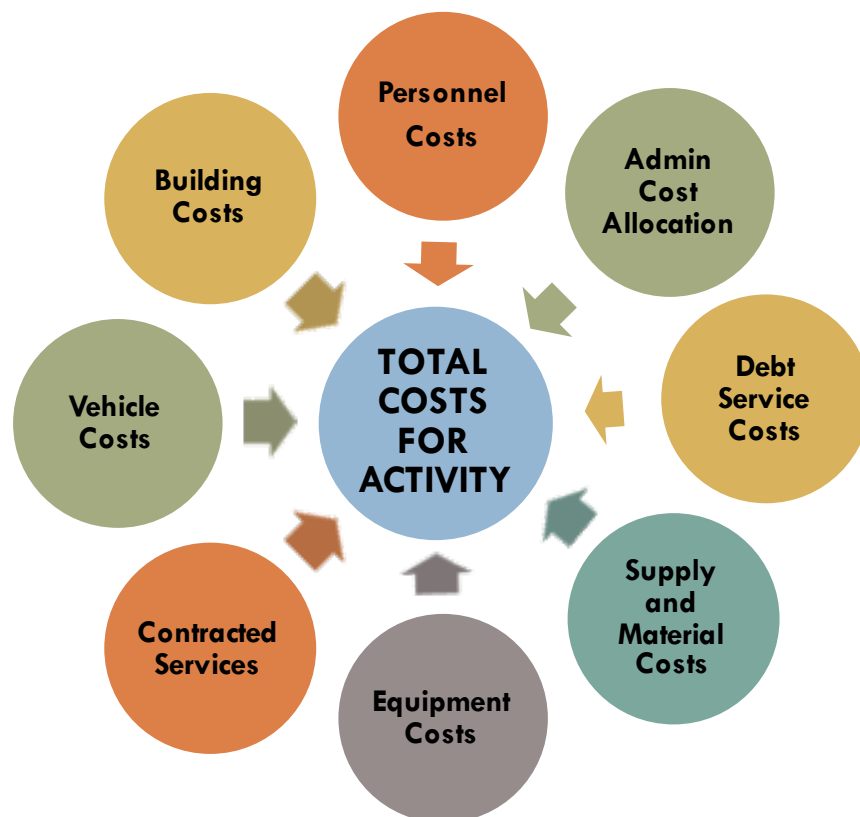


5.8 UNDERSTANDING THE FULL COST OF SERVICE

To properly fund all programs, either through tax subsidies or user fees, and to establish the right cost recovery targets, a Cost of Service Analysis should be conducted on each program, or program type, that accurately calculates direct (i.e., program-specific) and indirect (i.e., comprehensive, including administrative overhead) costs. Completing a Cost of Service Analysis not only helps determine the true and full cost of offering a program but provides information that can be used to price programs based upon accurate delivery costs. The figure below illustrates the common types of costs that must be accounted for in a Cost of Service Analysis.

The methodology for determining the total Cost of Service involves calculating the total cost for the activity, program, or service, then calculating the total revenue earned for that activity. Costs (and revenue) can also be derived on a per unit basis. Program or activity units may include:

- Number of participants
- Number of tasks performed
- Number of consumable units
- Number of service calls
- Number of events
- Required time for offering program/service



Agencies use Cost of Service Analyses to determine what financial resources are required to provide specific programs at specific levels of service. Results are used to determine and track cost recovery as well as to benchmark different programs provided by the Riverbank Parks and Recreation Department between one another. Cost recovery goals are established once Cost of Service totals have been calculated. Department staff should be trained on the process of conducting a Cost of Service Analysis and the process undertaken on a regular basis.

The Riverbank Parks and Recreation Department worked with the Consultant Team to establish cost recovery targets for recreation programs and services offered by the Department. These targets were based on best practice benchmarks established by high performing park and recreation agencies in California that are similar in size and demographics to the City as well as current cost recovery achieved by the Department. The following table outlines current cost recovery as well as targeted cost recovery and the increase in net revenue for each program if the targets were achieved.

Program	Number of Participants	Total Direct Expenditures	Total Indirect Expenditures	Total Revenues	Net Revenues Over (under) Total Expenditures	Total Investment Per Participant	Current Cost Recovery	Level of Benefit	Classification	Proposed Cost Recovery	Net Revenue Increase
Aquatics	2677	\$46,491.00	\$26,869.00	\$47,351.00	(\$26,009)	(\$9.72)	65%	Merit	Important	75%	\$19,507
Camps	133	\$7,313.00	\$8,575.00	\$8,724.00	(\$7,164)	(\$53.86)	55%	Merit	Important	50%	\$0
Community Events	11115	\$7,587.00	\$17,809.00	\$3,390.00	(\$22,006)	(\$1.98)	13%	Individual	Value Added	75%+	\$16,505
Enrichment Programs	4782	\$13,617.00	\$9,235.00	\$20,060.00	(\$2,792)	(\$0.58)	88%	Merit	Important	100%+	\$0
Health & Wellness	5277	\$6,439.00	\$6,596.00	\$8,538.00	(\$4,497)	(\$0.85)	66%	Individual	Value Added	75%+	\$3,373
Rental Spaces	12537	\$76,800.00	\$20,125.00	\$101,000.00	\$4,075	\$0.33	104%	Individual	Value Added	100%+	\$0
Teen Programs	2944	\$26,544.00	\$7,115.00	\$1,500.00	(\$32,159)	(\$10.92)	4%	Community	Essential	0-25%	\$0
Therapeutic Recreation	100	\$0.00	\$1,319.00	\$0.00	(\$1,319)	(\$13.19)	0%	Community	Essential	0-25%	\$0
TOTALS	39,565	\$184,791	\$97,643	\$190,563	(\$91,871)	(\$90.78)	67%				\$39,384

To more accurately track cost of service and cost recovery, the consulting team recommends the following:

- **Develop New Pricing Policy Based on Classification of Programs and Services:** Given the recommended shift in philosophical approach, it is important to refocus the division on cost recovery goals by functional program area or line of service. Pricing based on established operating budget recovery goals will provide flexibility to maximize all pricing strategies to the fullest. Allowing the staff to work within a pricing range tied to cost recovery goals will permit them to set prices based on market factors and differential pricing (prime-time/non-primetime, season/off-season rates) to maximize user participation and also encourage additional group rate pricing where applicable.

To gain and provide consistency, a revised pricing policy should be adopted in order for the Riverbank Parks and Recreation Department to operate effectively and efficiently to meet the program cost recovery goals identified above.

It is recommended that the Riverbank City Council adopt the recommended cost recovery goals for the Parks and Recreation Department as presented in this Master Plan. In order to achieve the cost recovery goal, it is expected that the Riverbank Parks and Recreation Department will strive to continue to meet the cost recovery goals established for each program area as recommended. In order to continue to meet these goals, efforts must be made to:



- o Consistently deliver high quality programs and services
- o Strategically price programs and services
- o Solicit sponsorships and donations to develop a sustainable earned income stream
- o Expand marketing to increase the volume of participation in programs and services

The cost recovery goals are expected to be achieved over a 5-year period and there should be no expectation that they be realized immediately. It is expected that an iterative implementation process of introducing the classification methodology and a new pricing policy along with the refinement of Department's cost of service analysis will occur over the next five years. This process will have an impact on cost recovery as it will result in the refinement of foundational business elements including but not limited to service levels, service delivery, pricing and the guidelines developed to secure external operational funding sources such as grants, donations and partnerships. Additionally, external factors such as economic conditions and changes to the City's financial policies will have a bearing on achieving cost recovery goals.

- **Develop Pricing Strategies:** As the Riverbank Parks and Recreation Department embarks on the implementation of a new pricing policy, it will be necessary to expand and develop pricing strategies that will not only increase sales but also maximize the utilization of the City's parks, programs and recreation facilities.

Currently, the Riverbank Parks and Recreation Department utilizes three pricing strategies:

- o By Cost Recovery Goals - department cost recovery goals influence price points
- o By Customer's Ability to Pay - scholarships, subsidies, discounted rates offered for low-income residents
- o Residency - different prices for resident vs non-resident
- o Market Competition - Competitors' prices influence price points

By creating pricing options, customers are given the opportunity to choose which option best fits their schedule and price point. The consulting team recommends that the Riverbank Parks and Recreation Department continue to explore pricing strategies that create options for the customer.

The following table offers examples of pricing options.

• Primetime	• Incentive Pricing
• Non-primetime	• Length of Stay Pricing
• Season and Off-season Rates	• Cost Recovery Pricing for all programs
• Multi-tiered Program Pricing	• Level of Exclusivity Pricing
• Group Discounting and Packaging	• Age Segment Pricing
• Volume Pricing	• Level of Private Gain Pricing

The most appropriate strategies for the Riverbank to consider are as follows:

- Primetime and Non-primetime pricing strategy – The price is set based on the time of the day. Primetime is considered to be the time of day in which the demand for the service is highest. Fees for the rental of a park facilities during this time would be set at rate that would recover 125-150% of costs incurred. To lessen the demand for “primetime”, the

Department can lower prices for rentals of the park facilities during times in which demand is lower. This will assist in maximizing the utilization of its facilities.

- **Premium pricing** - The price set is high to reflect the exclusiveness of the product. An example of this would be a user group paying higher rental fees for the exclusive use of a facility that prohibits the general public or other groups from participating.

5.9 PROGRAM MANAGEMENT

5.9.1 KEY FINDINGS

- **Program Evaluation:** A general assessment/evaluation tool to measure the success of programs and services are in place, but not utilized consistently for all programs and services.
- **Customer Satisfaction and Retention:** The Department does not consistently track customer satisfaction ratings.
- **Customer Retention:** The Department does not currently track customer retention percentages.
- **Staff Training/Evaluation:** The Department has a basic staff training program and evaluation methods in place.
- **Public Input:** The Department does not have methodology in place to continually gather feedback on needs and unmet needs for programming.
- **Marketing:** The Department utilizes a number of marketing strategies to inform City residents of the offerings of the community; however its current Marketing Plan should be updated to include target marketing strategies.

5.9.2 RECOMMENDATIONS

- **Participation Data Analysis:** Through consistent participation data analysis across all core program areas, refine recreation program offerings to reduce low enrollment or cancelled programs due to no enrollment.
- **Expand programs and services in the areas of greatest demand:** Ongoing analysis of the participation trends of programming and services in the Riverbank is significant when delivering high quality programs and services. By doing so, staff will be able to focus their efforts on the programs and services of the greatest need and reduce or eliminate programs and services where interest is declining. Specific efforts should be made to increase programming in the areas of greatest UNMET need as identified in the statistically valid survey.
- **Partnerships:** The Department should memorialize all partnerships in formal agreements.
- **Evaluation:** Implement the program assessment and evaluation tool as recommended. The assessment/evaluation tool is provided as an Excel spreadsheet as a stand-alone separate document.



5.10 PERFORMANCE MEASURES

5.10.1 KEY FINDINGS

Currently, the Department utilizes a Citywide template for tracking performance measures that does not quantitatively measure the success of the operation. The quantitative use of performance measures can inform organizations about how successful their products and services perform, their intended outcomes, and the processes that produce them. They are a critical tool that assists in the understanding, management, and improvement of organizations. Performance measures provide organizations with the information necessary to make intelligent decisions about work that is performed.

Performance measures can tell us:

- How work is being performed successfully
- If there is statistical control of the processes
- If goals are being met
- If and where improvements are necessary
- If customers are satisfied

5.10.2 KEY RECOMMENDATIONS

Performance measures in recent years have become the backbone of successful organizations. They have moved beyond the simple collection of facts that measure volume of work. The key components of modern performance measurement are:

- **Outcomes** are the benefits or changes for participants in programs or recipients of services during or after the program or strategy is implemented.
- **Inputs** are the physical, financial, and human resources allocated to or consumed to do work.
- **Activities** are what the program or strategy does with the inputs provided. Activities include the tasks, steps, methods, techniques, and operations performed.
- **Outputs** are the elements of operation or level of effort, the products or services resulting from the implementation or accomplishment of work.
- **Efficiency** is measured by the unit cost required to perform the work in terms of dollars. "How well did the organization "use" the budget to perform work?"
- **Effectiveness** is a service quality measure of the work performed. Effectiveness is measured in % of work set out to be performed.

PROS Consulting recommends that the Department utilizes the template found below to develop three to five key performance measures for each line of service, including but not limited to, cost recovery, program service delivery, facility maintenance, and marketing and technology solutions to determine and, in turn, communicate the level of success they are achieving on an annual basis.

Line of Service	Activity Goal (what, whom, why)	Input (Budget and Resources)	Output (End Product - Volume)	Efficiency (Unit Cost)	Effectiveness (Service Quality)
Facility Maintenance	Determine, then strike the optimum balance between resources needed to maintain facilities and facility operation to minimize unplanned closures.	Inclusive of all operational costs: Staff, Utilities, PM, etc as well as lost revenue	# of days of unplanned closures due to maintenance	Cost per day of facility closure (includes funds expended to re-open facility as well as lost revenue)	Unplanned closure days as a % of total annual operating days
Programs & Services	Provide fee assistance to low-income/marginalized Aspen residents to maximize their participation in programs and services provided by the division.	Funding provided	# of low-income/marginalized Aspen residents that received fee assistance	Cost/Funding per participant	Fee-assisted participants as a % of a total participants
Business Services	Provide and manage technology services that aid the Aspen community in conveniently registering for products and services on-line	Resources required to manage and maintain online services	# of online registrations successfully processed	Cost per successful online registration	Online registrations as a % of total registrations. Online registration costs as a % of total registration costs



5.11 SUMMARY

The Department is delivering quality programs, services and events to the community, *however, does have opportunity for improvement*. The chart below provides a summary of the recommended actions that the Department should implement in developing a program plan to meet the needs of residents.

Recreation Program/Service	Action	Timeline
Programs & services for adults 55+	CONTINUE/EXPAND	IMMEDIATELY
Fitness & wellness programs	CONTINUE/EXPAND	IMMEDIATELY
Community special events	CONTINUE/EXPAND	IMMEDIATELY
Performing arts programs	IMPLEMENT	IMMEDIATELY
After school programs/out of school camps	CONTINUE/EXPAND	IMMEDIATELY
Outdoor environmental programs	IMPLEMENT	IMMEDIATELY
Picnic shelter reservations	CONTINUE	IMMEDIATELY
Water fitness programs/lap swimming	CONTINUE/EXPAND	IMMEDIATELY
Youth learn to swim programs	CONTINUE	SHORT-TERM
Open swim	CONTINUE	SHORT-TERM
Youth enrichment programs	CONTINUE	SHORT-TERM
Indoor meeting space reservations	CONTINUE	SHORT-TERM
Programs for people with special needs	CONTINUE	SHORT-TERM
Youth basketball/volleyball programs	FACILITATE	SHORT-TERM
Golf lessons/clinics	CONSIDER	LONG-TERM VIA PARTNERSHIP
Youth soccer programs	FACILITATE	SHORT-TERM
Youth baseball/softball programs	FACILITATE	SHORT-TERM
Tennis lessons & leagues	FACILITATE	SHORT-TERM
Open gymnasium for pick-up basketball/volleyball	CONTINUE	SHORT-TERM
Adult basketball/volleyball programs	FACILITATE	SHORT-TERM
Recreation/competitive swim team	CONTINUE/EVALUATE	SHORT-TERM
Youth football programs	FACILITATE	SHORT-TERM
Athletic field reservations	FACILITATE	SHORT-TERM
Pickleball programs	FACILITATE	SHORT-TERM
Sand Volleyball programs	CONSIDER	LONG-TERM

CHAPTER SIX – PARK CLASSIFICATION AND DESIGN PRINCIPLES

6.1 OVERVIEW

In developing design principles for parks, it is important that each park be programmed, planned, and designed to meet the needs of its service area and classification within the overall parks and recreation system. The term programming, when used in the context of planning and developing parkland, refers to a list of uses and facilities and does not always include staff-managed recreation programs. The program for a site can include such elements as ball fields, spray parks, shelters, restrooms, game courts, trails, natural resource stewardship, open meadows, nature preserves, or interpretive areas. These types of amenities are categorized as lead or support amenities. The needs of the population of the park it is intended to serve should be considered and accommodated at each type of park.

Every park, regardless of type, needs to have an established set of outcomes. Park planners and designers design to those outcomes, including operational and maintenance costs associated with the design outcomes.

Each park classification category serves a specific purpose, and the features and facilities in the park must be designed for the number of age segments the park is intended to serve, the desired length of stay deemed appropriate, and the uses it has been assigned. Recreation needs and services require different design standards based on the age segments that make up the community that will be using the park. A varying number of age segments will be accommodated with the park program depending on the classification of the park.

Terminology utilized in Park Design Principles

- **Land Usage:** The percentage of space identified for either passive use or active use in a park. A Parks and Recreation Master Plan should follow land usage recommendations.
- **Programming:** Can include active or passive programming. Active means it is organized and planned with pre-registration by the user. Examples of active programming include sports leagues, day camps, and aquatics. Passive programming is self-directed by the user at their own pace. Examples of passive programming include playground usage, picnicking, disc golf, reading, or walking the dog.
- **Park/Facility Classifications:** Includes Pocket Park, Neighborhood Park, Community Park, Regional Park, Sports Complex Facility, Recreation/Special Use Park and Greenbelts and Conservation.
- **Revenue Facilities:** These include facilities that charge to play on them in the form of an access fee, player fee, team fee, or permit fee. These could include pools, golf courses, tennis courts, recreation centers, sport field complexes, concession facilities, hospitality centers, reservable shelters, outdoor or indoor theatre space, and special event spaces.
- **Signature Facility/Amenity:** This is an enhanced facility or amenity which is viewed by the community as deserving of special recognition due to its design, location, function, natural resources, etc.

Over the last 10 years, the City of Riverbank's park system has expanded and grown more diverse in the experiences that it provides to its residents. As the park system has evolved so has the need for classification system that the City utilizes to classify its parks. The consulting team recommends the adoption of the park classification system and design principles found in the following sections.



6.2 GENERAL PARK DESIGN

Intent: To provide the City of Riverbank with parks that are centerpieces of neighborhoods, places that people use regularly and care for, are aesthetically pleasing, universally accessible, safe, allow for both individual and group activities and both formal and impromptu use, are successfully maintained, and are programmed, planned, and designed to meet the needs of its surrounding neighborhood(s) and typology within the overall parks and recreation system.

General Design Guidelines:

- Parks should be designed to be aesthetically pleasing, inviting, innovative, universally accessible, connect people with place, and create value and a sense of ownership among its users.
- Park entries and edges should be inviting and well maintained. Bounding streets should be integrated into the design (planting street trees, repaving sidewalks, etc.) as feasible and appropriate. Entries should be clearly marked with park signage.
- Path circulation should provide access to amenities as well as loops for walking.
- Restroom buildings should be located near recreation fields, children's play areas, and group picnic areas, if possible. Restroom buildings should be aesthetically pleasing, and well-maintained, and can be opportunities for unique architectural and artistic expression in the park.
- Parks should be designed to ensure safety and the perception of safety, through visibility, activation, and other applicable strategies of Crime Prevention Through Environmental Design (CPTED).
- Parks should have sufficient lighting to ensure safety, day and night.
- Care should be made to preserve valuable existing trees, and especially heritage oaks. (Riverbank Municipal Code xxx, Heritage Oaks.)
- New parks should be a central feature of a neighborhood and should be located where it can be easily accessed by residents and visitors of all ages and abilities.
- Parks should be programmed, planned, and designed to meet the needs of the surrounding neighborhood and classification within the overall parks and recreation system. Please refer to Riverbank's Park Classifications, including minimum acreage, and typical amenities, when creating design goals.
- The designer should establish a set of outcomes or design goals, based on Riverbank's Park Classifications, and should design to those outcomes, including operational and maintenance costs associated with the design outcomes.

6.3 PARK CLASSIFICATIONS

6.3.1 MINI PARKS

A mini (or pocket) park is a small outdoor space, usually less than 0.1 acres up to 1.5 acres, most often located in an urban or residential area surrounded by commercial buildings or houses. Mini parks are small spaces that may serve a variety of functions, such as: small event space, play areas for children, spaces for relaxing and socializing, taking lunch breaks, etc. Successful mini parks have four key qualities: they are accessible; allow people to engage in activities; are comfortable spaces and inviting; and are sociable places. In general, mini parks offer minimal amenities on site and are not designed to

support programmed activities. The service area for mini parks is usually less than a quarter-mile and they are intended for users within close walking distance of the park.

- Retention Basins: While joint use is acceptable, park related uses in storm-drainage basins typically do not satisfy City requirements for amounts of parkland needed to serve local populations.

6.3.2 NEIGHBORHOOD PARKS

A neighborhood park should be 1.5 to 10 acres; however, some neighborhood parks are determined by use and facilities offered and not by size alone. The service radius for a neighborhood park is typically 1/2 of a mile. Neighborhood parks should have safe pedestrian access for surrounding residents; parking typically not provided for neighborhood parks less than 5 acres in size, but if included accounts for less than ten cars and provides for ADA access. Neighborhood parks serve the recreational and social focus of the adjoining neighborhoods and contribute to a distinct neighborhood identity. There may be opportunities to create joint-use sites that serve as both neighborhood parks and recreational space for schools.

- Service radius: 1/2 mile radius, to either a Neighborhood or Community Park.
- Site Selection: On a local or collector street. If near an arterial street, provide natural or artificial barrier. Where possible, next to a school. Encourage location to link subdivisions and linked by trails to other parks.
- Length of stay: One to four hours.
- Amenities: One signature amenity (e.g. playground, spray ground park, sport court, gazebo); restrooms unless a signature amenity is not present; may include one non-programmed sports field; playgrounds for ages 2-5 and 5-12; one reservable shelter for parks 3 acres in size or greater; loop trails; one type of sport court; benches, small shaded area next to play areas.
- Landscape Design: Appropriate design to enhance the park theme/use/experience.
- Revenue facilities: none.
- Land usage: 85 percent active/15 percent passive.
 - o Retention Basins: While joint use is acceptable, park related uses in storm-drainage basins typically do not satisfy City requirements for amounts of parkland needed to serve local populations.
- Programming: Typically, none, but a signature amenity may be included which is programmed.
- Maintenance Standards: Provide the highest-level maintenance with available funding. Seek a goal of Level 2 maintenance standards. Some amenities may require Level 1 maintenance.
- Signage: Directional signage and facility/amenity regulations to enhance user experience.
- Parking: Design should include widened on-street parking area adjacent to park. Goal is to maximize usable park space. As necessary, provide 5-10 spaces within park including accessible spaces. Traffic calming devices encouraged next to park.
- Lighting: Security only.
- Size of park: Typically, 1.5 to 10 acres.



6.3.3 COMMUNITY PARKS

Community parks are intended to be accessible to multiple neighborhoods and should focus on meeting community-based recreational needs, as well as preserving unique landscapes and open spaces. Community parks are generally larger in scale than neighborhood parks, but smaller than regional parks and are designed typically for residents who live within a three-mile radius. When possible, the park may be developed adjacent to a school. Community parks provide recreational opportunities for the entire family and often contain facilities for specific recreational purposes: athletic fields, tennis courts, extreme sports amenity, loop trails, picnic areas, reservable picnic shelters, sports courts, restrooms with drinking fountains, large turf and landscaped areas and a playground or spray ground. Passive outdoor recreation activities such as meditation, quiet reflection, and wildlife watching also take place at community parks.

Community parks in Riverbank generally range from 10 to 50 acres. Community parks serve a larger area – radius of two to three miles and contain more recreation amenities than a Neighborhood park. They also have the capacity to function as Neighborhood Parks for the local area.

- Service radius: Two to three-mile radius.
- Site Selection: On two collector streets minimum and preferably one arterial street. If near an arterial street, provide natural or artificial barrier. Minimal number of residences abutting site. Preference is streets on four sides, or three sides with school or municipal use on fourth side. Encourage trail linkage to other parks.
- Length of stay: Two to three hours experience.
- Amenities: Four signature amenities at a minimum: (e.g., trails, sports fields, large shelters/pavilions, community playground for ages 2-5 and 5-12 with some shaded elements, recreation center, pool or family aquatic center, sports courts, water feature); public restrooms with drinking fountains, ample parking, and security lighting. Sport Fields and Sport Complexes are typical at this park.
- Revenue facilities: One or more (e.g. pool, sports complex, pavilion).
- Land usage: 65 percent active and 35 percent passive.
 - o Retention Basins: While joint use is acceptable, park related uses in storm-drainage basins typically do not satisfy City requirements for amounts of parkland needed to serve local populations.
- Maintenance Standards: Provide the highest-level maintenance with available funding. Seek a goal of Level 2 maintenance standards. Some amenities may require Level 1 maintenance.
- Parking: Sufficient to support the amenities; occupies no more than 10 percent of the park. Design should include widened on-street parking area adjacent to park. Goal is to maximize usable park space. Traffic calming devices encouraged within and next to the park.
- Lighting: Amenity lighting includes sport field light standards.
- Signage: Directional signage and facility/amenity regulations to enhance user experience. May include kiosks in easily identified areas of the facility.
- Landscape Design: Appropriate design to enhance the park theme/use/experience. Enhanced landscaping at park entrances and throughout park.

- Other: Strong appeal to surrounding neighborhoods; loop trail connectivity; linked to Regional Park, trail or recreation facility.
- Size of park: Typically 10 to 50 acres.

6.3.4 REGIONAL PARK

A regional park functions as a destination location that serves a large area of several communities, residents within a City, city or county, or across multiple counties. Depending on activities within a Regional park, users may travel as many as 60 miles for a visit. Regional parks include recreational opportunities such as soccer, softball, golf, boating, camping, conservation-wildlife viewing and fishing. Although regional parks usually have a combination of passive areas and active facilities, they are likely to be predominantly natural resource-based parks.

A common size for a regional park is 50 to 1,000 acres but some parks can be 2,000 to 5,000 acres in size. A regional park focuses on activities and natural features not included in most types of parks and often based on a specific scenic or recreational opportunity. Facilities could include those found in a community park and have specialized amenities such as an art center, amphitheater, boating facility, golf course, or natural area with interpretive trails. Regional parks can and should promote tourism and economic development. Regional parks can enhance the economic vitality and identity of the entire region.

- Service radius: Three mile or greater radius.
- Site Selection: Prefer location which can preserve natural resources on-site such as wetlands, streams, and other geographic features or sites with significant cultural or historic features. Significantly large parcel of land. Access from public roads capable of handling anticipated traffic.
- Length of stay: All or multiple day experience.
- Amenities: Six to 12 amenities to create a signature facility (e.g. dog parks, fishing/boating access, golf course, tennis complex, sports complex, lake, regional playground, 3+ reservable picnic shelters, camping, outdoor recreation/extreme sports, recreation center, pool, gardens, trails, zoo, specialty facilities); restrooms with drinking fountains, concessions, restaurant, ample parking, special event site.
- Revenue facilities: Typically, park designed to produce revenue to offset operational costs.
- Land usage: Up to 50 percent active/50 percent passive.
- Maintenance Standards: Provide the highest-level maintenance with available funding. Seek a goal of Level 2 maintenance standards. Some amenities may require Level 1 maintenance.
- Parking: Sufficient for all amenities. Traffic calming devices encouraged within and next to park.
- Lighting: Amenity lighting includes sport field light standards.
- Signage: Directional signage and facility/amenity regulations to enhance user experience, may include kiosks in easily identified areas of the facility.
- Landscape Design: Appropriate design to enhance the park theme/use/experience. Enhanced landscaping at park entrances and throughout park.



- Other: Linked to major trails systems, public transportation available, concessions, and food and retail sales available, dedicated site managers on duty. Wi-Fi and Telephone/Cable TV conduit.
- Size of park: Typically, 50 to 1,000 acres.

6.3.5 SPORTS COMPLEX

Sports complexes at community parks, regional parks, and stand-alone sports complexes are developed to provide 4 to 16+ fields or courts in one setting. A sports complex may also support extreme sports facilities, such as BMX and skateboarding. Sports complexes can be single focused or multi-focused and can include indoor or outdoor facilities to serve the needs of both youth and adults. Outdoor fields should be lighted to maximize value and productivity of the complex. Agencies developing sports complexes focus on meeting the needs of residents while also attracting sport tournaments for economic purposes to the community.

Sport field design includes appropriate field distances for each sport's governing body and support amenities designed to produce revenue to offset operational costs.

Signature sports complexes include enhanced amenities such as artificial turf, multipurpose field benches and bleachers, scoreboards, amplified sound, scorer's booths, etc. Enhanced amenities would be identified through discussion between City and Schools and/or sports associations and dependent upon adequate funding.

- Service radius: Determined by community demand.
- Site Selection: Stand-alone sports complexes are strategically located on or near arterial streets. Refer to community or regional Park sections if sport complex located within a park. Preference is streets on four sides, or three sides with school or municipal use on fourth side.
- Length of stay: Two to three hours experience for single activities. Can be all day for tournaments or special events.
- Amenities: Four to sixteen or more fields or sports courts in one setting; restrooms, ample parking, turf types appropriate for the facility and anticipated usage, and field lighting.
- Revenue facilities: Four or more (e.g. fields, concession stand, picnic pavilion).
- Land usage: 95 percent active and 5 percent passive.
 - o Retention Basins: While joint use is acceptable, park related uses in storm-drainage basins typically do not satisfy City requirements for amounts of parkland needed to serve local populations.
- Programming: Focus on active programming of all amenities.
- Parking: Sufficient to support the amenities. Traffic calming devices encouraged within and next to park.
- Lighting: Amenity lighting includes sport field light standards.
- Signage: Directional signage and facility/amenity regulations to enhance user experience. May include kiosks in easily identified areas of the facility.
- Landscape Design: Appropriate design to enhance the park theme/use/experience. Enhanced landscaping at entrances and throughout complex.

- Size of park: Preferably 20 or more acres for stand-alone complexes.

6.3.6 SPECIAL USE PARKS

Special use parks are those spaces that don't fall within a typical park classification. A major difference between a special use facility and other parks is that they usually serve a single purpose whereas other park classifications are designed to offer multiple recreation opportunities. It is possible for a special use facility to be located inside another park. Special use facilities generally fall into the following categories:

- **Cemeteries** - burial-ground that is generally viewed as a large public park or ground laid out expressly for the interment of the dead. Cemeteries are normally distinct from churchyards, which are typically consecrated according to one denomination and are attached directly to a single place of worship. Cemeteries can be viewed as historic sites.
- **Historic/Cultural/Social Sites** - unique local resources offering historical, educational, and cultural opportunities. Examples include historic downtown areas, plaza parks, performing arts parks, arboretums, display gardens, performing arts facilities, indoor theaters, churches, and amphitheaters. Frequently these are located in community or regional parks.
- **Nature Parks** - parks where people can experience a preserved or enhanced natural environment and a refuge from active, urban life. This classification is appropriate for areas where the human experience is emphasized.
- **Golf Courses** - Nine and 18-hole complexes with ancillary facilities such as club houses, driving ranges, program space and learning centers. These facilities are highly maintained and support a wide age level of males and females. Programs are targeted for daily use play, tournaments, leagues, clinics and special events. Operational costs come from daily play, season pass holders, concession stands, driving range fees, earned income opportunities and sale of pro shop items.
- **Indoor Recreation Facilities** - specialized or single purpose facilities. Examples include community centers, senior centers and community theaters. Frequently these are located in community or regional Parks.
- **Outdoor Recreation Facilities** - Examples include baseball stadiums, aquatic parks, disc golf, skateboard, BMX, and dog parks, which may be located in a park.
 - o Size of park: Depends upon facilities and activities included. Their diverse character makes it impossible to apply acreage standards.
 - o Service radius: Depends upon facilities and activities included. Typically serves special user groups while a few serve the entire population.
 - o Site Selection: Given the variety of potential uses, no specific standards are defined for site selection. As with all park types, the site itself should be located where it is appropriate for its use.
 - o Length of stay: varies by facility.
 - o Amenities: varies by facility.
 - o Revenue facilities: Due to nature of certain facilities, revenue may be required for construction and/or annual maintenance. This should be determined at a policy level before the facility is planned and constructed.



- o Land usage: varies by facility.
 - Retention Basins: While joint use is acceptable, park related uses in storm-drainage basins typically do not satisfy City requirements for amounts of parkland needed to serve local populations.
- o Programming: varies by facility.
- o Maintenance Standards: Provide the highest-level maintenance with available funding. Seek a goal of Level 2 maintenance standards. Some amenities (i.e., rose gardens) will require Level 1 maintenance.
- o Parking: On-street or off-street parking is provided as appropriate. Goal is to maximize usable park space. As necessary, provide a minimum of five to 10 spaces within park including accessible spaces. Traffic calming devices encouraged next to park.
- o Lighting: Security or amenity only.
- o Signage: Directional and regulation signage to enhance user experience.
- o Landscape Design: Appropriate design to enhance the park theme/use/experience.

6.3.7 OPEN SPACE/CONSERVATION LANDS

Open space/conservation lands are undeveloped but may include natural or paved trails. Open space/conservation lands contain natural resources that can be managed for recreation and natural resource conservation values such as a desire to protect wildlife habitat, water quality and endangered species. Open space/conservation lands also can provide opportunities for nature-based, unstructured, low-impact recreational opportunities such as walking and nature viewing.

- Amenities: May include paved or natural trails, wildlife viewing areas, mountain biking, disc golf, interpretation and education facilities.
- Maintenance standards: Demand-based maintenance with available funding. Biological management practices observed.
- Lighting: None.
- Signage: Interpretive kiosks as deemed appropriate.
- Landscape Design: Generally, none. Some areas may include landscaping, such as entryways or around buildings. In these situations, sustainable design is appropriate.

6.3.8 GREENBELTS/TRAILS

Greenbelts are recognized for their ability to connect people and places while serving as active transportation facilities. Linking neighborhoods, parks, recreation facilities, attractions, and natural areas with a multi-use trail fulfills three guiding principles simultaneously: 1) protecting natural areas along river and open space areas, 2) providing people with a way to access and enjoy them, and 3) providing a safe, alternative form of active transportation.

- Site Selection: Located consistent with an approved Bicycle, Pedestrian and Trails Master Plan.
- Amenities: Parking and restrooms at major trailheads. May include small parks along the trail.

- Maintenance standards: Demand-based maintenance with available funding. Biological management practices observed.
- Lighting: Security lighting at trailheads and along trail is preferred.
- Signage: Mileage markers at ¼ mile intervals. Interpretive kiosks at all trailheads and where deemed necessary.
- Landscape Design: Coordinated planting scheme in urban areas. Limited or no planting in open space areas.
- Other: Connectivity to parks or other City attractions and facilities is desirable.
- Size: Typically, at least 30 ft. width of unencumbered land for a Greenbelt. May include a trail to support walk, bike, run, equestrian type activities. Typically, an urban trail is 8-10 feet wide to support pedestrian and bicycle uses. Trails incorporate signage to designate where a user is located and where the trails connect in the City.

6.3.9 MULTI-USE DETENTION BASINS FOR PARK AND RECREATIONAL USES

General On-line detention facilities, which pass the entire flood through them, are well suited for joint-uses such as open space, wetlands and wildlife habitat that can tolerate frequent inundations. Off-line detention facilities, which bypass the frequent flows and allow only the excess flow into the detention basin are well suited for intensive recreational uses such as playgrounds and play fields since they are flooded less frequently. The uses should be combined at the time of development.

STORMWATER DETENTION AND RETENTION BASIN GUIDELINES

The following guidelines direct the recreational use of stormwater basins and channels:

- Informal turf areas and passive vegetation zones may be placed within the average annual storm flood zone (1-yr 85th percentile storm) and up to the 10-year storm.
- Recreational sports fields (e.g. soccer, baseball, softball) shall be placed at or above the 10-year 24-hr storm event elevation.
- Hard court game surfaces and group picnic areas shall be placed at or above the 50-year storm event.
- Habitable structures, swimming pools, skate parks, children's play grounds, and parking lots shall be placed at or above the 100-year storm event.
- Storm basins may be contoured to provide a natural look. The use of gently curving, variable contouring to establish design grades within a dual use detention basin is encouraged to provide for a more aesthetically interesting design.
- Side slopes of storm basins shall be 6:1 or flatter to facilitate the ease of mowing and accessibility for residents. The use of irregular configuration and gentle side slopes is encouraged.
- Basin bottoms shall have a minimum cross-slope of 2 percent to allow for positive drainage.
- Contouring within the detention facilities is recommended to create internal elevation variations (or tiers) that have differing frequencies and depths of inundation and differing flood risk.



Joint-use detention/park facilities will require site specific designs to be coordinated with the City's planning and engineering departments during conceptual and final design to ensure the facilities meet both water quality/detention and park needs while minimizing maintenance requirements.

6.4 PARK AMENITY DESIGN GUIDELINES

6.4.1 SPORTS FIELD AMENITIES

Basic sport field amenities provided by the City are listed below.

BASEBALL FIELD AMENITIES

- Youth Field Size: Preferred: 225-foot outfield fence with minimum 4-foot high outfield fence. Alternate: 215-foot outfield fence with 6-foot high outfield fence.
- Teen/Adult Field Size: Preferred: 300-foot outfield fence at each foul-line increasing to 400 feet in centerfield with minimum 8-foot high outfield fence.
- Youth Field Baselines and infield: 60-foot and 70-foot skinned baseline w/ base sleeves w/ grass infield. Ball field mix extends from backstop down sidelines to fence opening at end of dugout. Home plate included. Bases specified by City and provided by user groups.
- Teen/Adult Field Baselines and infield: 105-foot (first and third base) and 140-foot (second base) skinned baseline with base sleeves w/ grass infield. Ball field mix extends from backstop down sidelines to fence opening at end of dugout. Home plate included. Bases at 90 foot.
- Permanent backstop. Preferred: 2-foot high concrete block w/ safety padding and 18-foot vertical fence (black vinyl coated chain link).
- Fencing: 8-foot high fence (Preferred: black vinyl coated chain link) from backstop to end of skinned infield. Foul poles at outfield fence. 12-foot wide dual-gate opening on one sideline fence for field maintenance equipment access.
- Concrete block bin: 6-foot by 6-foot for ball field mix located adjacent to 12-foot fence opening.
- Dugout: 21-foot by 7-foot including 15-foot long players bench with backrest. 8-foot high fencing around dugout. Dugout opens onto field at home base side of dugout. 2-foot safety wing fencing inside dugout to prevent foul ball entry. Slatted roof over dugout.
- Youth Field Pitching Mound: Raised pitching mound with two pitching rubbers (46-foot and 50-foot to home plate).
- Teen/Adult Field Pitching Mound: Raised pitching mound with one pitching rubbers (60-foot, 6-inches to home plate).
- Interior warm up/practice pitching mound along sideline fences backing up to outfield fence (46-foot distance from pitching rubber to plate). Slats or padding in fence to maintain fence longevity.
- Three row covered bleachers (21-foot long) on concrete pad both baselines.
- 12-foot by 8-foot concrete pad for storage box. Equipment storage unit funded by user group – approved and installed by City maintenance staff on same side as field mix bin.
- Conduit and pull boxes from power source to backstop, and from backstop to outfield field for future scoreboard. Scoreboard/controller provided by user group.

- Remotely Controlled Athletic Field Lighting as specified by manufacturer.
- Concrete behind dugouts and in dugouts connected to park walkways on all fields.
- Quick disconnect for water behind pitcher's mound.
- Synthetic Turf Preferred

SOFTBALL FIELD AMENITIES – YOUTH SIZE

- Field size: Preferred: 225-foot outfield fence with 10-foot warning track with 4-foot high outfield fence. Alternate: 215-foot outfield fence with 8-foot high outfield fence.
- Baselines and infield: 50-foot and 60-foot baseline w/ base sleeves on completely skinned infield. Home plate included. Bases specified by City and provided by user groups.
- Permanent backstop. 2-foot high concrete block w/ safety padding and 18-foot vertical fence (black vinyl coated chain link).
- Fencing: 8-foot high fence (black vinyl coated chain link) from backstop to end of skinned infield. On 225-foot field, 4-foot high sideline and outfield fence (black vinyl coated chain link). include bottom rail and mow strip as a standard. On 215-foot field, outfield fence increases to 8-foot high. Yellow safety top on outfield fence. Foul poles at outfield fence. 12-foot wide dual-gate opening on one sideline fence for field maintenance equipment access.
- Concrete block bin: 6-foot by 6-foot for ball field mix located adjacent to 12-foot fence opening.
- Dugout: 21-foot by 7-foot including 15-foot long players bench with backrest. 8-foot high fencing around dugout. Dugout opens onto field at home base side of dugout. 2-foot safety wing fencing inside dugout to prevent foul ball entry. Slatted roof over dugout.
- No pitching mound. Three pitching rubbers (30-foot/35-foot/40-foot to home plate). Equipment installed by City maintenance staff.
- Interior warm up/practice pitching area along sideline fences backing up to outfield fence (30-foot/35-foot/40-foot to home plate distance from pitching rubber to plate). Slats or padding in fence to maintain fence longevity.
- Three row covered bleachers (21-foot long) on concrete pad both baselines.
- 12-foot by 8-foot concrete pad for storage box. Equipment storage unit funded by user group – approved and installed by City maintenance staff on same side as field mix bin.
- Conduit and pull boxes from power source to backstop, and from backstop to outfield field for future scoreboard. Scoreboard/controller provided by user group.
- Remotely Controlled Athletic Field Lighting at community and regional parks.
- Concrete behind dugouts and in dugouts connected to park walkways on all fields.
- Quick disconnect for water behind pitcher's mound.
- Synthetic Turf Preferred



SOFTBALL FIELD AMENITIES – ADULT SIZE

- Field size: 300-foot outfield fence with 10-foot warning track and 8-foot high outfield fence.
- Baselines and infield: 60-foot/ 65-foot/ 70-foot/ 80-foot baseline w/ base sleeves on skinned infield. Home plate included. Bases specified by City and provided by user groups.
- Permanent backstop. 2-foot high concrete block w/ safety padding and 18-foot vertical fence (black vinyl coated chain link).
- Fencing: 8-foot high fence (black vinyl coated chain link) from backstop to end of skinned infield. 8-foot high sideline and outfield fence (black vinyl coated chain link). Include bottom rail and mow strip as a standard. Foul poles at outfield fence. 12-foot wide dual-gate opening on one sideline fence for field maintenance equipment access.
- Concrete block bin: 6-foot by 6-foot for ball field mix located adjacent to 12-foot fence opening.
- Dugout: 27-foot by 9-foot including 21-foot long players bench with backrest. 8-foot high fencing around dugout. Dugout opens onto field at home base side of dugout. 2-foot safety wing fencing inside dugout to prevent foul ball entry. Slatted roof over dugout.
- No pitching mound. Two pitching rubbers (50-foot /54-foot to home plate). Equipment installed by City maintenance staff.
- Three row covered bleachers (21-foot long) on concrete pad both baselines.
- 12-foot by 8-foot concrete pad for storage box. Equipment storage unit funded by user group – approved and installed by City maintenance staff on same side as field mix bin.
- Conduit and pull boxes from power source to backstop, and from backstop to outfield field for future scoreboard. Scoreboard/controller provided by user group.
- Remotely Controlled Athletic Field Lighting at community and regional parks.
- Concrete behind dugouts and in dugouts connected to park walkways on all fields.
- Quick disconnect for water behind pitcher's mound.
- Synthetic Turf Preferred

MULTIPURPOSE FIELDS (SOCCER/FOOTBALL/LACROSSE/FIELD HOCKEY)

- Field size: Regulation field – 360-foot by 240-foot. Limited space field- 210-foot by 150-foot. 25-foot buffer on same plane as field with no obstructions or drainage fixtures. Buffer applies to both field sizes.
- Goals: Portable, with size specified by user group and provided by City.
- Bleachers or players benches: Portable.
- Remotely Controlled Athletic Field Lighting at community and regional parks.
- Synthetic Turf Preferred

6.4.2 RESTROOM/CONCESSION BUILDING

- Restroom: typically installed at 1 per 20 acres of Community Park, Regional Park, or Sports Complex. Minimum of one restroom with drinking fountains at parks with programmed fields.
- Concession Building: Provided when three or more fields exist at a Community Park or Regional Park. Owned by City. Rental agreement required for user group use of facility, which includes cost of building depreciation, building upkeep, and utilities. Building includes shelving, electrical, three-partition sink with hot water, and separate sink for hand washing. Facility built to health code requirements. Equipment supplied by user group.

6.4.3 SOIL PREPARATION

Intent: To ensure a high level of quality in soil preparation, care and maintenance in Riverbank's parks, as proper soil preparation ensures the long-term health of a landscape and reduces overall maintenance.

Design Guidelines:

- Native topsoil & vegetation should be retained and protected where practical.
- Any soil preparation or amendments should be based on soil testing results from a certified agronomic testing laboratory.
- Disturbed soils should be restored to healthy soil function, by:
 - Stockpiling & reusing good quality site soil, or
 - Tilling compost into site soils, or
- Loosening and amending topsoil to a minimum depth of the planting root zone (typically 8" for turf, 12" for shrubs and groundcover and 24" for trees, at minimum)
- Special soil treatments should be considered for turf areas subject to higher use (e.g. multi-use fields, sports fields), such as sand layers to reduce compaction and improve drainage.
- Organic fertilizers and mycorrhizae should be used when possible, and are encouraged.
- Compacted subsoil should be loosened by ripping to 12" depth.
- Shrub and groundcover beds should be mulched after planting.
- Restored soils should be protected from erosion or re-compaction by heavy equipment.
- Erosion control best management practices should be used during construction and integrated into the design and management of the park.

Standards:

- A soil test for horticultural suitability and infiltration rates shall be required at time of landscape plan submittal. Soils shall be prepared and/or amended as per the soils test report to encourage successful plant growth.
- Planting soils protection and preparation plan shall be prepared to address reuse, import, amendment, compaction, for each planting type (turf, shrub/groundcover, tree).



6.4.4 PLANTING (TREES, SHRUBS, GROUNDCOVER)

Intent: To provide the City of Riverbank with planted landscapes that are aesthetically pleasing, functionally appropriate and successfully maintained, while utilizing plants that celebrate and support the region's ecosystem and water conservation strategies.

Design Guidelines:

- Planting should be appropriate and adaptable to Riverbank's environment and climate. Native plants should be utilized where feasible and appropriate, to encourage beneficial insects.
- Planting should provide variety in color, texture, size and seasonal interest and the design should incorporate a balance of trees, shrubs and groundcover.
- Planting should protect and enhance native plant and wildlife habitat and diversity wherever feasible, and provide an opportunity for environmental education, wherever appropriate.
- Planting should be low-water-use and drought tolerant in all non-wetland settings, requiring minimal water once established, and the overall design should conserve water as much as possible.
- Planting should promote healthy soils and reduce stormwater flow and pollutants where appropriate.
- Turf areas should be limited and replaced with low water use plants, while balancing programmatic needs. Turf shall only be used for active play or multi-use areas.
- Natural buffer areas near waterways, slopes, and other sensitive areas should be protected or restored.
- Planting should be low maintenance to ensure the health, longevity and aesthetic quality of plants. The designer is encouraged to involve park maintenance and program staff in the design process to ensure successful maintainability.
- A maintenance strategy should be developed as part of the design process to ensure future maintenance success.
- Environmentally sustainable land management should be utilized, including pesticide and hazardous chemical use reduction/elimination.
- Planting strategies should keep sightlines clear, cover ground for weed prevention, and screen utilities.
- Street trees should be planted along bounding streets as part of the project, if feasible.
- Planting should comply with the City approved species list.

Standards:

- Planting shall comply with the California Department of Water Resources Model Water Efficient Landscape Ordinance (MWELO).
- Ninety percent (90%) of plants selected in non-turf areas shall be drought tolerant.
- Existing trees shall be protected during construction. If existing trees need to be removed, they shall be replaced by ____ (per xxx of Riverbank Municipal Code).
- Noxious or invasive plants shall not be utilized.

- A mulch ring shall be placed around trees in turf.
- Edging shall be placed between turf and shrub/groundcover areas.
- A minimum of three inches (3") of mulch shall be added to non-turf areas after planting, with care being taken to avoid mulching over crown of plants.

6.4.5 WATER SAVINGS AND CONTROLS

Intent: To ensure that Riverbank's parks are designed and maintained for water conservation, in keeping with state and local regulations.

Design Guidelines:

- Plantings should be grouped based on water need.
- Turf should be replaced with low-water-use plants.
- Natural drainage should be conserved.
- Green infrastructure¹ should be integrated wherever possible.
- A central control irrigation system should be used to reduce maintenance and operation time and maximize water savings.

Standards:

- All planting, irrigation and grading design shall comply with the State Model Water Efficient Landscape Ordinance (MWELO).
- The irrigation system shall minimize overspray onto impervious surfaces, such as building, sidewalks, parking areas, and the like, through the use of such techniques as low-trajectory spray nozzles or underground low volume applicators. (Riverbank Municipal Code, Chapter 157)
- Water application rates shall not exceed the infiltration rate of the soil.
- All irrigation system controllers shall be set in compliance with the day and hour watering requirements of the city and shall be designed to minimize water use by installing automatic systems such as multi-start controllers and soil moisture sensors. (Riverbank Municipal Code, Chapter 157)
- City of Riverbank Municipal Code regulations governing water waste and outdoor watering times shall be adhered to for the design and operation of the irrigation system.
- Locations of all irrigation equipment to be used shall be shown on plan.
- Refer to City of Riverbank irrigation equipment standards when available.

¹ Green infrastructure is "...the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspiration of stormwater and reduce flows to sewer systems or to surface waters." (Clean Water Act, Section 502)



6.4.6 PLAYGROUNDS

Intent: To ensure that Riverbank's parks incorporate playground design that balances function and aesthetics, with accessibility, safety, durability and maintainability.

Design Guidelines:

- Playgrounds should enhance children's physical, social and cognitive development.
- Playgrounds should be safe, while providing users with play features that are fun, physically challenging, provide learning and discovery opportunities, stimulate the imagination, encourage social and cooperative play, and allow for free and nature play.
- Playgrounds should be aesthetically pleasing for all park users and incorporate natural and recycled materials where feasible and appropriate.
- All play areas should be ADA accessible and utilize inclusive design for all abilities.
- Playgrounds should be cost-effective in terms of maintenance and utility needs.
- Play equipment should be durable, with a design life of 15- 20 years or more.
- Play areas should be functionally appropriate for the target age group and/or ability range.
- Playgrounds should incorporate adult seating and water fountain(s), located at a safe but visible distance from play area.
- Playgrounds should be amply shaded by trees and planting, where possible, and by built structures if planting is not feasible.
- Playgrounds that promote nature play and creative play are encouraged.
- Custom design and equipment should be considered for special parks; playgrounds can be opportunities for unique architectural and artistic expression in the park.
- Playground design should consider playability for people of diverse abilities, age, race, gender, ethnicity and culture.
- Play areas should be consistent with the demographic characteristics and predominant needs and wishes of the surrounding neighborhood, and when appropriate and feasible, playground equipment and amenities should be differentiated from park to park to create a diversity of experiences provided across the city.

Standards:

- Play equipment and surfacing shall conform to ADA and all required safety regulations.
- Playgrounds shall be at the minimum 80% shaded during peak hours, 10:00 AM-2:00 PM, with special attention given to play structures and metal slides and elements. If trees are planted as part of the shade strategy, shade structures shall be erected until trees are sufficiently grown to provide shade.

6.4.7 SIGNAGE

Intent: To ensure a high level of aesthetic quality, consistency, durability and clarity in Riverbank's park signage.

Design Guidelines:

- Park signage types include identity, informational or interpretive, and regulatory signage. Signage should be uniform in design within types, complimentary across types, and signage design should complement the overall park design.
- Signage should be limited to the smallest size and amount that is necessary to relay information and be legible.
- Park identification/entry signs:
 - Should be prominently placed near the main entrance to the park.
 - Should use a consistent material and design across parks.
 - Should not use more than two font styles. Sans-serif is encouraged.
- Should be simple, clear and attractive, and made of metal, with simple posts/features in either FSC certified wood or masonry.
- Should utilize easy to maintain, long lasting materials and design.
- Should integrate anti-graffiti coating.
- When appropriate, interpretive signage should include historical, educational, and informative, and/or otherwise interesting information regarding the feature being described.

Standard:

Refer to City of Riverbank park signage standards when available.

6.4.8 FURNISHINGS AND AMENITIES

Intent: To ensure a high level of aesthetic quality, consistency, comfort and durability in the furnishing and amenities of Riverbank's parks.

Design Guidelines:

- To ensure uniformity and ease of maintenance, furnishing should be consistent throughout the park system, unless the specific park design, theme or programming necessitates otherwise.
- Park furnishing design should be complementary across the furniture palette, and utilize similar and/or complementary colors and materials, where applicable.
- Recycled content (steel, aluminum, aggregate) should be used when feasible and still maintain aesthetic quality.
- Furnishing should be uniform, high quality, durable, attractive and well-maintained.
- Benches should be metal with FSC certified wood elements or concrete.
- Picnic tables should be FSC certified wood to be complementary to the bench design or concrete.



City of Riverbank Parks and Recreation

- Trash cans should provide space for both trash and recycling refuse, either integrated or as two separate receptacles, and be made of metal or concrete.
- Water fountains should be metal and complement the rest of the furniture palette. Bottle fillers and dog bowls should be utilized where appropriate.
- Light poles and lighting elements should provide safety as well as enhance the aesthetic quality of the park by tying into the overall furniture palette. Lighting should be energy efficient and maintain dark-sky-compliant light levels. Light poles should be appropriate in size, color, material and scale to the setting. Automatic sensor controls should be used for efficiency.
- Barbeques should be attractive and functional. Provide hot ash disposal containers at rate of 1 per 10 BBQs.
- Furniture typologies and design should be made appropriate to the specific requirements of the park, its design and the needs of its constituents. Deviation from standard designs should be made for the sake of aesthetic, thematic or functional purposes at the discretion of the designer and with the permission of City of Riverbank staff.
- All furnishing should be easy to maintain, utilizing long lasting materials and designs. The designer is encouraged to involve park maintenance and program staff in the design process to ensure successful maintainability.

Standards:

- Refer to City of Riverbank furnishing palette standards when available.



CHAPTER SEVEN - PARK ASSESSMENTS AND LEVEL OF SERVICE ANALYSIS

7.1 CURRENT PARK ASSESSMENTS

An assessment and general onsite inspection of each park, facility and grounds property managed by the Department was completed utilizing the following asset condition rating system. An inventory and overall assessment for the entire system has been provided as separate stand-alone documents.

7.2 CONDITION RATING

A = Excellent

- Looks new and is in excellent mechanical and aesthetic condition.

B = Very Good

- Has minor mechanical and equipment defects but is in excellent mechanical and aesthetic condition.

C = Good

- Has some repairable mechanical and equipment defects and is free of major problems.

D = Fair

- Has some mechanical and equipment defects that require major repair and/or replacement.

F = Poor

- Has major defects and requires significant lifecycle replacement.

Park Name	Address	Park Classification	Park Assessment	Acreage	Baseball Field	Outdoor Basketball	Football Field	Picnic Shelter	Playground	Skate Park	Soccer Field	Swimming Pool	Tennis Court	Pickleball Court	Volleyball Court	Dog Park
Castleberg Park	5845 8th Street	Community	Poor	12.2	2.0	2.0		1.0	1.0							
Community Center Park	3600 Santa Fe Avenue	Neighborhood	Good	3.1				1.0	1.0		1.0					
Harless Park	5600 Litt Road	Neighborhood	Excellent	2.9		1.0		1.0								
Hutcheson Park	3411 High Street	Mini	Good	1.0												
Jacob Myers Park	23653 S. Santa Fe Avenue	Regional	Very Good	28.0				1.0	1.0							1.0
Pioneer Park	3017 High Street	Neighborhood	Fair	3.0		0.5		1.0								
Plaza Del Rio	6702 3rd Street	Mini	Excellent	0.2												
Rotary Centennial Park	5690 Prospectors Parkway	Neighborhood	Very Good	3.1					1.0							
Safreno Park	2308 McAllister Lane	Neighborhood	Good	5.3					1.0							
Silva Park	5800 Antique Rose Way	Neighborhood	Excellent	8.2		1.0		1.0	1.0							
Sorensen Park	2522 Donner Trail	Neighborhood	Very Good	5.3					1.0							
Sports Complex	2119 Morrill Road	Sports Complex	Very Good	11.0			1.0				1.0					
Staley Park - Skate Park	3036 Santa Fe Street	Special Usa Area	Good	0.5						1.0						
Whorton Park	6082 Tennessee Avenue	Mini	Very Good	1.0		0.5		1.0								
Zerillo Park	2800 Briarcliff Drive	Neighborhood	Good	5.0		1.0		1.0				1.0	4.0			



7.3 TECHNICAL NEEDS ANALYSIS KEY FINDINGS

7.3.1 SERVICE AREA EQUITY MAPPING

The Riverbank Parks and Recreation system has “evolved over time” and distribution of sites and facilities throughout the community is reflected in the current site locations.

To further illustrate the distribution of current park types and park assets of the parks and recreation system across the entire community, an equity-mapping analysis was conducted. The maps included show the service areas of the *current* inventory of park types and park assets based on the *recommended* level-of-service standard. The recommended standard established per 1,000 residents per acre of park type or number of residents per type of park asset are also indicated in the map title.

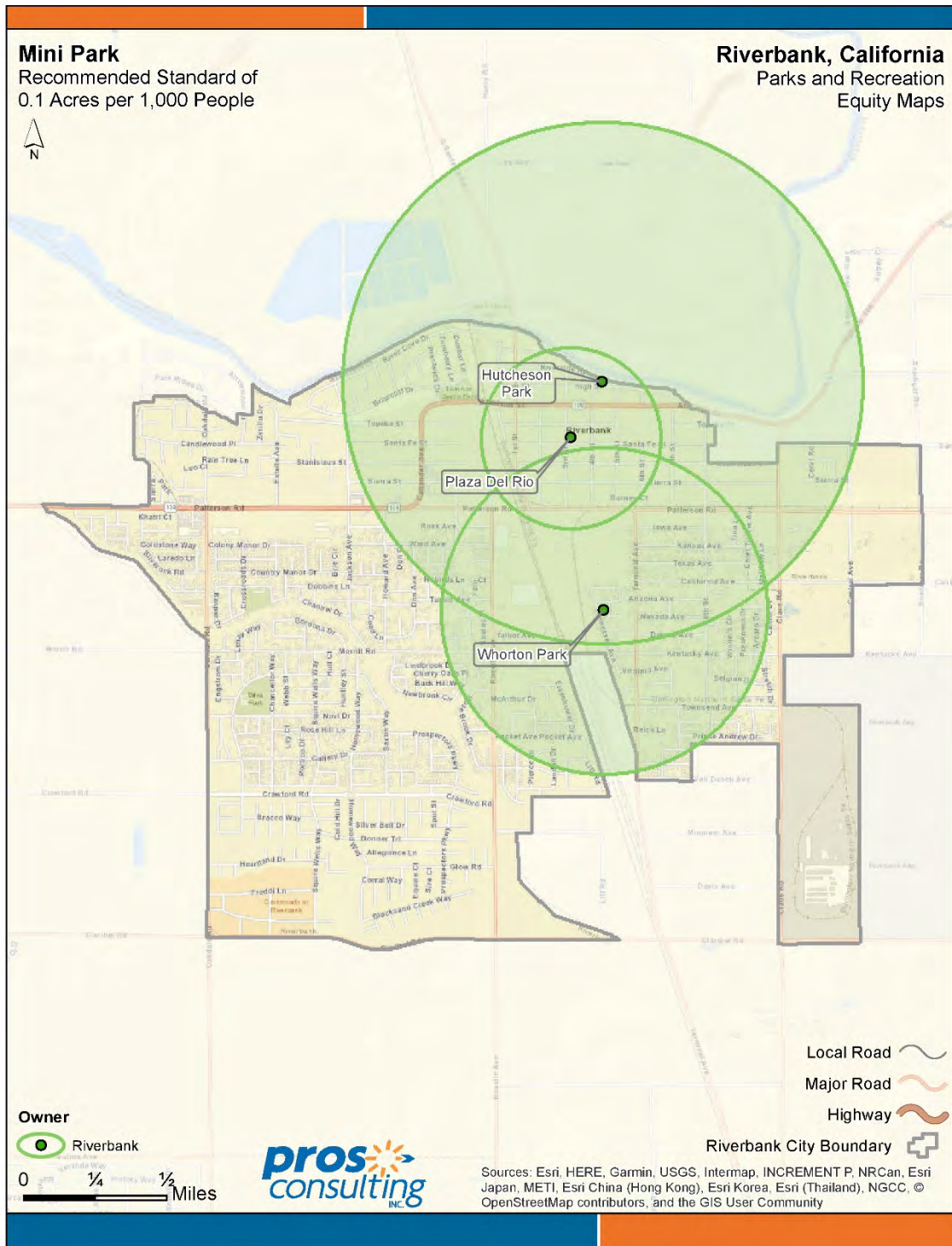
The service area is calculated by the quantity of inventory of each site extended in a uniform radius until the population served by the recommended standard is reached. Shaded areas indicate the extent of the service area based on recommended inventories; unshaded areas indicate locations that would remain outside of the standard service area for each park type or park asset. Unshaded areas are not always the most appropriate location for future parks or park assets. They only represent areas that might be more thoroughly reviewed for potential additional facilities.

Although there are occasions when the service area may extend beyond Riverbank borders, only Riverbank’s population was utilized for calculating service area standards in this analysis.

Community-wide maps of park types, or classifications, identified in this Needs Assessment, as well as the major park assets, are provided in the pages that follow. The maps on the following pages identify:

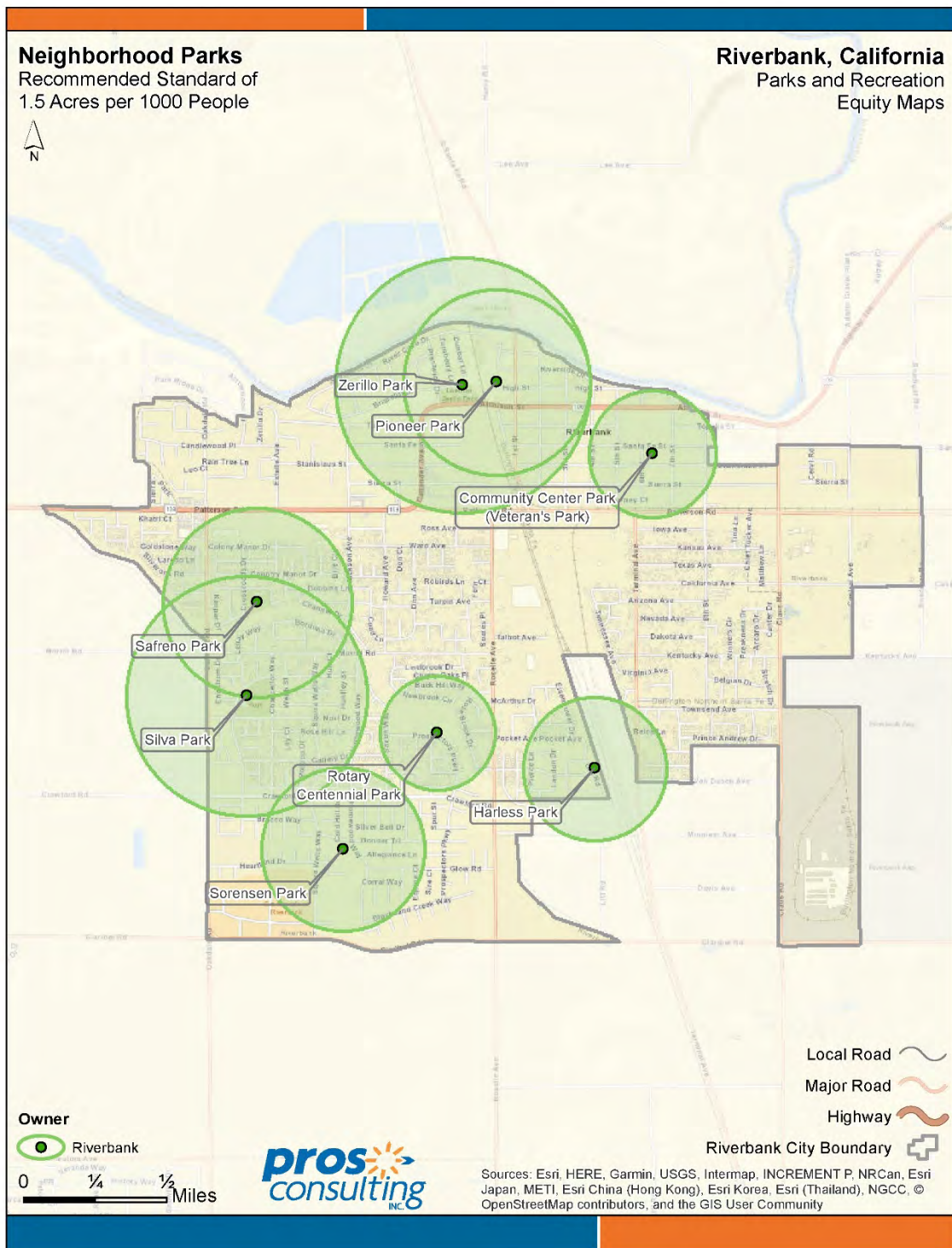
1. Mini Parks
2. Neighborhood Parks
3. Community Parks
4. Regional Parks
5. Special Use Parks
6. Sports Complex Parks
7. Indoor Recreation Facilities
8. Swimming Pool
9. Baseball Fields
10. Football Fields
11. Soccer Fields
12. Skatepark
13. Playgrounds
14. Tennis Courts
15. Outdoor Basketball Courts
16. Pickleball Courts
17. Picnic Shelters
18. Dog Park

MINI PARKS

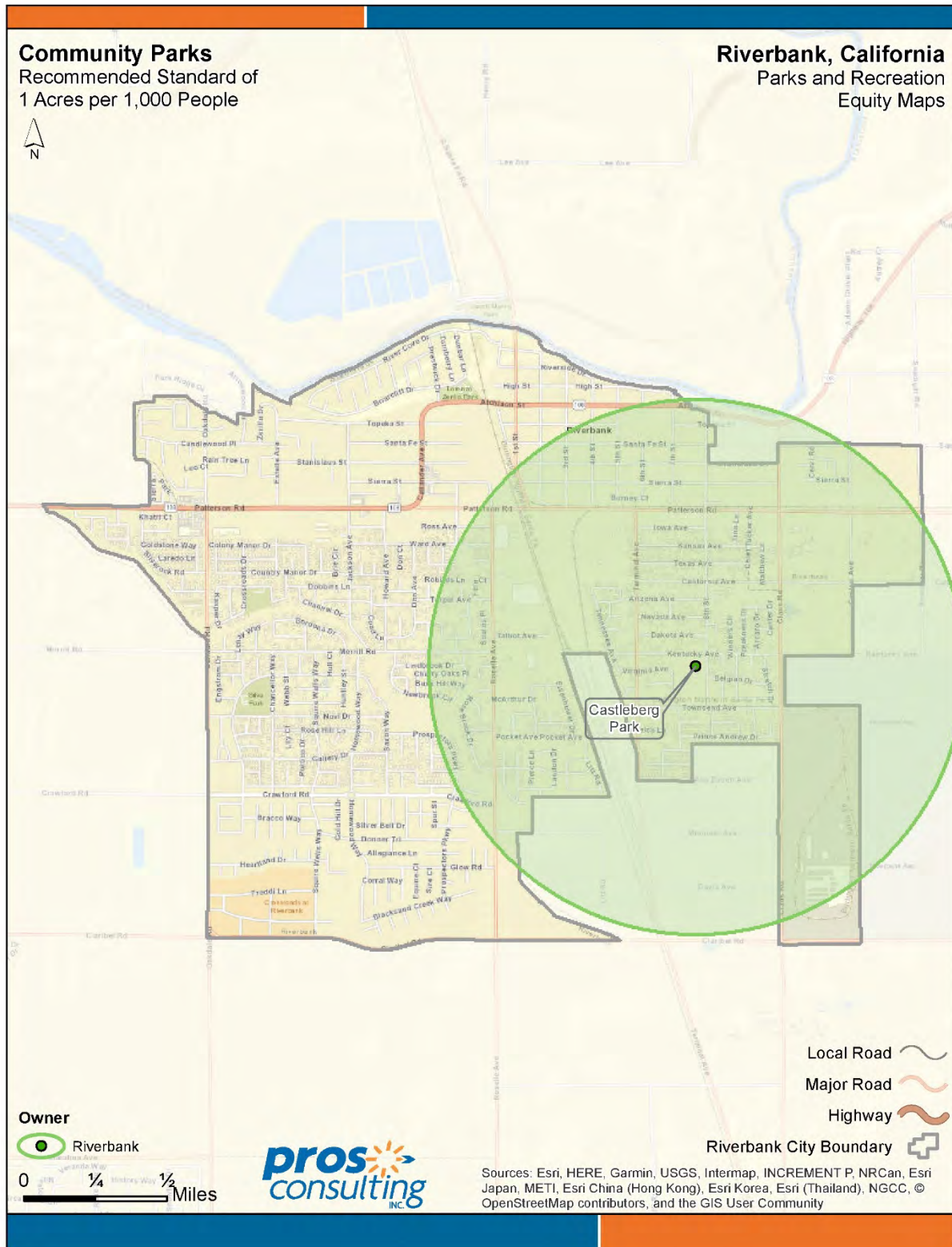




NEIGHBORHOOD PARKS

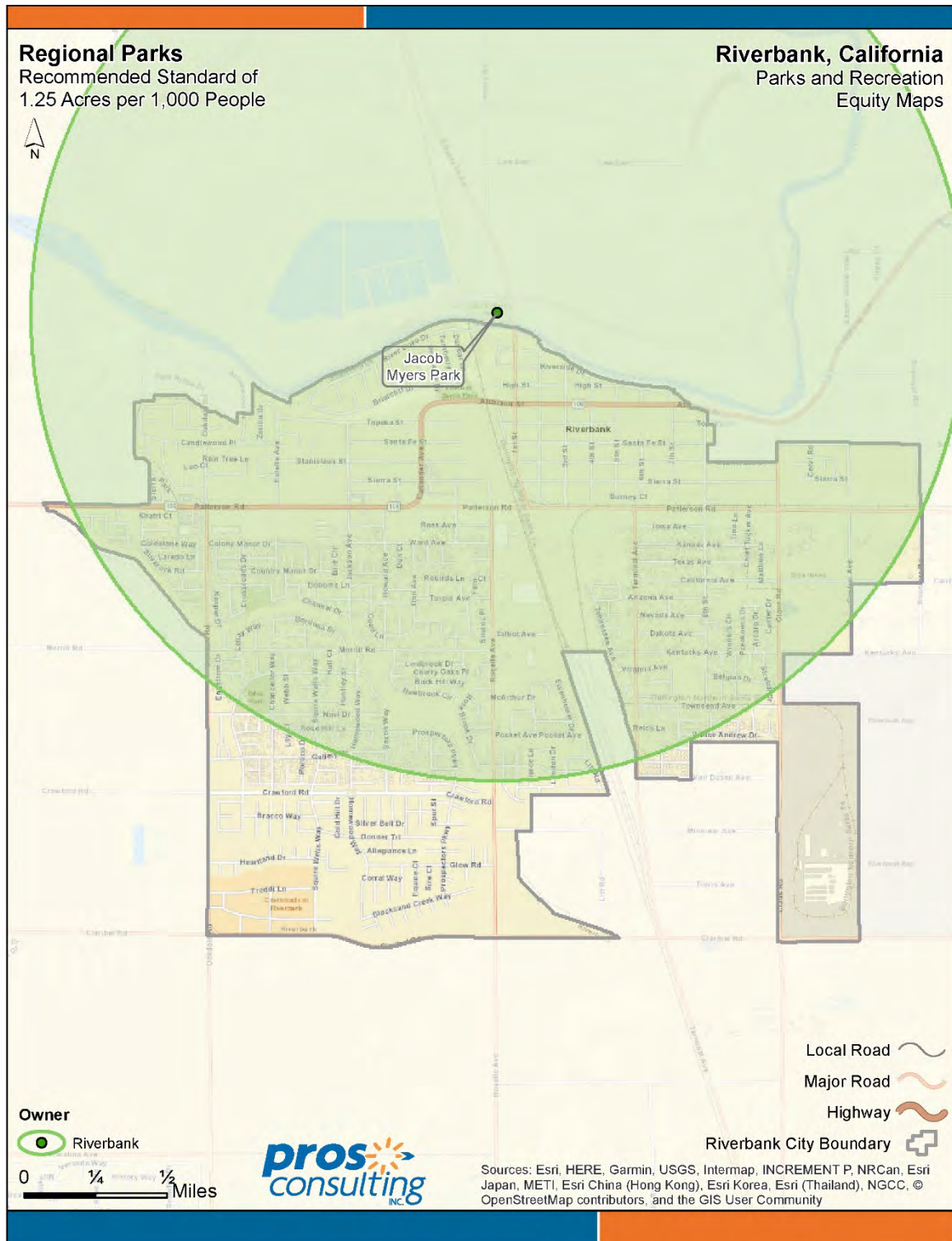


COMMUNITY PARKS

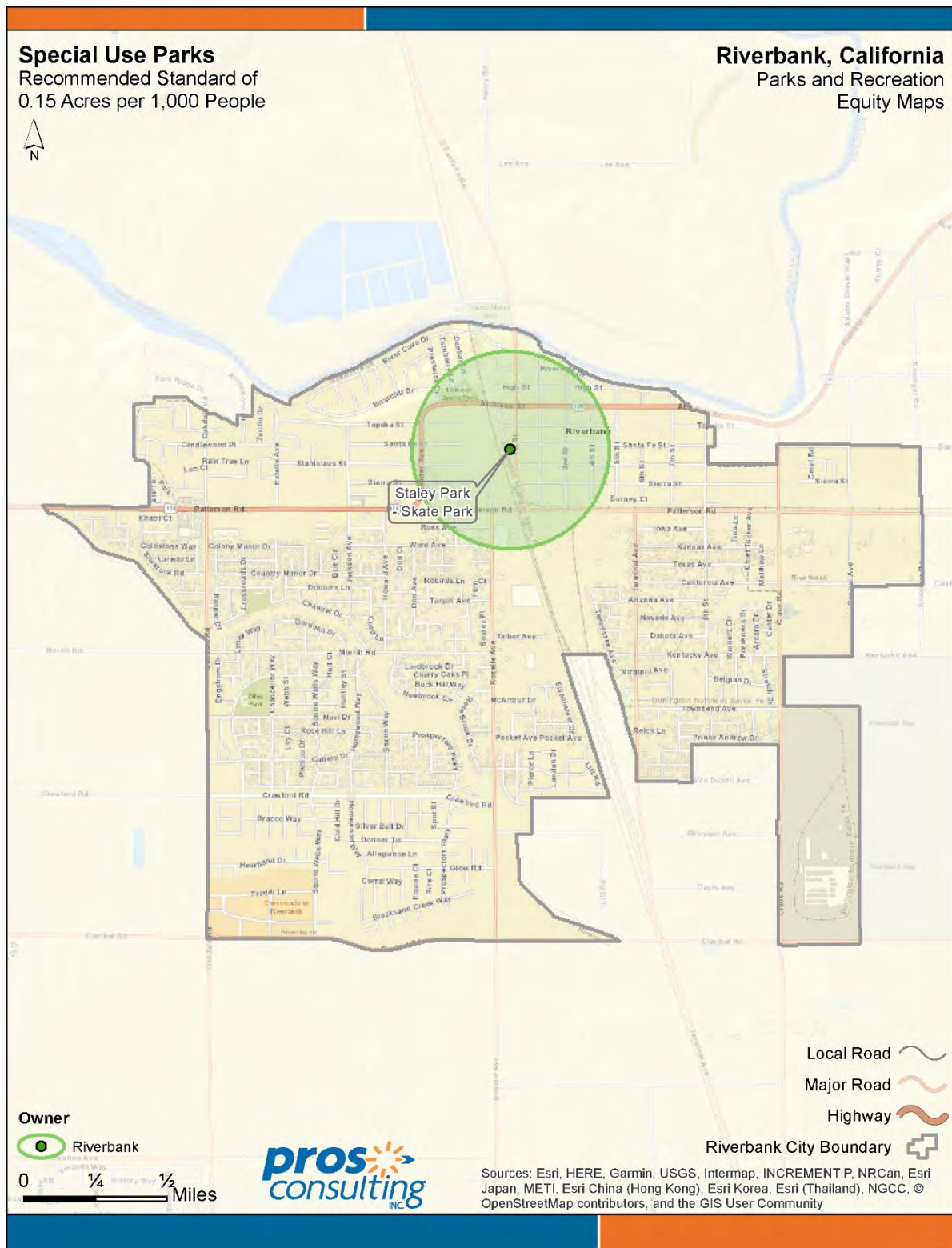




REGIONAL PARKS

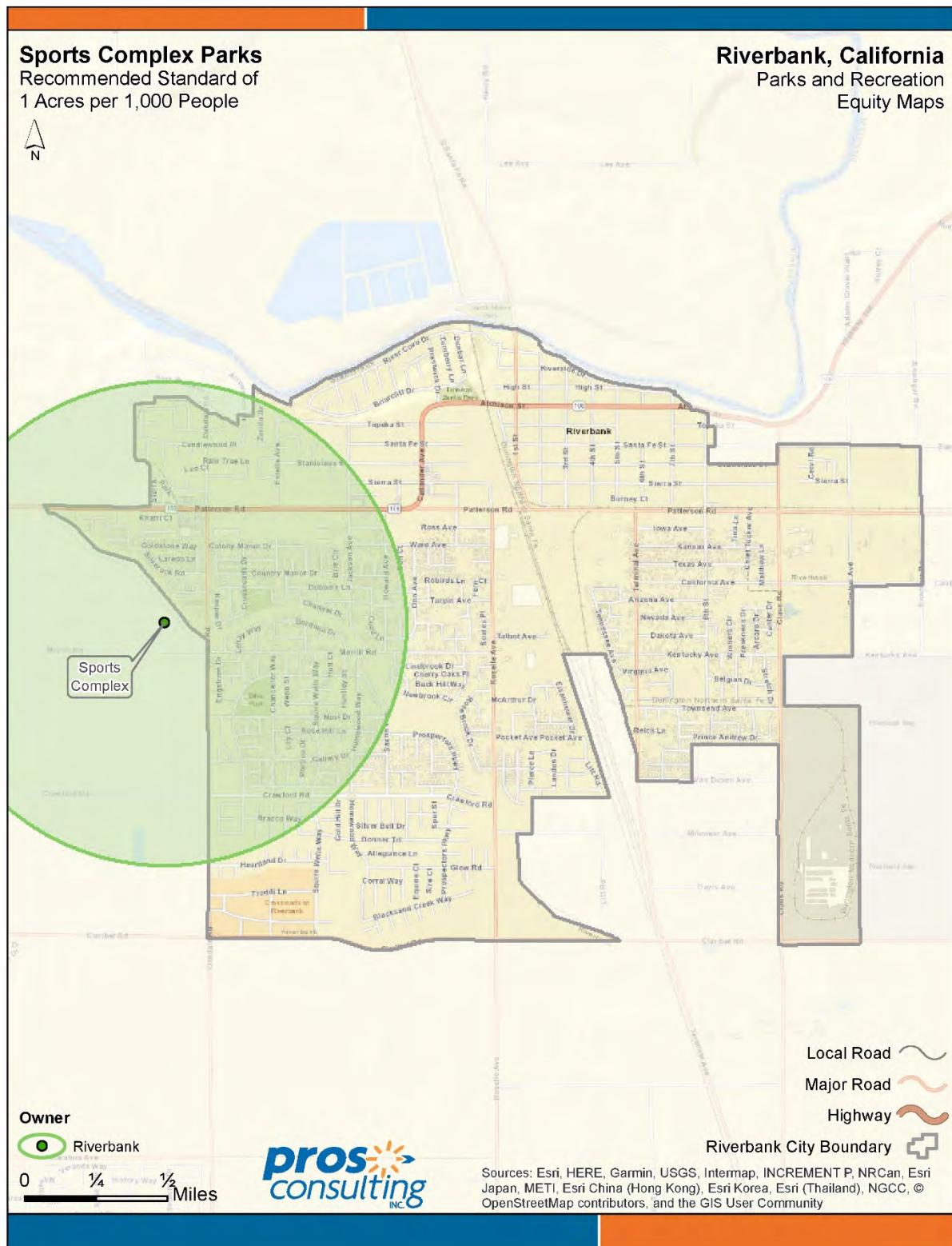


SPECIAL USE PARKS

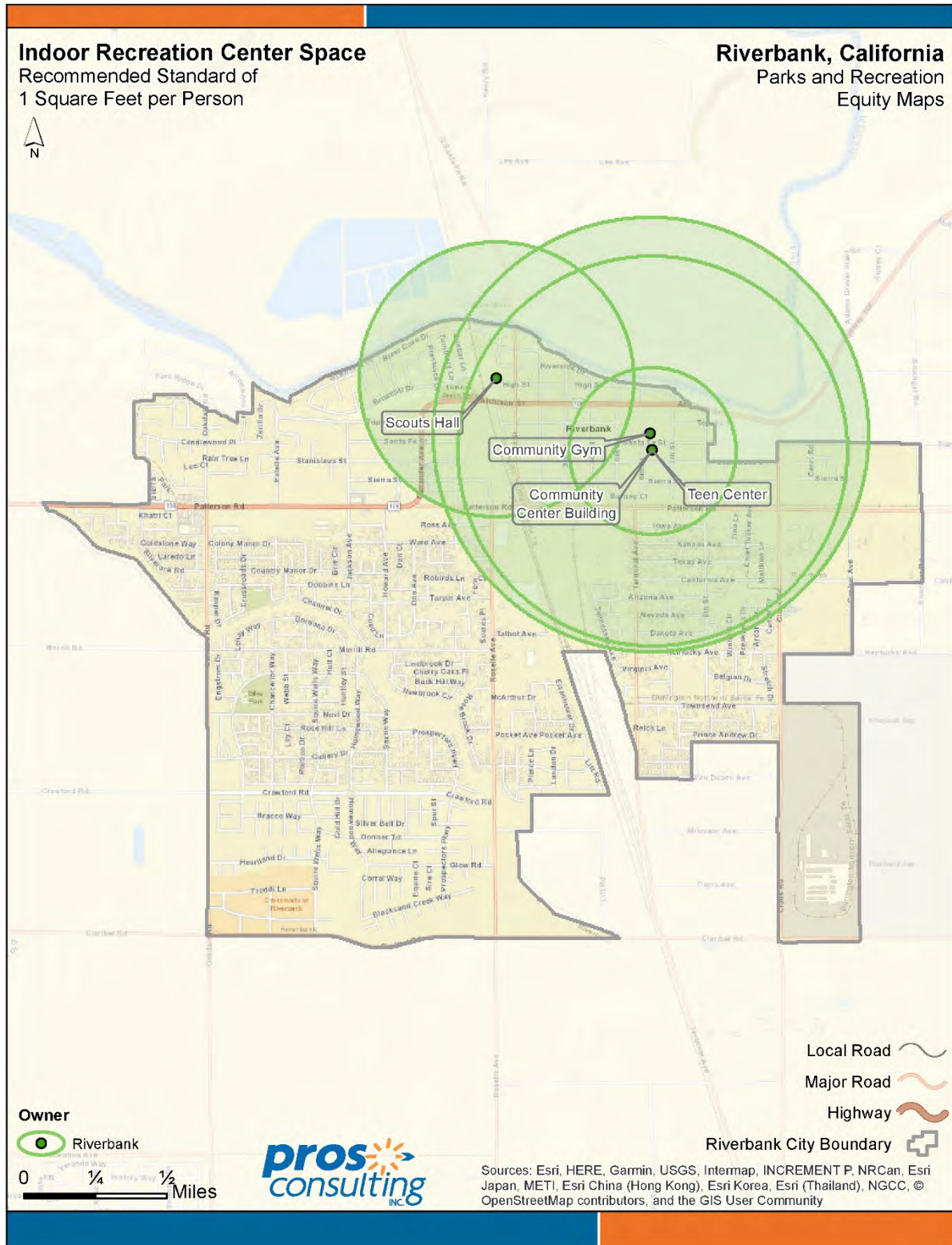




SPORTS COMPLEX PARKS

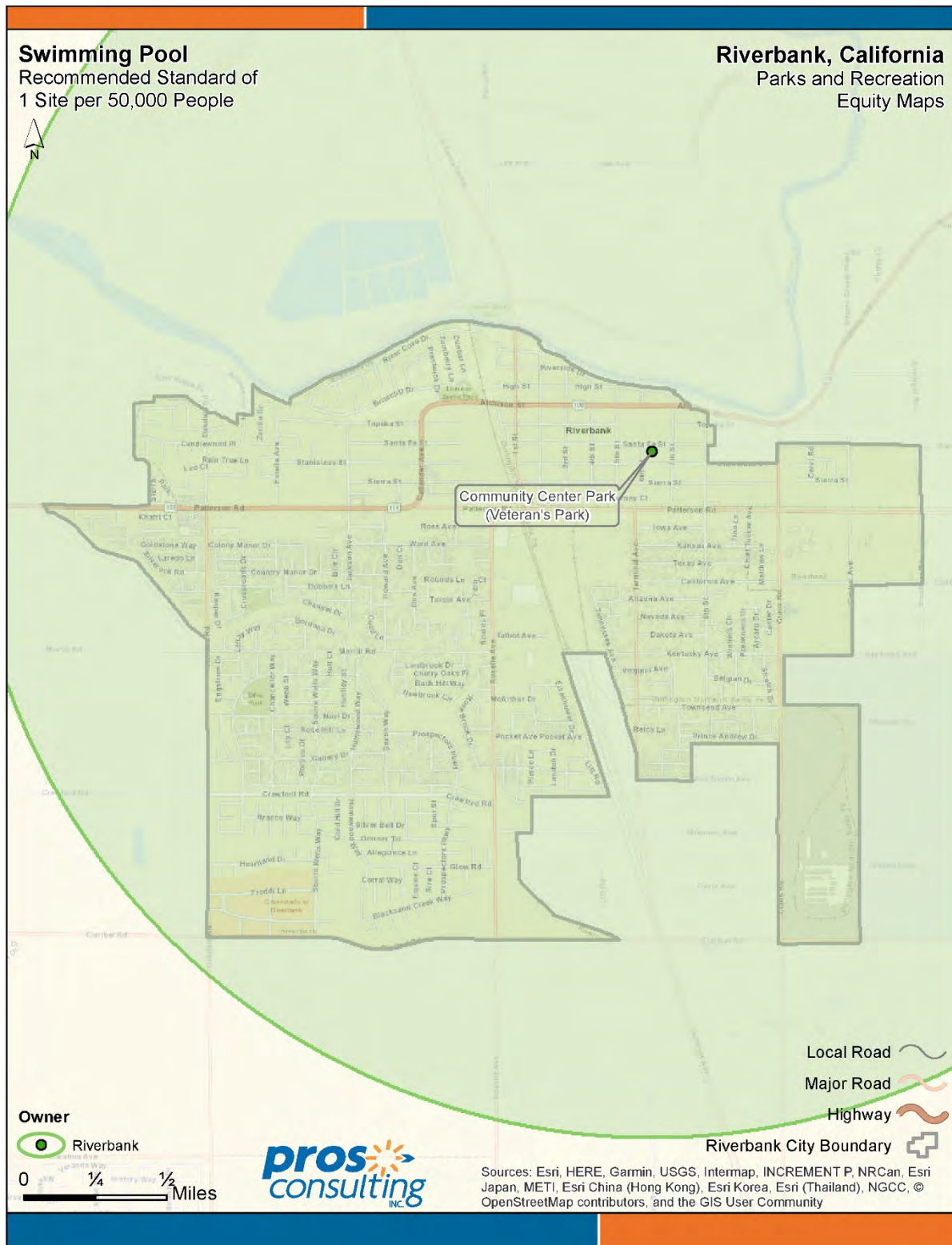


INDOOR RECREATION FACILITIES

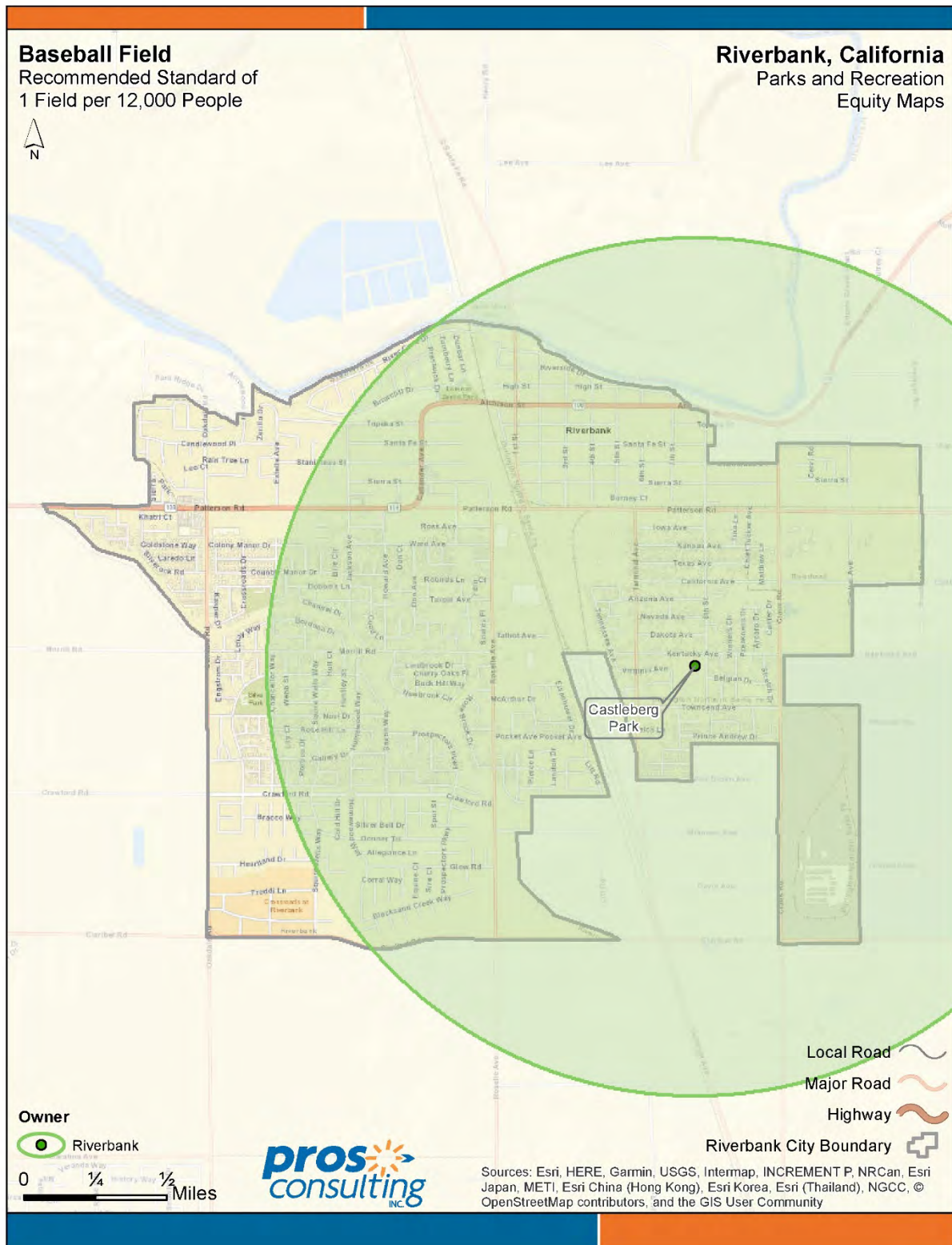




SWIMMING POOL

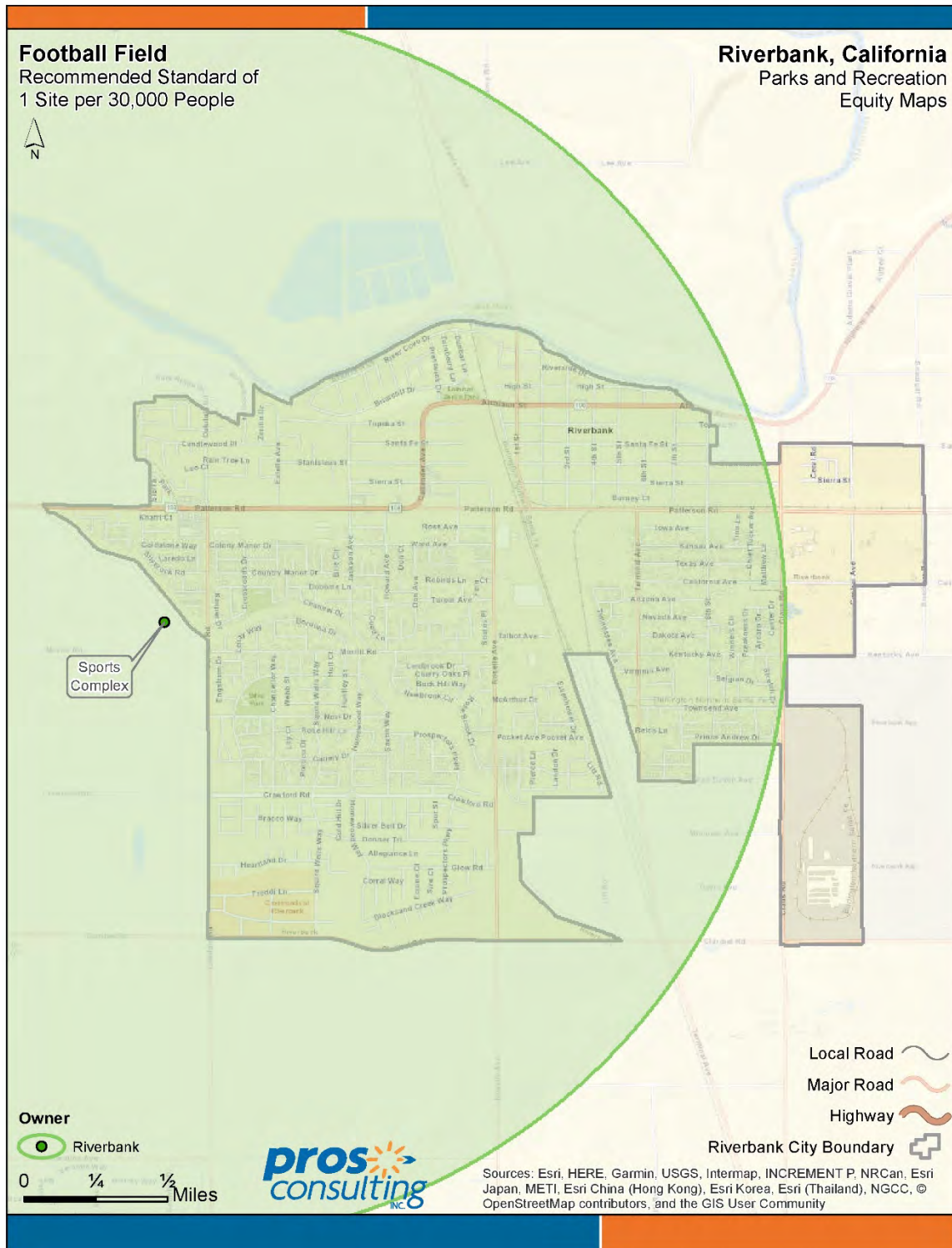


BASEBALL FIELDS

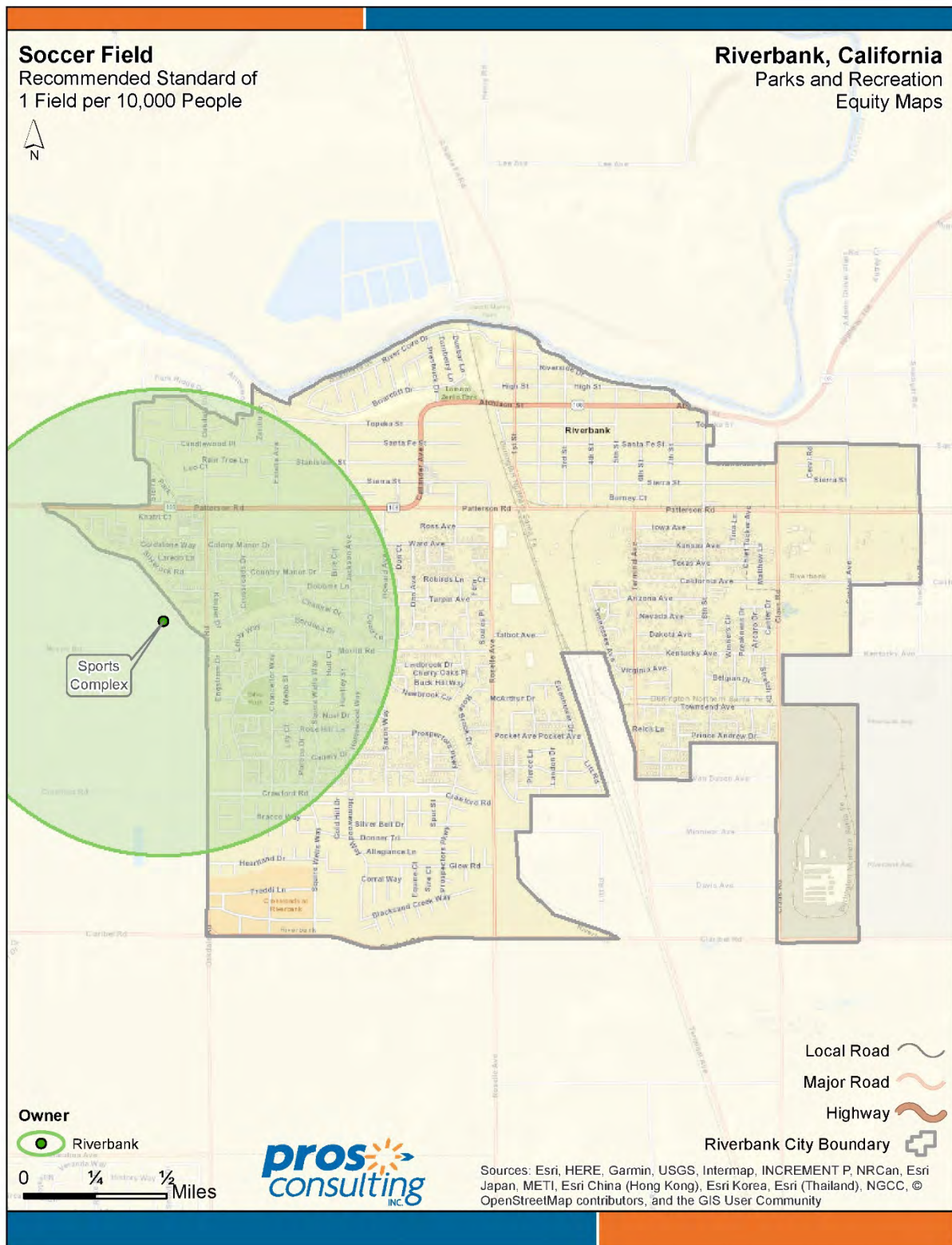




FOOTBALL FIELDS

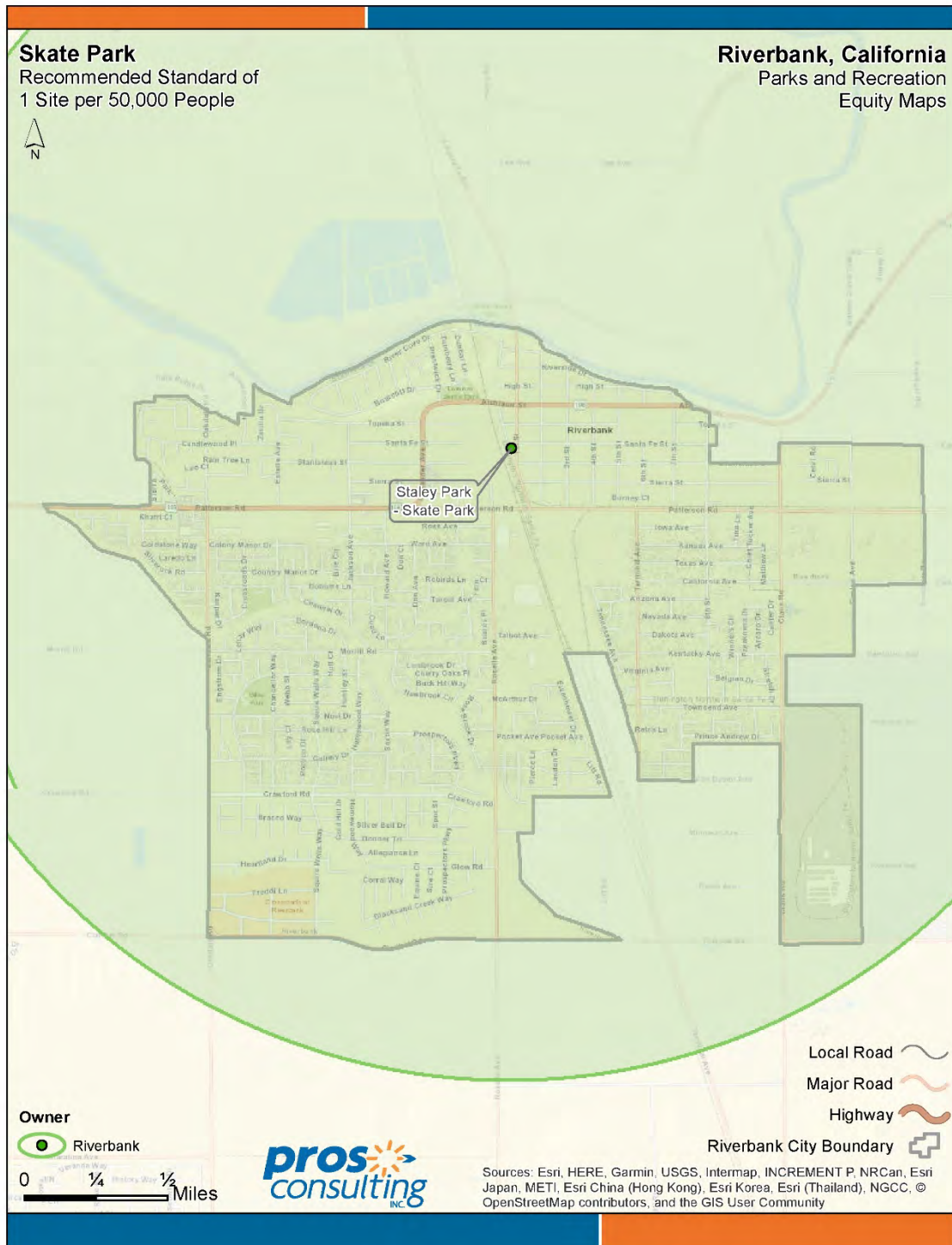


SOCCER FIELDS

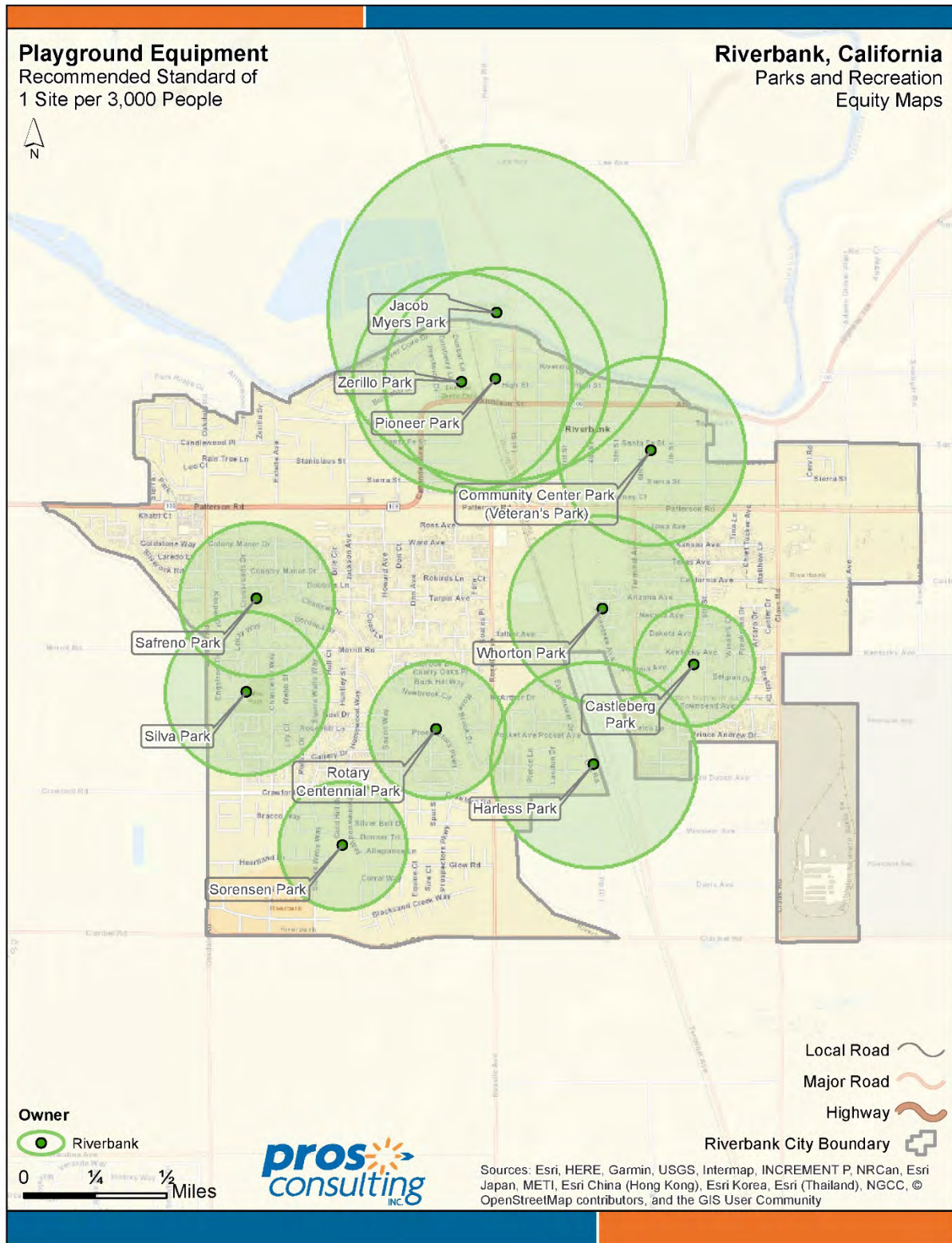




SKATEPARK

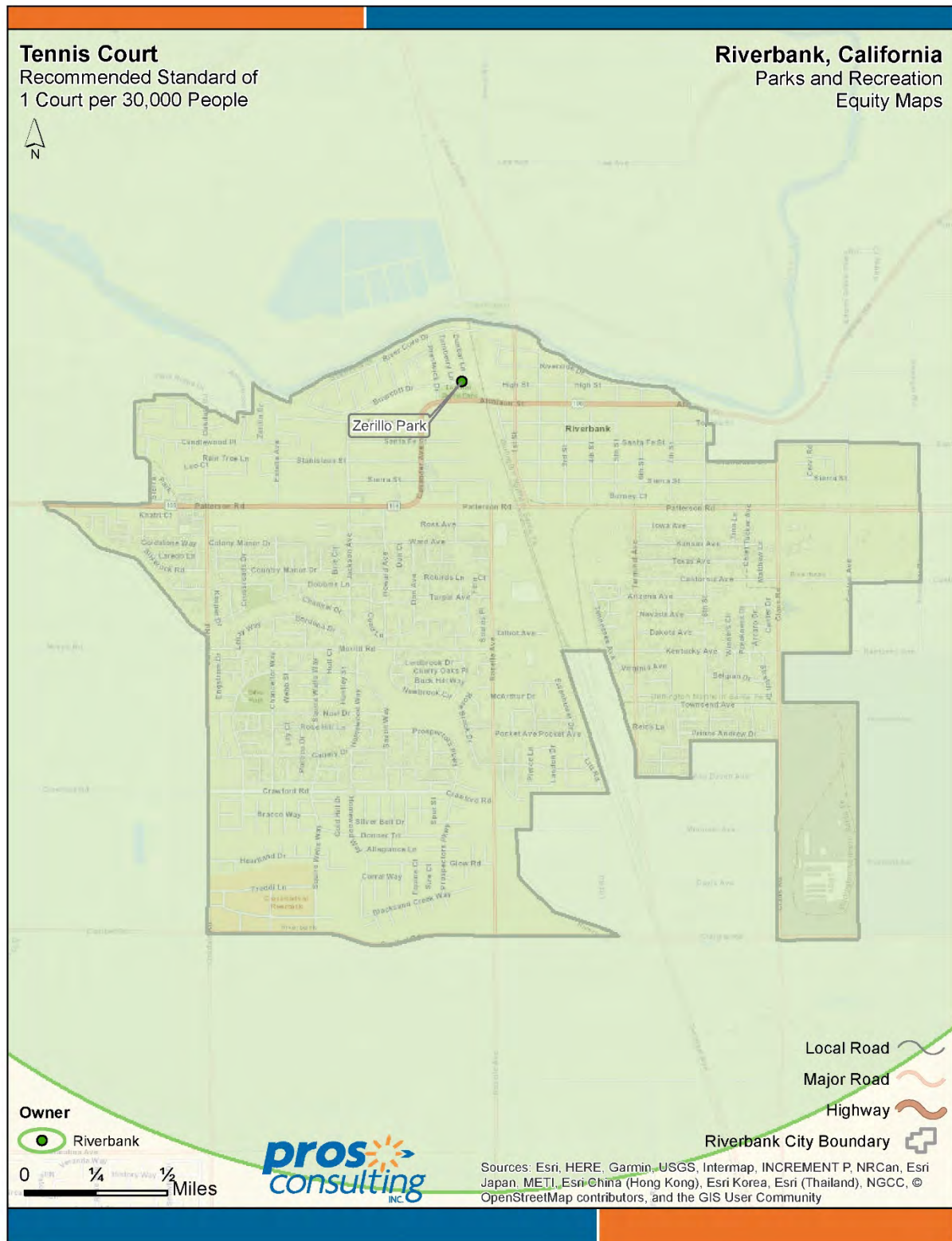


PLAYGROUNDS

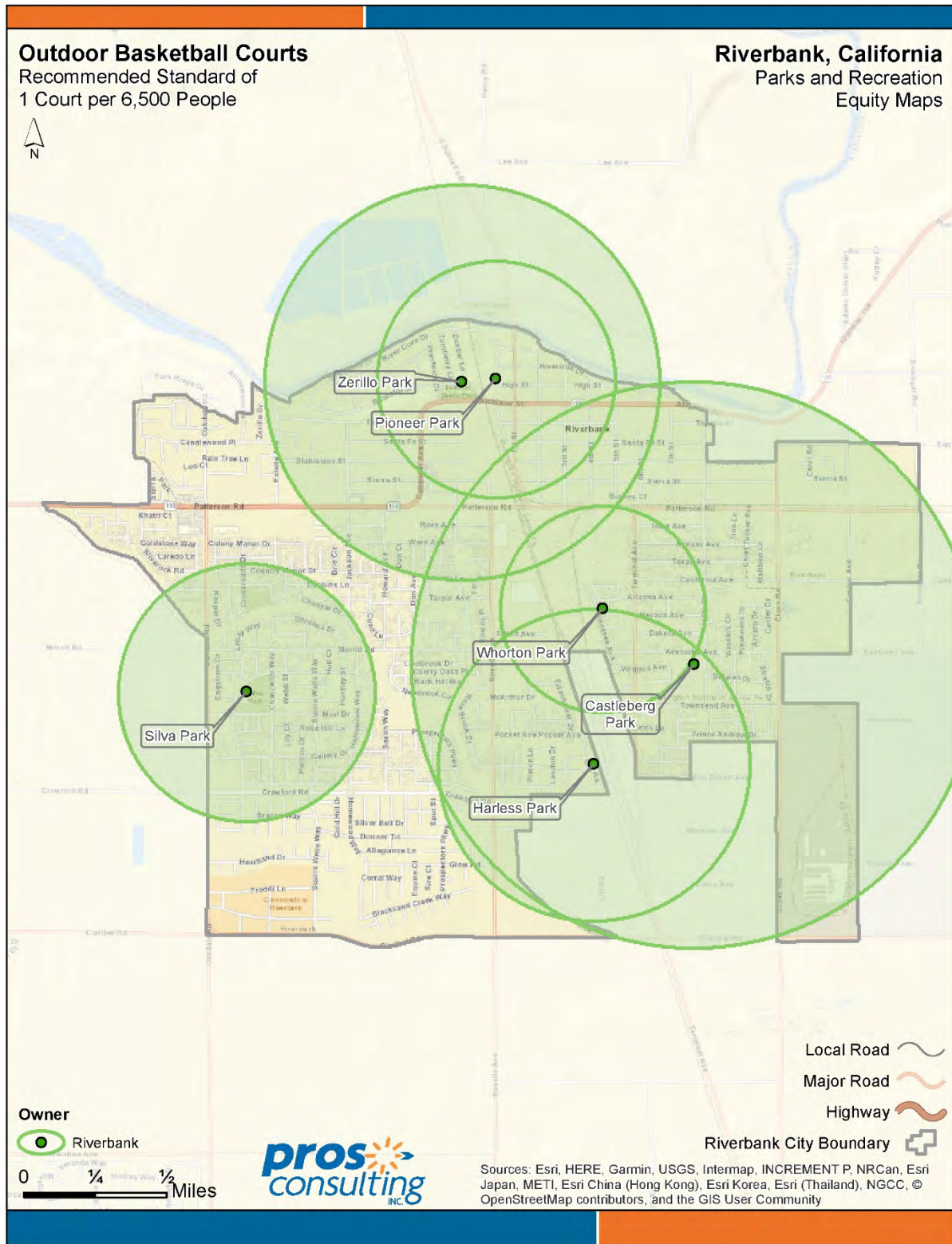




TENNIS COURTS

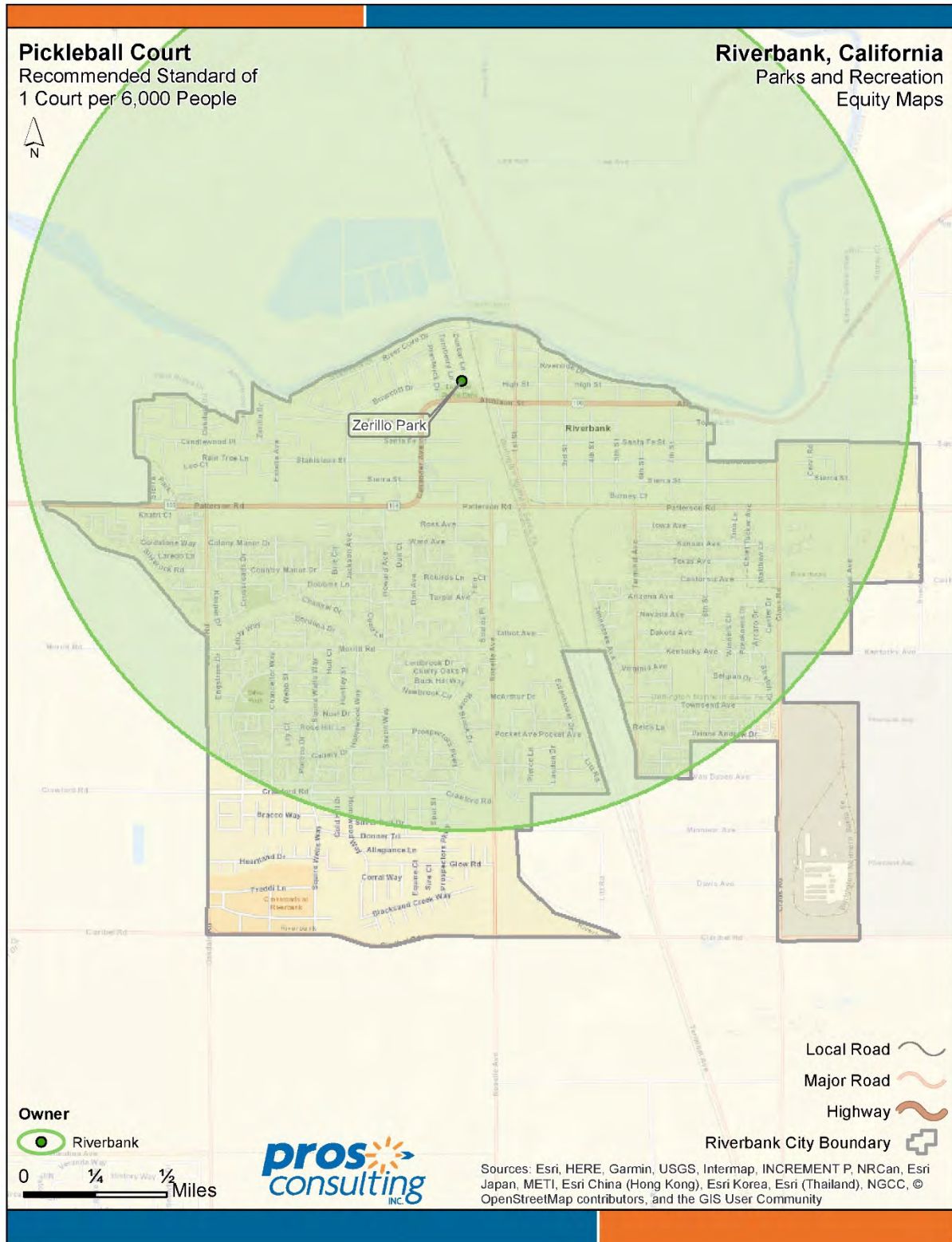


OUTDOOR BASKETBALL COURTS

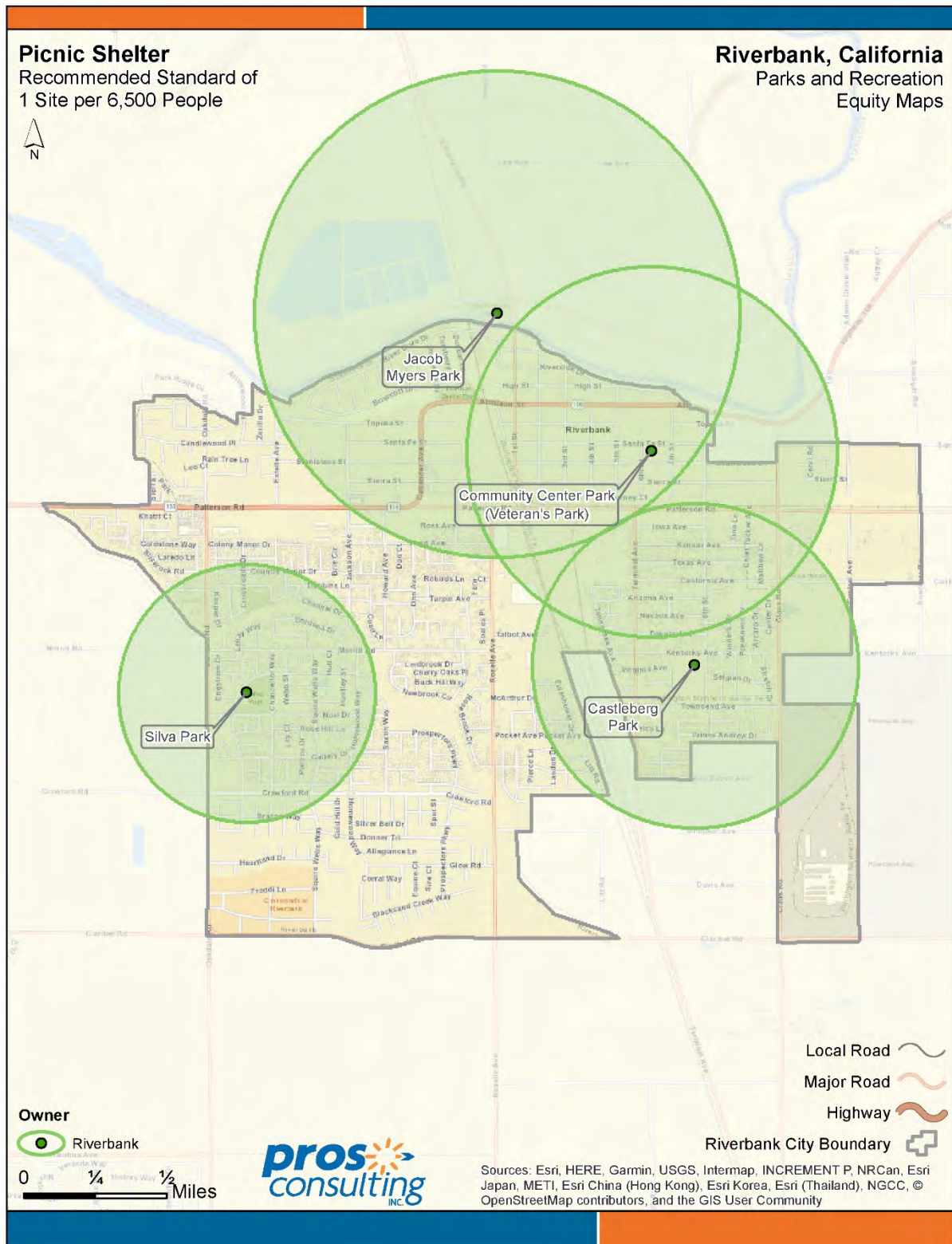




PICKLEBALL COURTS

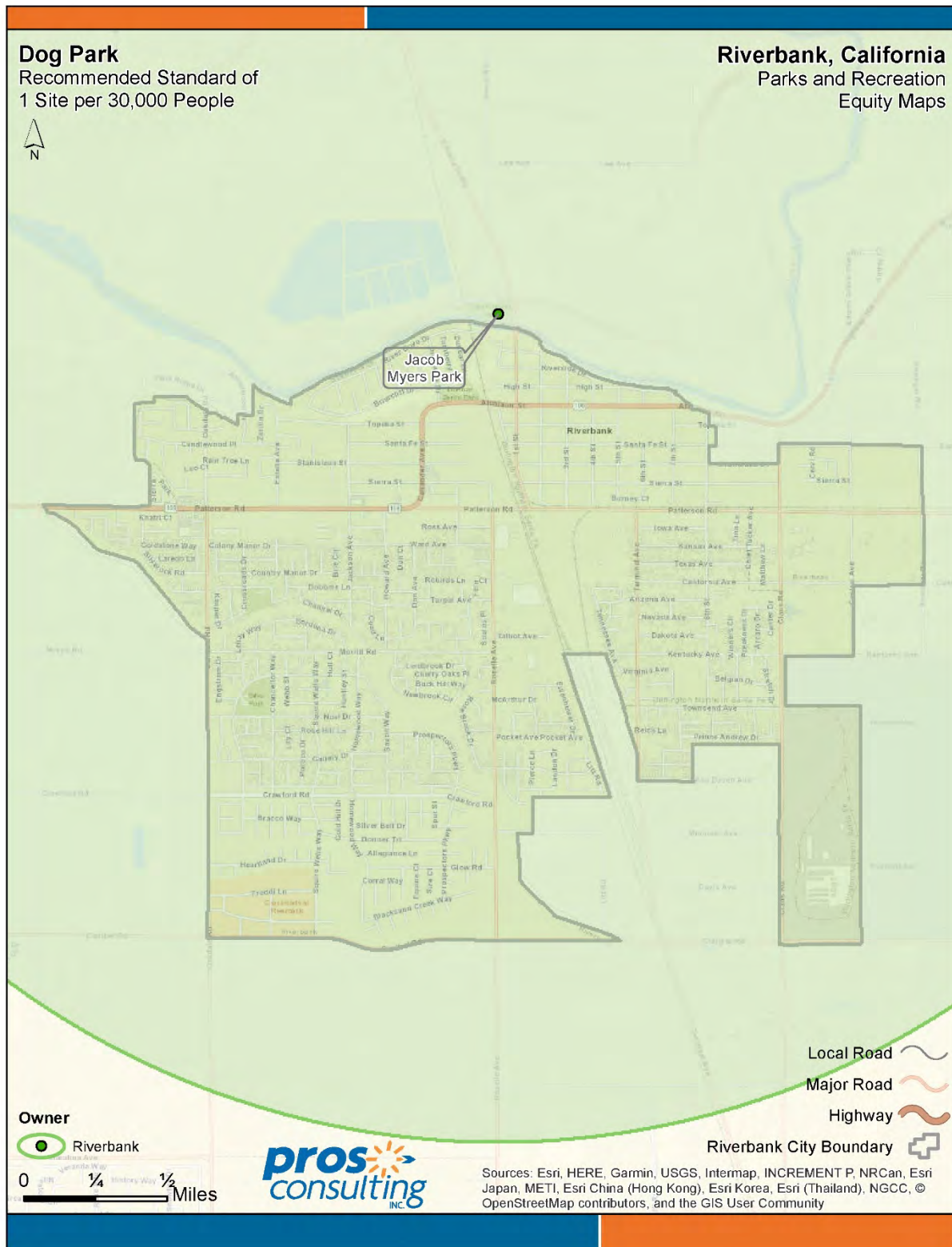


PICNIC SHELTERS





DOG PARK



7.4 LEVEL OF SERVICE STANDARDS

Level of Service (LOS) standards are guidelines that define service areas based on population that support investment decisions related to parks, facilities and amenities. LOS standards can and will change over time; as the population increases, the need to acquire additional land and develop parks also increases as will the costs to do so.

PROS evaluated LOS standards using a combination of resources. These resources included:

- 2025 General Plan Policy Document; Public Services and Facilities Element.
- National Recreation and Park Association (NRPA) guidelines.
- Recreation activity participation rates reported by the Sports & Fitness Industry Association's (SFIA) 2019 Study of Sports.
- Recreation participation as it applies to activities that occur in the United States and Riverbank area.
- Community and stakeholder input including statistically valid survey and general observations. This information allowed standards to be customized to the Riverbank Parks and Recreation system.
- Planned yet not developed parks within each park classification system in Riverbank.
- The ability for the City to financially sustain a high-quality park system.

The LOS standards should be coupled with conventional wisdom and judgment related to the particular situation and needs of the community. These standards should be used to inform decisions when planning to develop new parks, facilities, and amenities. By applying these standards to the population of Riverbank, gaps and surpluses in park and facility/amenity types are revealed.

Based on a thorough review of the parks and recreation system and public input, it is recommended that the City pursue further development of specific parks and recreation amenities that meet the needs listed in the *High Priority Program and Facility Rankings* and address the gaps per park type to increase the current level of service standard for the projected population in 2035.

- Riverbank currently provides a **total LOS of ONLY 3.52 acres of parks per 1,000 residents based on the City's population.**
- **The consulting team is recommending to increase the LOS standard for community and neighborhood parks to 5.0 acres/1,000 population as a goal.** To keep up with the projected population growth, the City will need to develop and add a total of 145 acres of parks to the system by the year 2035 in order to achieve the recommended standard.
- The top two park needs the City is deficient in the future are Community parks, Regional parks and Sports Complex parks.
- The City will need to add amenities to the park system to meet 2035 standards for most outdoor park amenities, including an athletic fields, outdoor sport courts, a dog park, picnic shelters and playgrounds.

The table on the following page details the current and recommended LOS for the Riverbank's Parks and Recreation System. PLEASE NOTE: Trails were not calculated in this population-based service level analysis because they are based on connected networks rather than population.



City of Riverbank Parks and Recreation

RIVERBANK LEVEL OF SERVICE STANDARDS										
	2019 Park Inventory		Current Service Levels	Recommended Developed Park Service Levels		2020 Standards		2035 Standards		
Park Type	City of Riverbank	Total Inventory	Current Service Level	Recommended Developed Park Service Levels		Meet Standard/ Need Exists	Additional Developed Parks/Facilities/ Amenities Needed	Meet Standard/ Need Exists	Additional Developed Parks/Facilities/ Amenities Needed	
Mini Park	6.99	6.99	0.27 acres per	1,000	0.10 acres per	1,000	Meets Standard	- Acres(s)	Meets Standard	- Acres(s)
Neighborhood Parks	64.11	64.11	2.51 acres per	1,000	1.50 acres per	1,000	Meets Standard	- Acres(s)	Need Exists	6 Acres(s)
Community Parks	12.20	12.20	0.48 acres per	1,000	1.00 acres per	1,000	Need Exists	13 Acres(s)	Need Exists	34 Acres(s)
Regional Parks	0.50	0.50	0.02 acres per	1,000	1.25 acres per	1,000	Need Exists	31 Acres(s)	Need Exists	58 Acres(s)
Sports Complex Parks	5.00	5.00	0.20 acres per	1,000	1.00 acres per	1,000	Need Exists	21 Acres(s)	Need Exists	41 Acres(s)
Special Use Parks	1.00	1.00	0.04 acres per	1,000	0.15 acres per	1,000	Need Exists	3 Acres(s)	Need Exists	6 Acres(s)
Total Developed Neighborhood Park Acreage	89.81	89.81	3.52 acres per	1,000	5.00 acres per	1,000	Need Exists	68 Acres(s)	Need Exists	145 Acres(s)
OUTDOOR AMENITIES										
Baseball Field	2	2.00	1.00 field per	12,759	1.00 field per	12,000	Meets Standard	- Field(s)	Need Exists	2 Field(s)
Outdoor Basketball Courts	6	1.00	4.00 court per	6,380	1.00 court per	6,500	Meets Standard	- Court(s)	Need Exists	6 Court(s)
Football Field	1	1.00	1.00 site per	25,518	1.00 site per	30,000	Meets Standard	- Site(s)	Need Exists	1 Site(s)
Picnic Shelter	4	4.00	1.00 site per	6,380	1.00 site per	6,500	Meets Standard	- Site(s)	Need Exists	3 Site(s)
Playground Equipment	11	11.00	1.00 site per	2,320	1.00 site per	3,000	Meets Standard	- Site(s)	Need Exists	4 Site(s)
Skate Park	1	1.00	1.00 site per	25,518	1.00 site per	50,000	Meets Standard	- Site(s)	Meets Standard	- Site(s)
Soccer Field	1	1.00	1.00 field per	25,518	1.00 field per	10,000	Need Exists	2 Field(s)	Need Exists	4 Field(s)
Swimming Pool	1	1.00	1.00 site per	25,518	1.00 site per	50,000	Meets Standard	- Site(s)	Meets Standard	- Site(s)
Tennis Court	1	1.00	1.00 court per	25,518	1.00 court per	30,000	Meets Standard	- Court(s)	Need Exists	1 Court(s)
Pickleball Court	4	4.00	1.00 court per	6,380	1.00 court per	6,000	Meets Standard	- Court(s)	Need Exists	4 Court(s)
Volleyball Court	-	-	1.00 court per	#DIV/0!	1.00 court per	30,000	Need Exists	1 Court(s)	Need Exists	2 Court(s)
Dog Park	1	1.00	1.00 site per	25,518	1.00 site per	30,000	Meets Standard	- Site(s)	Need Exists	1 Site(s)
INDOOR RECREATION CENTER										
Indoor Recreation Center Space (square feet)	21,164	21,164	0.83 SF per person	1	1 SF per Person		Need Exists	4,354 Square Feet	Need Exists	25,328 Square Feet

CHAPTER EIGHT – 10-YEAR CAPITAL IMPROVEMENT PLAN

To plan and prioritize capital improvement projects, recommendations include balancing the maintenance of current assets with the development of new facilities. The departmental Capital Improvement Plan (CIP) framework is utilized to determine CIP projects in concert with an implementable financial plan. A key priority is also focused on maintaining the integrity of the current infrastructure and facilities before expanding and/or enhancing programs and facilities. Maintaining current infrastructure with limited funding will inhibit the City's ability to take care of all existing assets and build new facilities.

A three-tier plan is recommended to help guide the decision-making process for CIP investments. The three-tiered plan acknowledges a fiscal reality, leading to the continuous rebalancing of priorities and their associated expenditures. Each tier reflects different assumptions about available resources. A complete list of the projects in each is identified in this chapter. The three tiers include:

- **Sustainable** - Critical maintenance projects, including lifecycle replacement, repair of existing equipment, and safety and ADA improvements. Many of these types of improvements typically require one-time funding and are not likely to increase annual operations and maintenance costs. In many cases, these types of projects may reduce annual operations and maintenance costs.
- **Expanded Services** - Projects that include strategic changes to the existing parks system to better meet the unmet needs of the community. These types of improvements typically require one-time funding and may trigger slight increases in annual operations and maintenance costs, depending on the nature of the improvements.
- **Visionary** - Complete park renovation, land acquisition and new park/trail development. These improvements will likely increase annual operations and maintenance costs. Visionary projects also include planning efforts to support new/future development.

8.1 10-YEAR CAPITAL IMPROVEMENT PLAN DEVELOPMENT – GENERAL ASSUMPTIONS

The following are the general assumptions utilized in the development of the recommended 10-year capital improvement plan:

- All projects must be financially viable.
- Only projects likely to be implemented within 10-year plan period are included in the plan.
- Projects must be consistent with other planning efforts, where applicable.
- A 5% cost escalator has been applied for each year, to estimate total costs of the CIP.



8.2 SUSTAINABLE PROJECT RECOMMENDATIONS – MAINTAINING WHAT WE HAVE

This section outlines the projects that focus on the repair and lifecycle replacement of existing parks and trails as well as administrative planning efforts.

SUSTAINABLE PROJECTS (Repair Existing)			
Asset	Brief Description	Estimated Total Project Cost	Time Frame
Castleberg Park	Lifecycle Replacement Allowance for Restroom/Concession/Storage, Picnic Shelter, Playground, Sports Courts, Athletic Field Lighting/Amenities, etc.	\$750,000	Long-term (6-10 years)
Hutcheson Park	Lifecycle Replacement of Trail and ADA improvements	\$200,000	Long-term (6-10 years)
Jacob Myers Park	Lifecycle Replacement of Playground, Benches, Trash Cans; Parking Lot - Crack Seal/Overlay	\$500,000	Short-term (1-5 years)
Pioneer Park	Playground Equipment Replacement with Shade	\$200,000	Long-term (6-10 years)
Rotary Centennial Park	Playground Equipment Replacement with Shade	\$200,000	Long-term (6-10 years)
Silva Park	Playground Equipment Replacement with Shade	\$200,000	Long-term (6-10 years)
Sorenson Park	Lifecycle Replacement Allowance for Playground with shade and small picnic shelter, picnic table	\$200,000	Long-term (6-10 years)
Whorton Park	Lifecycle Replacement Allowance for Playground Equipment, Basketball Court, Furniture	\$350,000	Long-term (6-10 years)
Zerillo Park	Parking Lot Replacement	\$100,000	Long-term (6-10 years)
TOTAL SUSTAINABLE PROJECTS		\$2,700,000	

8.3 EXPANDED SERVICES RECOMMENDATIONS – IMPROVING WHAT WE HAVE

Options described in this section provide the extra services or capital improvement that could be undertaken to meet need(s) with a focus on enhancements to existing facilities. The following provides a summary of the expanded service options.

EXPANDED SERVICE PROJECTS (Upgrade and Renovation)			
Asset	Brief Description	Estimated Total Project Cost	Time Frame
Castleberg Park	Conversion of One Basketball Court into Four Pickleball Courts	\$550,000	Long-term (6-10 years)
Jacob Myers Park	Lower Parking Lot Development; Addition of Amphitheater	\$500,000	Long-term (6-10 years)
Pioneer Park	Add Picnic Shelter	\$100,000	Long-term (6-10 years)
Plaza Del Rio	Addition of Shade Sails	\$50,000	Short-term (1-5 years)
Silva Park	Addition of Splash Pad	\$350,000	Long-term (6-10 years)
Staley Park - Skate Park	Addition of Shade Sails	\$50,000	Short-term (1-5 years)
Zerillo Park	Addition of Large Picnic Shelter	\$250,000	Long-term (6-10 years)
TOTAL EXPANDED SERVICE PROJECTS		\$1,850,000	

8.4 VISIONARY RECOMMENDATIONS – DEVELOPING NEW OPPORTUNITIES

Recommendations described in this section represent the complete set of services and facilities desired by the community. It can help provide policy guidance by illustrating the ultimate goals of the community, and by providing a long-range look to address future needs and deficiencies. The following new development and redevelopment projects have been identified as relevant to the interests and needs of the community and are relevant to the City's focus because they feature a high probability of success.

VISIONARY PROJECTS (New/Major Upgrade)			
Asset	Brief Description	Estimated Total Project Cost	Time Frame
Community Center Park (Veteran's Park)	Implement Site Specific Master Plan pending Prop 68 Grant Approval	\$9,000,000	Short-term (1-5 years)
Harless Park	Site Specific Master Plan and Implementation	\$500,000	Long-term (6-10 years)
Hetch Hetchy Property	Site Development for Trail and/or Dog Park	\$250,000	Long-term (6-10 years)
Jacob Myers Park	Addition of 30 acres via Agreement with Corps of Engineers	\$100,000	Long-term (6-10 years)
Safreno Park	Site Specific Master Plan and Implementation	\$250,000	Long-term (6-10 years)
Sports Complex	Site Specific Master Plan and Implementation for Expansion in Conjunction with Development Community	\$10,000,000	Long-term (6-10 years)
New Park Development	Neighborhood and Community Park Expansion - Land Acquisition and Development Commensurate with Population Growth - 70 acres at \$500,000 per acre	\$35,000,000	Long-term (6-10 years)
TOTAL VISIONARY PROJECTS		\$55,100,000	

8.5 CAPITAL IMPROVEMENT SUMMARY BY TIER

The following table summarizes the three-tier approach to the development of the capital improvement plan associated with the Master Plan.

Tier	Estimated Total Project Cost
Sustainable Projects	\$2,700,000
Expanded Service Projects	\$1,850,000
Visionary Projects	\$55,100,000
TOTAL	\$59,650,000



8.6 CAPITAL IMPROVEMENT SUMMARY BY PROJECT TYPE AND TIMELINE

The following tables summarize the capital improvement plan associated with the Master Plan by project type and timeline.

Term	Estimated Total Project Cost
Short Term (Years 1-5)	\$9,600,000
Long Term (Years 6-10)	\$50,050,000
TOTAL	\$59,650,000

8.6.1 YEARS 1-5 HIGHLIGHTS

- **Park Improvements:** Projects include, but not limited to, the lifecycle replacement of picnic shelters, irrigation systems, playgrounds, benches, signage, parking lots, and restrooms buildings.
- **Trail Improvements:** Minor repaving projects.

8.6.2 YEARS 6-10 HIGHLIGHTS

- **Park Improvements:** Projects include addition of shade, splashpads and site specific master plans for Harless and Safreno Park.
- **New Park Development:** Projects include the development of 70 new acres of neighborhood parks and build out of Jacob Myers Park.



8.7 PROJECT PRIORITIZATION CRITERIA

In order to help prioritize projects based on limited funding sources, staff developed draft criteria for evaluating a project's ability to meet a variety of park and recreation needs and provide additional benefits. The criteria are shown in the table on the following page and focus on the following:

- **Financial Viability** – All projects must demonstrate that funding is available for both capital and long-term operations and maintenance costs. The City should not take on a project that it cannot afford to maintain.
- **Immediate Projects** - Projects needed due to health, safety, legal and/or ADA issues, as well as to protect the City's current investment in facilities.
- **Benefit-Driven Projects** - Projects that meet the park land and amenity needs of the community, complete a partially-developed project and/or serve as a potential catalyst for economic development.
- **Opportunity-Driven Projects** - Projects that leverage resources and offer partnership opportunities, are located on a significant site and/or promote economic development opportunities.

City of Riverbank Parks and Recreation Master Plan Update Project Prioritization Criteria		
	Category	Description
For All Projects	1. Financial Viability	All projects must demonstrate that funding is available for capital AND long-term operation/maintenance costs.
	2. Health/Safety/Legal/ADA	Immediate health & safety risk, ADA improvements, settlement requirements.
Immediate	3. Taking Care of Existing Investments	Lifecycle replacement and enhancement of existing parks, trails and building facilities.
	4. High Unmet Need	Development of amenities based on unmet needs identified in the Level of Service (LOS) analysis.
Benefit-Driven	5. Parkland Deficiency	Land/project is located in a park-poor area (deficient in meeting 5.0 acres of parkland/ per 1,000 residents and/or contributes park land needed based on the LOS analysis.
	6. Completeness	Site or trail is partially improved. Benefits are limited until site is fully developed.
	7. Economic Revitalization	Potential for project to serve as a catalyst for other investment.
	8. Ability to Leverage Resources	Are other projects occurring on or near the site or are there other funding sources available?
Opportunity-Driven	9. Partnership Opportunities	Partnership will help fund improvements and/or long-term operation/maintenance costs.
	10. Site Significance	Site has been identified as a public priority.



CHAPTER NINE – CAPITAL IMPROVEMENT PLAN FUNDING

In order to continue to build and maintain the parks and recreation system, funding should be pursued for operations and capital improvement projects, such as those presented in this plan.

New, sustainable funding sources are essential to implementing a capital improvement plan. There is substantial potential for increasing revenues for the parks and recreation system while still providing affordable recreation opportunities. The following are high level funding options that should be vetted as the Department updates its Needs Assessment and develops a one to ten-year capital improvement program in 2021.

9.1 PRIMARY FUNDING SOURCES

9.1.1 GRANTS

The grant market continues to grow annually. Grant writers and researchers are essential if the Department is to pursue grants. Matching dollars are required for most federal grants and many state grants.

9.1.2 COMMUNITY PARKS FOUNDATION

The creation of a Riverbank Parks Foundation would be a joint-development funding source with Riverbank. The foundation would operate as a non-profit organization, working on behalf of the public agency to raise needed dollars to support its vision and operational needs.

The dollars that would be raised by the foundation are tax-exempt. Foundations promote specific causes, activities, or issues that Riverbank's Parks and Recreation Department needs to address. They offer a variety of means to fund capital projects, including capital campaigns, gifts catalogs, fundraisers, endowments, sales of park-related memorabilia, etc.

Private donations may be received in the form of cash, securities, land, facilities, recreation equipment, art, or in-kind services.

9.1.3 CAPITAL IMPROVEMENT FEES

Many park and recreation systems add a capital-improvement fee onto an existing user fee when they develop or enhance major recreation facilities. This is usually applied to golf courses, aquatic facilities, recreation centers, ice rinks, amphitheaters, and special-use facilities like sports complexes. The dollars gained either offset the cost of the capital improvement or the revenue bond that was used to develop or enhance the special-use facility. Once the capital improvement is paid off, the fee typically expires and is discontinued.

9.1.4 PARK DEVELOPMENT FEES

Many municipalities seek developer contributions for parklands and for the development of trails that run through the property being developed. The developer perceives the enhanced value such improvements mean for her or his development. Park or trail dedication as a requirement of subdivision development is a reliable means for maintaining equity of access to parks and trails.

9.1.5 PARK, OPEN SPACE, AND TRAIL BOND ISSUES

Agencies typically seek park bonds to meet park related needs. The key is to use debt financing through bonds to address needs that are both unmet and clearly a community priority. It is best to propose a capital-bond project that serves a variety of users and needs. Even in the worst economic downturn, most bond issues have been passing because communities are the direct recipient of the money, and the funding directly benefits residents.

9.1.6 PARTNERSHIPS

Partnerships are joint-development funding sources or operational funding sources formed between separate agencies, such as two government entities, a non-profit and a public agency, or a private business and a public agency. Partners jointly develop revenue-producing park and recreation facilities and share risk, operational costs, responsibilities, and asset management based on the strengths of each partner.

9.1.7 FRIENDS ASSOCIATION

Friends associations are typically formed to raise money for a single purpose, such as a specific park facility or program that will better the community.

9.2 OTHER FUNDING OPTIONS

9.2.1 CORPORATE AND PERSONAL LEAD GIVING

Corporate and personal giving involves the Department seeking corporate funds or personal gifts via a foundation partner or through personal contacts that are used to catalyze wider giving in support of a specific project or operation. The lead donations set the precedent for additional giving over a period of one year up to five years.

9.2.2 DONATIONS

Private donations are a popular form of fundraising by public agencies, particularly for facilities and services that are highly visible and valued by the public. Donations can be channeled through a foundation or friends group aligned with the parks and recreation system's priorities. Donations can be made through one or more of the following methods:

- Donations of cash to a specific park or trail segment by community members and businesses
- Donations of services by large corporations to reduce the cost of park or trail implementation, including equipment and labor to construct and install elements of a specific park or trail
- Reductions in the cost of materials purchased from local businesses that support parks and trails implementation, and can supply essential products for facilities

9.2.3 USER FEES

User fees are fees paid by a user of recreational facilities or programs to offset the costs of services in operating a park or a recreation facility, or in delivering programs. A perception of "value" needs to be instilled in the community for the benefits the agency is providing to the user for exclusive use. Future fees could be charged by the agency based on cost-recovery goals for the



parks and core recreation services, based on the level of exclusivity the user receives compared to the general taxpayer.

9.2.4 RECREATION SERVICE FEES

This is a dedicated user fee for the purpose of constructing and maintaining recreation facilities. The fee can apply to all activities that require a reservation. Examples of such activities include adult basketball, volleyball, tennis, and softball leagues, youth baseball, soccer, football and softball leagues, and special-interest classes. The fee allows participants an opportunity to contribute toward the upkeep of the facilities being used.

9.2.5 PARK REVOLVING FUND

This is a dedicated fund replenished on an ongoing basis from various funding sources such as grants, sponsorships, advertising, program-user fees, and rental fees within one or more parks. The agency could establish a revolving fund to support maintenance at multiple parks.

9.2.6 ADVERTISING SALES

Advertising can occur with trash cans, playgrounds, dog parks, trails, flower pots, and as part of special events to pay for operational costs.

9.2.7 MAINTENANCE ENDOWMENT FUND

This is a fund dedicated exclusively for a park's maintenance and is funded by a percentage of user fees from programs, events, and rentals. The fee is paid by users and is added to a dedicated fund for facility and equipment replacement, such as fitness equipment, water slides, lights, artificial turf, and park-maintenance equipment.

9.2.8 CATERING PERMITS AND SERVICES

This allows caterers to work in the park-and-recreation system on a permit basis with a set fee or a percentage of food sales returning to the Department. Many Departments have their own catering-service contracts and receive a percentage (10-15%) from the sale of food and drinks. This may be most suitable for large or special events occurring on publicly-owned properties. Another form of fee income is the temporary business license.

9.2.9 PRIVATE CONCESSIONAIRES OPERATING WITHIN A LAND LEASE

Contracts with private businesses to provide and operate desirable recreational activities provide compensation to the agency through a land lease. Contractors may include coffee shops, grill and food concessions, small restaurants, ice cream shops, bicycle shops, farmers markets, and small businesses. Land leases are usually based on 15% of the value of the land plus a percentage of gross revenues from the contractor on an annual basis.

CHAPTER TEN – PARKS MAINTENANCE ASSESSMENT

Parks, facilities and amenities that are clean and functioning efficiently are a critical element to delivering high quality programs and services. The charts below illustrate the acreage and square footage maintained by the City of Riverbank Parks and Recreation Department.

Parks	Address	Park Acreage
Castleberg Park	5845 8th Street	12.20
Community Center Park (Veteran's Park)	3600 Santa Fe Avenue	3.11
Harless Park	5600 Litt Road	2.89
Highway 108 - Water Feature	Highway 108	0.10
Hutcheson Park	3411 High Street	1.00
Jacob Myers Park	23653 S. Santa Fe Avenue	28.00
Pioneer Park	3017 High Street	3.00
Plaza Del Rio	6702 3rd Street	0.22
Rotary Centennial Park	5690 Prospectors Parkway	3.10
Safreno Park	2308 McAllister Lane	5.28
Silva Park	5800 Antique Rose Way	8.20
Sorensen Park	2522 Donner Trail	5.31
Sports Complex	2119 Morrill Road	11.00
Staley Park - Skate Park	3036 Santa Fe Street	0.50
Whorton Park	6082 Tennessee Avenue	1.00
Zerillo Park	2800 Briarcliff Drive	5.00
Facilities	Address	Facility Square Footage
City Hall North and South (combined)	6617 Third Street/6707 Third Street	9,113
Community Center Building	3600 Santa Fe Avenue	6,887
Corp Yard and Trailer	2901B High Street	4,778
Scouts Hall	3017 High Street	3,638
Sheriff Building	6727 3rd Street	9,063
Teen Center	3600 Santa Fe Avenue	2,639



10.1 PARK MAINTENANCE OVERVIEW

Parks have played a major role in the livability of Riverbank since its inception. Today, the park system consists of approximately 90 acres of developed, natural area, and green spaces woven throughout the city. Today, park facilities include three indoor facilities, one outdoor pool, 11 playgrounds, four picnic shelters, one skate park, one tennis court, four pickle ball courts, six outdoor basketball courts, four athletic fields and miles of hard and soft surface multi-use trails. The Core Services that the Park Maintenance Division provides are:

- Park Lands Management and Maintenance
- Facility and Building Management and Maintenance
- Community Partnerships and Events

10.2 KEY FINDINGS

- **Lines of Service:** The core lines of service (functions) performed by the Parks Division are numerous and are as follows:

Park Maintenance Lines of Service
Aquatic Facility Maintenance
Athletic Field Maintenance
Citizen Inquiries
Custodial Services/Cleaning
Department Special Event Support
Dog Park Maintenance
Education and Outreach
Equipment Maintenance
Facility Grounds Maintenance
Facility Repair
Floor Maintenance
Furniture, Fixtures, Systems (lighting, etc.) Maintenance and Repair
Integrated Pest Management
Irrigation Systems
Lake Management
Maintenance Yard Management
Natural Resource/Open Space
Park Building Maintenance
Park Permit/Special Event Facilitation
Pathway and Trail Maintenance
Preventative Facility Maintenance
Restroom Custodial Services
Trash Removal
Tree Maintenance
Turf Management

- **Maintenance Standards and Development of Work Plans** – Through the review of data and workshops with staff, the PROS Consulting team determined that the Parks division does have best practice maintenance standards in place including:
 - o Aquatics
 - o Athletic Fields

- o Facilities
- o General Parks
- o Trails
- **Work Order Management System** - The Parks Division should consider a Work Order Management System that identifies maintenance and asset replacement schedules.
- **Resources:** Staff lacks the necessary equipment or resources to perform tasks at a best practice level and the lack of staff creates hardships when managing turf, trees and landscaping.
- **Third Party Contracting of Services** - Given the “varying” cycles of the economy, it is imperative that the division continually evaluates the capacity and cost of service in the private sector. Currently, the City of Riverbank has one primary third party contract to provide basic turf management maintenance across the system as well as an enhanced level of service at the Sports Complex.
- **Task Time Analysis:** As part of the park maintenance operations analysis, the Riverbank Parks Division conducted a high-level task time analysis of full-time employees in the core areas in which it performs regular routine maintenance. The following chart provides a summary of the results of this effort.

Riverbank Parks Maintenance Task Time Analysis					
Task	# of Staff	Hours Spent	Per	Total Annual Manhours	Percentage of Time
Morning Load	5.00	0.75	Weekly	187.50	2%
Windshield Time	5.00	3.40	Weekly	850.00	7%
Break	5.00	2.25	Weekly	562.50	5%
Athletic Field Maintenance	2.00	0.63	Weekly	62.50	1%
Custodial Maintenance (trash, litter, restrooms)	6.00	12.08	Weekly	3624.00	29%
Equipment Repair	3.00	2.00	Weekly	300.00	2%
Integrated Pest Management (insecticides, pesticides, etc.)	4.00	0.88	Weekly	175.00	1%
Irrigation	3.00	0.88	Weekly	132.00	1%
Playground Maintenance	5.00	3.00	Weekly	750.00	6%
Recreation Facility Cleaning (floors, windows, etc.)	4.00	4.38	Weekly	875.00	7%
Recreation Facility Systems Maintenance	3.00	3.34	Weekly	501.00	4%
Routine Landscape Beautification Maintenance	3.00	0.42	Weekly	62.55	1%
Routine Park Facility Maintenance	4.00	2.25	Weekly	450.00	4%
Routine Parks Maintenance	7.00	3.00	Weekly	1050.00	8%
Routine Trail Maintenance	1.00	0.75	Weekly	37.50	0%
Tree Inspections and Protection	4.00	0.31	Weekly	62.60	1%
Tree Pruning and Maintenance	4.00	1.20	Weekly	239.20	2%
Admin duties	1.00	250.00	Annually	250.00	2%
Meetings	5.00	102.00	Annually	510.00	4%
Trainings	5.00	34.00	Annually	170.00	1%
Repair/Graffiti Maintenance - parks, facilities, trails, etc.	3.00	43.00	Annually	129.00	1%
Special Event/Park Shelter Rental/Rental Support	3.00	60.00	Annually	180.00	1%
Special Projects (for other Departments/Partners)	5.00	114.40	Annually	572.00	5%
Swimming Pool - End of Season Closing	2.00	16.00	Annually	32.00	0%
Swimming Pool - In Season Maintenance	4.00	93.25	Annually	373.00	3%
Swimming Pool - Opening for Season	2.00	20.00	Annually	40.00	0%
Tree Planting	0.00	0.00	Annually	0.00	0%
End of Day Unload	5.00	0.75	Weekly	187.50	2%
TOTAL				12364.85	100%
TOTAL ANNUAL "UNPRODUCTIVE TIME"		1787.50			14%

- 86% of all labor efforts for general parks and grounds maintenance is attributed to scheduled maintenance. This equates to 6.88 hours of every 8-hour day per person.
- Only 14% of all labor efforts for general parks and grounds maintenance is expended on traveling from location to location as well as “loading and unloading” of equipment at



the beginning and end of each work day. This equates to ONLY 1.12 hours of every 8-hour day per person, well below best practice guideline of 2.75 hours per day.

- Overall, approximately 6.88 hours (or 86%) of every 8-hour work day per person is spent performing actual work in the field. This exceeds the best practice guideline of 5.6 hours.
- **Annual Park/Facility Funding/Cost of Service:** The following charts provide a cost of service/funding analysis for the maintenance of parks and facilities in Riverbank. The below chart illustrates the following:
 - o Acreage/square footage for each park/facility maintained
 - o Annual funding allocated for park/facility maintenance
 - o Annual funding allocated across each park/facility for maintenance
 - o Total annual funding expended on maintenance for each park/facility
 - o Cost per acre/square foot expended on maintenance for each park/facility
 - o Best practice cost per acre/square foot expended on maintenance for each park/facility
 - o Additional annual funding needed to meet best practice cost per acre for each park/facility

THIRD PARTY CONTRACT ANALYSIS

Third Party Contract Cost of Service Analysis					
Park	Acreage	General Fund Funding	Cost per acre	Best Practice Cost Per Acre	Additional Funding Needed to Meet Best Practice
		\$ 93,200			
Castleberg Park	12.20	\$ 15,000	\$ 1,230	\$ 1,200	\$ (361)
Community Center	3.10	\$ 6,280	\$ 2,026	\$ 1,500	\$ (1,630)
Highway 108 - Water Feature	0.10	\$ 1,140	\$ 11,400	\$ 11,000	\$ (40)
Hutcheson Park	1.00	\$ 3,000	\$ 3,000	\$ 3,000	\$ -
Jacob Myers Park	8.00	\$ 15,100	\$ 1,888	\$ 2,000	\$ 900
Pioneer Park	3.00	\$ 4,200	\$ 1,400	\$ 1,500	\$ 300
Plaza Del Rio and Downtown Area	0.22	\$ 11,700	\$ 52,308	\$ 50,000	\$ (516)
Safreno Park	5.28	\$ 7,140	\$ 1,352	\$ 1,500	\$ 780
Sports Complex	11.00	\$ 23,700	\$ 2,155	\$ 5,000	\$ 31,291
Teen Center	0.72	\$ 2,400	\$ 3,333	\$ 3,000	\$ (240)
Whorton Park	1.00	\$ 3,540	\$ 3,540	\$ 3,000	\$ (540)
TOTAL UNDERFUNDED					29,943.09

- As noted in the chart above, the funding allocated for third party turf management and maintenance is underfunded by approximately \$30,000 annually.
 - o Generally, the third party contractor's cost per acre is in-line with best practice.
 - o The Sports Complex is underfunded and this is due in part to the lack of best practice scope of work included in the contract.

CITY OF RIVERBANK PARK MAINTENANCE ANALYSIS

City of Riverbank Park Maintenance Cost of Service Analysis						
Park	Riverbank Acreage	Personnel Costs	Non-Personnel Expenditures	Cost per acre	Best Practice Cost Per Acre	Additional Funding Needed to Meet Best Practice
		\$ 426,800	\$ 168,400			
Castleberg Park	12.20	\$ 66,901	\$ 12,800	\$ 6,533	\$ 7,500	\$ 11,791
Community Center Park (Veteran's Park)	3.11	\$ 20,676	\$ 34,400	\$ 17,724	\$ 17,500	\$ (695)
Harless Park	2.89	\$ 18,169	\$ 6,000	\$ 8,370	\$ 8,500	\$ 374
Highway 108 - Water Feature	0.10	\$ 6,690	\$ 2,000	\$ 86,900	\$ 85,000	\$ (190)
Hutcheson Park	1.00	\$ 13,010	\$ 2,000	\$ 15,010	\$ 15,000	\$ (10)
*Jacob Myers Park	28.00	\$ 85,449	\$ 12,400	\$ 3,495	\$ 3,500	\$ 151
Pioneer Park	3.00	\$ 24,725	\$ 11,000	\$ 11,908	\$ 12,000	\$ 275
Plaza Del Rio	0.22	\$ 9,960	\$ 7,400	\$ 77,612	\$ 85,000	\$ 1,653
Rotary Centennial Park	3.10	\$ 8,447	\$ 3,500	\$ 3,849	\$ 3,500	\$ (1,083)
Safreno Park	5.28	\$ 9,602	\$ 10,000	\$ 3,713	\$ 5,000	\$ 6,797
Silva Park	8.20	\$ 17,475	\$ 12,400	\$ 3,643	\$ 3,500	\$ (1,176)
Sorensen Park	5.31	\$ 10,342	\$ 3,500	\$ 2,609	\$ 3,500	\$ 4,727
Sports Complex	11.00	\$ 14,352	\$ 16,200	\$ 2,778	\$ 5,000	\$ 24,439
Staley Park - Skate Park	0.50	\$ 19,496	\$ 12,400	\$ 63,792	\$ 65,000	\$ 604
Whorton Park	1.00	\$ 13,807	\$ 10,000	\$ 23,801	\$ 20,000	\$ (3,802)
Zerillo Park	5.00	\$ 23,927	\$ 12,400	\$ 7,265	\$ 8,500	\$ 6,173
TOTAL UNDERFUNDED						\$ 50,028.12

*Please note: Analysis does not include an analysis of the separate Jacob Meyers Park enterprise fund as the majority of the enterprise fund funds the management and operations of the park, not the maintenance of the park.

- As noted in the chart above, the funding allocated for general park maintenance is underfunded by approximately \$50,000 annually.
 - Generally, the Division's cost per acre is in-line with best practice.
 - Parks maintenance is most significantly underfunded at the Sports Complex and Castleberg Park.

CITY OF RIVERBANK FACILITY MAINTENANCE ANALYSIS

City of Riverbank Facilities Maintenance Cost of Service Analysis						
	Facility Square Footage	Personnel Costs	Non-Personnel Costs	Cost per Square Foot	Best Practice Cost Per Square Foot	Additional Funding Needed to Meet Best Practice
Total Funding		\$ 119,000	\$ 101,073			
City Hall North and South (combined)	9,113	\$ 62,361	\$ 17,387	\$ 6.84	\$ 6.50	\$ (3,127)
Community Center Building	6,887	\$ 22,408	\$ 17,387	\$ 3.25	\$ 7.50	\$ 29,245
Corp Yard and Trailer	4,778	\$ 29,672	\$ 16,387	\$ 6.21	\$ 6.50	\$ 1,385
Scouts Hall	3,638	\$ 18,454	\$ 15,412	\$ 5.07	\$ 5.00	\$ (264)
Sheriff Building	9,063	\$ 27,379	\$ 17,153	\$ 3.02	\$ 3.00	\$ (190)
Teen Center	2,639	\$ 19,593	\$ 17,347	\$ 7.42	\$ 7.50	\$ 200
TOTAL UNDERFUNDED						27,248.50



- As noted in the chart on the previous page, the funding allocated for general facility maintenance is underfunded by approximately \$27,000 annually.
 - o Generally, the Division's cost per square foot is in-line with best practice.
 - o Facility maintenance is most significantly underfunded at the Community Center.

ANNUAL PARK/FACILITY FUNDING/COST OF SERVICE SUMMARY

The Parks and Facility Maintenance Division is currently underfunded by approximately \$107,000:

- o \$30,000 in additional funding for third party contract services
- o \$50,000 in additional funding for general parks maintenance
- o \$27,000 in additional funding for general facilities maintenance
- **Staffing:** The Parks Division is comprised of approximately six FTEs (4 FTE for parks and 2 FTE for facilities maintenance) with an additional three FTEs of service provided by third party contract turf maintenance. Best practice ratio of staff per park acres maintained at a best practice Level 2 maintenance standard for mini, neighborhood, community and regional parks is 1:10 acres. With the responsibility of actively managing 90 acres, the division DOES NOT have the staffing capacity to manage the developed parks system consistently at a Level 2 maintenance standard as the current ratio of combined FTEs to park acres is 1:12.9 acres. Staffing levels are deficient by approximately 2 FTE's in order to meet the staffing requirements for Best Practice Staff Levels.
- This equates to approximately an additional \$80,000 annually for parks maintenance personnel (or 75% of the overall additional \$107,000 annual funding for parks maintenance).
- It will be important to maintain this staffing level ratio as the park system expands in the future.

10.3 KEY RECOMMENDATIONS

- **Implement a Work Order Management System:** A work order system should be used to track lifecycle maintenance requirements that are tied to weekly and monthly work orders. This will help the staff to stay ahead of preventative maintenance and limit breakdowns. Further, utilizing the system will provide staff the necessary "actual cost" data for work being performed.
- **Systematic Approach to Contracting Services:** Through the refinement of management processes, the Parks Division should track unit activity costs through the implementation of a work order management system and in turn, continually analyze the unit cost to perform work internally against the unit cost to perform work by a third-party vendor.
- **Annual Park/Facility Operation and Maintenance Funding:** It is recommended that the parks division be allocated an additional \$107,000 for parks maintenance functions within the next three years to meet best practice cost per acre standards.
- **Parks Division Staffing:** PROS Consulting recommends maintaining the current staffing the addition of 2 maintenance worker FTEs within the next three years.
- **Update Work Plans Based on Maintenance Standards as needed:** Maintenance standards are based on a Level (1), (2) and (3) modes (tasks and frequencies of each task) and follow best practices as established by the National Recreation and Park Association. The division can continue to customize the standards based on the park and recreation values of the Riverbank

community and need to be adopted and implemented by staff and followed regardless of whether work is performed by City staff or third-party contractors. **Updating of maintenance standards for the Sports Complex is of the highest priority for the Division. The following chart provides a guideline for the maintenance standards that are recommended for the Sports Complex.**

Task	Frequency	Timeframe
Athletic Fields - Baseball / Softball / Soccer / Multi-use - Level 1		
Goal: To provide a high-quality and safe field that encourages greater use among the community for practice, games and tournaments		
Mow/Trim (1 1/2") March 1 through March 31	1x/7 days	Growing Season
Mow/Trim (2") April 1 through October 31	1x/7 days	Growing Season
Mow/Trim (2") November 1 through November 30	1x/7 days	Growing Season
Mow/Trim (2") December 1 through February 28	1x/7 days	Growing Season
Overseed	1x/year	Spring, Summer
Fertilizer	3x/year	Spring, Summer, Fall
Aerate	3x/year	Spring, Summer, Fall
Drag / Line fields for games	7x/week	Year Round
Pick up trash and clean during events	7x/day	Year Round
Inspect bleachers /scoreboards / security lighting	1x/week	Year Round
Water (1 inch / week)	As needed	Year Round
Concession Building - Level 1 Maintenance		
Goal: Provide a clean, inviting area to eat.		
Clean, sweep, vacuum	7x/week	Year-round
Remove and/or replace Garbage Bags and Trash cans	7x/week	Year-round
Clean and stock restrooms	7x/week	Year-round
Clean windows	1x/week	Year-round
Check Lighting	7x/week	Year-round
Check Heating / Cooling	7x/week	Year-round
Clean and wipe tables	7x/week	Year-round
Check and clean storage areas	1x/week	Year-round
Wash areas outside concession stands	7x/week	Year-round
Update and paint signage	1x/year	Year-round
Clean Patio	7x/week	Year-round
Major Mechanical System Inspection (Preventative Maintenance)	1x/month	Year-round
Schedule Lighting, Mechanical Systems	1x/week	Year-round
Inspect furniture	1x/week	Year-round

- **Cost Avoidance:** Maintenance operations are typically spent in divisions that do not have direct revenue sources that can offset expenditures. There are opportunities, however, to reduce expenditures through the following strategies.
 - **Adopt-a-Trail Programs:** These are typically small-grant programs that fund new construction, repair or renovation, maps, trail brochures, and facilities (bike racks, picnic areas, birding equipment, etc.), as well as providing maintenance support. These programs are similar to the popular "adopt-a-mile" highway programs most states utilize. Adopt-a-trail programs can also take the form of cash contributions in the range of \$12,000 to \$16,000 per mile to cover operational costs.
 - **Adopt-a-Park Programs:** These are small-grant programs that fund new construction and provide maintenance support. Adopt-A-Park programs can also take the form of cash contributions in the range of \$1,000 to \$5,000 per acre to cover operational costs.
 - **Operational Partnerships:** Partnerships are operational funding sources formed from two separate agencies, such as two government entities, a non-profit and a public agency, or a private business and a public agency. Two partners jointly share risk, operational costs, responsibilities, and asset management based on the strengths of each partner.



CHAPTER ELEVEN - STRATEGIC IMPLEMENTATION

The consultant synthesized its findings to develop a framework of strategic recommendations for the City of Riverbank Parks and Recreation Department. It is recommended that the strategies align with seven major categories of best practices:

1. Growing the Park System.
2. Trails.
3. Park Land Improvements.
4. Economic Development through Parks.
5. Programming.
6. Operations and Staffing.
7. Financing the Park System.

The implementation matrix should be evaluated and refined as development, economic and political circumstances shift and be used to validate the City's vision and mission. A complete implementation plan matrix, including tactics, accountability, timelines and performance measures, will be provided as a separate document.

1. Growing the Park System	
Increase the proportion of park acres per population through a variety of park type amenities, and open space options.	
Strategy	Collaborate with local partners, to develop innovative parks, recreation facilities, and spaces to achieve the levels of service targeted in this plan and that are aligned with other planning efforts including, but not limited, to the 2025 General Plan.
Strategy	Develop a network of parks, trails and open spaces that protect the natural areas in public spaces in Riverbank and connect to population centers that will support the needs of all residents through well designed parks and recreation amenities.
Strategy	Utilize the design principles in this plan for each type of park to guide the development community and landscape architects when designing parks and operational staff to follow for maintaining the park or amenity after it is developed.
Strategy	Determine if any current or future parks (other than Jacob Myers Park) are to be defined as destination location parks that frame the highest quality of land management maintenance and park related services.
Strategy	Continually update the lifecycle asset management plan for the Department.

2. Trails	
Establish connectivity between parks and greenways that is accessible by pedestrians, bikes and parks and open space in Riverbank.	
Strategy	Work with other City departments to identify and connect sidewalk and bike lanes to trails to improve access to desirable destinations.
Strategy	Prioritize existing City-owned land and future land acquisition decisions to focus investments in a bike pedestrian trail system that achieves active transportation strategies and the development of a contiguous network.
Strategy	Continually update the lifecycle asset management plan for the ongoing maintenance of the trail system.
Strategy	Continually encourage and seek funding for the development of trails and trail amenities, and construct in appropriate areas of the City. Consider partnerships for the maintenance of the trails in particular at Jacob Myers Park.

3. Park Land Improvements	
Provide a park and recreation system offering the community a variety of parks and services that integrate environmental design, safety, community needs and emerging trends.	
Strategy	Utilizing the General Plan 2025 as a guide, implement improvements that are mindful of environmental stewardship to aid in the protection of park resources and ensure that they will be protected for future generations.
Strategy	Continue to utilize the formal Public Art Program to continue to encourage art in parks and public spaces to generate interest and appreciation.
Strategy	Make all parks and services welcome and accessible to all level of users, i.e., adults, children, seniors, and all-abilities through clean restrooms when feasible, seating or benches, running water fountains or water stations, and park features usable for all abilities in parks (ADA).
Strategy	Consider the incorporation of technology into the design of parks and programming through partnerships to produce a state-of-the-art park system (systems such as cameras, irrigation, Wi-Fi, pedestrian counters, automated restrooms, solar, Sybertech trash receptables, etc.).

4. Economic Development through Parks	
Invest in infrastructure/services as the parks systems expands due to population growth.	
Strategy	Develop athletic fields that can support sports tourism through mid-scale baseball, softball and soccer tournaments as part of expansion of the Sports Complex.
Strategy	Complete Jacob Myers Park in a way that supports the interests of people desiring open space, walking trails and outdoor recreation.



5. Recreation Programming	
Maintain community participation in programs at 33% in an effort to continually exceed national standards.	
Strategy	Refine core program services that align with community need.
Strategy	Track lifecycles of programs and drop programs in their down cycle by adding new programs to take their place.
Strategy	Create additional target marketing strategies to inform residents of the services being provided.
Strategy	Develop a yearly program plan specifically for the core program areas.
Strategy	Update the special event policy to ensure equitable utilization of City resources when supporting external events.
Strategy	Engage volunteers in the delivery of programs and services to build advocacy and support for the park and recreation system.

6. Operations and Staffing	
Empower and train current department employees while growing staff to meet the emerging needs of the community.	
Strategy	Ensure job descriptions are reviewed and updated and salary assessments is completed to meet pay levels that keep salaries competitive.
Strategy	Create a succession plan for the Department.
Strategy	Continually encourage and seek funding to meet the emerging functions of the Department, including, but not limited to, trail maintenance, work order management, urban forest management, open space management, etc.

7. Financing the Parks System	
Pursue adequate funding to support existing parks, new parks, and other park types.	
Strategy	Ensure a fiscally sustainable parks system by leveraging financially-driven decisions.
Strategy	Ensure the Development Impact Fee for Parks and funding from other funding sources, including grants, are pursued to maintain the current level of service for parks and recreation within the community.
Strategy	Seek additional funding opportunities to support capital and operational needs as identified in the Plan.

CHAPTER TWELVE - CONCLUSION

The City of Riverbank's Parks and Recreation Master Plan was developed to provide the organization a roadmap for the future using knowledge gained from community input, park and program inventory review, comparison to national standards and trends and an assessment of the current economic and political climate. The planning process incorporated a comprehensive series of discovery and analysis strategies to understand the workings of the organization and included a strong community engagement process. Several strategic recommendations resulted from this effort and were aligned into the seven major categories of implementation actions found in Chapter 11.

Overall, the park system is highly valued by community residents and leaders. It serves multiple purposes including recreational, environmental, educational, social, economic development and higher quality of life. Adequate funding for upkeep of existing parks is a priority for residents as well as developing new parks and facilities. Improved communication between the community and the Department is another opportunity for enhancing programs, services and project activities. In short, investment in the City's park and recreation system should be a priority.

Programmatically, the Riverbank Parks and Recreation Department is meeting some of the major needs of the community, but a regular review of offerings will ensure successful outcomes.

Operationally, the department is meeting expectations. The continued development of processes that will allow for improved maintenance decision-making and utilization of contractual services is recommended as staffing and funding levels are below needs.

The City of Riverbank is a growing community and based on population projections will continue to grow. While growth can be positive it can also stress the existing park system if strategies and policies are not in place to meet the new growth. As of today, the City lacks sufficient park land to meet the needs of residents particularly in neighborhood and community park types. As a result, other amenities provided through these park types are in shortage such as athletic fields, indoor facility space and reservable picnic shelters. While most will require long-term solutions, some areas of improvement in the short-term can be accomplished with enhanced partnerships such as joint-use opportunities with Humboldt Unified School District as well as close coordination with the development community.

To ensure that the City has a plan for capital projects, a three-tier approach was developed that organizes projects into the following categories: Sustainable projects, Expanded Services projects and Visionary projects. Each of these approaches provides a way to categorize and prioritize projects which ultimately furnished a comprehensive capital improvement plan totaling \$59M to be accomplished over the next 10 years.

The Parks and Recreation Master Plan includes a system-wide approach for accomplishing short and long-term goals, initiatives, tactics and measurements to ensure that as the City grows in population, the Department does so as well – effectively, efficiently and sustainably – while providing high quality services, programs, parks, and facilities to the community for many years to come.



APPENDIX A – RECREATION PROGRAM STANDARDS

Recreation program standards are developed to support core recreation services. The standards focus on delivering a consistent high-quality experience while achieving operational and cost recovery goals as well as marketing and communication standards that are needed to create awareness and customer loyalty.

To assist staff in its continual pursuit of delivering high quality consistent programs to the community and in achieving the cost recovery goals, the following standards may be considered for implementation.

HIGH-QUALITY EXPERIENCE STANDARDS

For core services, the following standards must be in place to promote a high-quality experience:

- Instructor or program coordinators' qualifications are consistent with in-the-field experience in the program specialty for which they are responsible.
- The instructor-to-participant ratios are appropriate for the participant to feel safe and attended to.
- The program is provided in the appropriate safe and clean recreation space, either indoor or outdoor, designed for that program.
- Minimum and maximum numbers of participants are set for the program or class that will allow for a high-quality experience.
- Recreation equipment or supplies that are used by the participant are high quality, safe, and appropriate for the participants to use or consume.
- The length of the program is commensurate with the attention capability of the participants to respond effectively and enjoy themselves in the activity.
- Appropriate support staff or volunteers are in place to help guide participants and support teachers or program supervisors.
- Staff is trained in first aid and CPR. Volunteers are trained in first aid and CPR when appropriate.
- A first aid kit is readily available and accessible in less than a minute.
- Staff and volunteers are trained in customer service and diversity training to make all participants feel welcome and appreciated.
- Customer feedback methods are in place to seek input from participants on their expectations of the program and the results of their experience. This should include pre- and/or post-evaluation focus groups or trailer calls.
- Pricing of services is explained to participants and/or parents on the level of investment they are making in the program and the level that Riverbank Parks and Recreation Department is investing in their experience.
- Each instructor or program supervisor will be provided a toolbox that includes their class or program roster, with phone numbers or email addresses, name tags for participants, customer evaluations for users, registration forms, a program guide, pertinent recreation information and emergency phone numbers, thank you cards for participants at the end of the class, and an introduction sheet of what will occur in the program or class, how it will be conducted, and what outcomes we hope to achieve.

- All class or program policies are available to the instructor or program supervisor to adequately explain policies to the user.
- Appropriate recognition and awards are given at the end of the program to participants based on outcomes achieved or skills learned.
- New staff, volunteers, and contract employees working with children will have background checks.
- Any disciplinary actions taken by an instructor or program supervisor with a program participant will be written and documented.
- Class, program curriculum, or work plans will be prepared by the instructor and program supervisor before the class or program begins and is signed off by the appropriate program staff within the Parks and Recreation Department.
- Staff will be dressed in the appropriate Riverbank recreation uniform that includes a nametag.
- Drivers that transport participants must have the appropriate license, certifications, and authorization.
- Equipment or program space will be inspected prior to the class or program; noted by the instructor or program supervisor; and recorded daily, weekly, and monthly.
- Performance measures tracked will be shared with instructors or program staff at the end of each session.
- Exit interviews will be conducted with part-time staff before they leave each season and noted in their file as to re-hire or not.
- A class or program budget will be prepared for each activity and shared with the instructor or supervisor on how class monies are spent. Final budget results will be documented at the end of the program area and shared with the supervisor or manager.
- Appropriate required licenses and certifications set by law will be reviewed and filed before programs begin.

OPERATIONAL AND PRICING STANDARDS FOR PROGRAMS

- Pricing of services will be established based on cost-of-services and overlaid into programs or classes based on primetime and non-primetime rates, location, time, age segment, group, and level of exclusivity that users receive over and above use by general taxpayers. Staff will be trained in setting prices.
- Scholarship programs will be in place for those that require financial assistance in order to participate in Riverbank Parks and Recreation Department recreation facilities and programs.
- Results of cost of service for programs will be posted and shared with staff on all services regardless of whether they are underperforming, meeting, or exceeding the recovery goals.
- On a regular basis, competitor and other service providers will be benchmarked and evaluated for changes they are making and how they compare with division efforts in their core services provided.
- Partnerships with core program services will be updated yearly, their level of contribution will be documented, and tracking performance measures will be shared with each partner.



City of Riverbank Parks and Recreation

- Non-core services will be evaluated yearly and reduced, eliminated, or transferred to other service providers reducing the impact on staff time.
- Maintenance and recreation staff will discuss standards for programs taking place in recreation amenities in Riverbank Parks and Recreation Department annually.



RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	September 22, 2020
Subject:	First Reading by Title Only and Introduction of a Proposed Ordinance Approving Development Agreement 03-2019 By and Between the City of Riverbank and DT California, LLC, Doing Business as Aeriz
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that Council adopt an Ordinance (Attachment 1) approving a development agreement by and between the City of Riverbank and DT California LLC, a Delaware limited liability company doing business as Aeriz.

SUMMARY

DT California LLC ("The Applicant") has requested a Development Agreement (Attachment 2) and Conditional Use Permit to allow for commercial cannabis cultivation, distribution, manufacturing, and limited retail activities to be located at 2906 Santa Fe Street. The former cannery site is proposed to be developed in three (3) Phases. Phase 1 would consist of cannabis cultivation in existing Building 4 and cannabis extraction, manufacture, distribution, and limited retail in existing Building 5. Phase 2 would consist of cannabis cultivation in existing Buildings 1, 2, and 3. Phase 3, not yet finalized, could consist of new building(s) for cultivation with parking and landscaping improvements.

The project site has a General Plan Land Use Designation of Mixed Use (MU) and is zoned Cannery District (CD) within the Downtown Specific Plan. Any parcel(s) that was purchased by the applicant at the same time as the cannery site and is not zoned Cannery District, is not a part of this project or approvals.

BACKGROUND

Starting in 1996, citizens of the State of California approved Proposition 215, the Compassionate Use Act ("CUA"). The CUA was approved to allow Californians with a

serious illness to legally possess, use, and cultivate cannabis for medical use under state law.

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

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

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

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

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

The Planning Commission at a special meeting on September 1, 2020 with a vote of 4-1(absence) recommended that the City Council approve Development Agreement 03-2019 with Resolution 2020-009 (Attachment 3). They also approved with a vote of 4-1(absence) Conditional Use Permit 01-2020 with Resolution 2020-010 (Attachment 4). Staff received one comment letter right before the Planning Commission meeting of September 1, 2020, which was also resubmitted for this public hearing (Attachment 5).

Light industrial uses are permitted in Cannery District buildings including warehouse buildings existing at the time of the Downtown Specific Plan's adoption. These conditional uses include:

- Warehouse, storage, distribution, cheese manufacturing, auto repair and similar light industrial uses. Concerns related to employee parking and commercial truck traffic must be addressed as part of the review process. It is highly encouraged that manufacturing businesses conduct retail sales out of the operation on the same site.

Staff has no concern with employee parking and commercial traffic in Phases 1 and 2, which will use existing buildings, parking, and truck routes. Commercial truck traffic will be rare and may be limited to construction activities. Caltrans has conditioned the project to prohibit commercial truck traffic on Santa Fe and Topeka Streets at Callander Avenue as there will be a pedestrian crosswalk on Callander Avenue between these two streets. Product will arrive and depart in 8-10 sprinter vans per week.

The City is currently adding a signal and improving the Patterson Road and Railroad/Roselle Avenue intersection, which is adjacent to the south property line of the project site. The applicant has agreed to pay a 10% fair share (\$180,000) of the total cost of these improvements. Frontage dedications to the City have already been made. The south fence of the project is currently within new City right-of-way and will be removed during the City's construction activities on Patterson Road.

In Phase 3, any future building(s) will require additional CEQA analysis, Architecture and Site Plan Review, and possibly an amendment to the Downtown Specific Plan. Parking for Phase 3 will be reviewed during this approval process when the number, sizes, and uses of the future building(s) have been determined.

III. PROJECT INFORMATION

PHASE 1

· Building 4

The Applicant is proposing to conduct a cannabis cultivation operation in Building 4, which was constructed in 1959. This building is located at the southern end of the project near Building 5 and Patterson Road. It is 100,000 sf in size. The operation would be regulated by the California Department of Food and Agriculture (CDFA) under the category of: 5,001-10,000 sf small indoor cultivation (Type 2A). Most recently, Building 4 has been used to store empty cans for packing fruits and vegetables. The proposed floor plan for Building 4 is attached to the Development Agreement (Attachment 2).

· Building 5

The Applicant is proposing the extraction, manufacture, distribution, and limited retail sales of commercial cannabis in Building 5. Built in 1960, Building 5 is 50,000 sf in size and has been dry, cold storage in the past. This building is the closest to Patterson Road at the south end of the project site. The BHO and CO2 cannabis extraction process proposed, as well as a manufacturing operation, requires a Type 7 (volatile) license from the Manufactured Cannabis Safety Branch (MCSB) of the State. Regulated by the Bureau of Cannabis Control (BCC), the distribution of cannabis requires a Type 11 license and is defined as the transporting of cannabis, the arranging for the testing of cannabis, and for conducting a quality assurance review of the cannabis products to ensure they comply with all packaging and labeling required by the State. A cannabis retail use requires a general Type 10 license from the State like a dispensary does. Retail sales will be limited to the business owners who will tour the facility and purchase product to sample at home

prior to ordering items for their businesses. The proposed floor plan for Building 5 is attached to the Development Agreement (Attachment 2).

Access to Buildings 4 and 5 by employees and shippers will be through a controlled-access gate on Sierra Street by an existing weigh station. Employees and shippers exiting the facility will follow Sierra Street east to Railroad Avenue, then south on Railroad Avenue to the Roselle Avenue/Patterson Road intersection. These roads are all existing truck routes. Building 5 is expected to generate 8 -10 sprinter vans per week.

PHASE 2

· Buildings 1, 2, and 3

In Phase 2, the Applicant is proposing to conduct a cannabis cultivation operation in Buildings 1, 2, and 3. Again, cultivation is regulated by the California Department of Food and Agriculture (CDFA). These buildings are existing and located at the northern end of the project near the Highway 108 viaduct. Building 1 is 49,200 sf in size and was built in 1956. Built in 1952, Building 2 is 25,000 sf in size and adjacent to Building 1. Building 3, constructed in 1969 is 109,500 sf in size and across Topeka Street from Buildings 1 and 2.

PHASE 3

· New Building(s)

In Phase 3, new building(s) could be constructed as well as parking improvements and landscaping. Any additional building would house cultivation operations and require architectural review and environmental analysis. An amendment to the Downtown Specific Plan may be required.

The parking lot, which covers almost half of the site, will be reconstructed or resurfaced and restriped. ADA parking spaces and safe paths of travel will be added to meet 2019 California Building Code requirements. Trees and irrigation will be added to provide shade and aesthetic interest to the parking lots and perimeter while keeping the focus on security for the site. A site plan with conceptual landscaping is attached to the Development Agreement (Attachment 2). Any landscaping in the attached plans is purely conceptual. The Conditional Use Permit requires that landscape and irrigation plans be submitted under separate permit after project approval.

IV. ANALYSIS

DEVELOPMENT AGREEMENT (DA)

The applicant seeks to enter a development agreement (Attachment 2) with the City for the purpose of operating a commercial cultivation, manufacturing, distribution, and limited retail facility at the former cannery site.

The major elements of the development agreement are summarized below:

- The term of the agreement is twenty (20) years.

- The first two phases of the plan are to operate a cannabis cultivation facility in Buildings 1, 2, 3, and 4. Building 5 will house manufacturing, distribution, and limited retail uses. Phase 3 is to be determined under additional analysis with public hearings.
- The project would provide the applicant with substantial private benefits that will place burdens upon City infrastructure, services, and neighborhoods. The applicant seeks to offset these impacts through a monthly payment classified as a “Public Benefit” amount. The Public Benefit is designed and intended to offset or mitigate any potential impacts of the project on the community.
- The applicant will be applying for the following license types:

All Indoor Types	Cultivation
Type 6,7	Manufacturer
Type 10	Limited Retailer
Type 11	Distribution

- All Indoor Types - Cultivation.** For cultivation in Buildings 1, 2, 3, and 4, Aeriz agrees to pay to the City the following Public Benefit:

Years 1-4	\$2.50 per square foot
Years 5-8	\$2.75 per square foot
Years 9-12	\$3.25 per square foot
Years 13-16	\$3.50 per square foot
Years 17-20	\$4.00 per square foot
- Type 6, 7 - Manufacturer.** For manufacturing within Building 5, Aeriz will pay to the City a Public Benefit of:

Years 1-4	1% of gross receipts
Years 5-8	1.25% of gross receipts
Years 9-12	1.75% of gross receipts
Years 13-16	2% of gross receipts
Years 17-20	2.5% of gross receipts
- Type 10 - Limited Retailer.** Developer’s retail activity at the Site will be limited to commercial cannabis industry operators and will not be open to the general public. Developer shall maintain visitor logs and sale records of retail activity at the site which shall be subject to periodic inspection by City upon 24-hour notice to ensure compliance with this Section. Developer may seek authorization from City to open retail activity to the general public. Any such request shall be processed as a Major Amendment to the Development Agreement. Approximately 1,600 square feet of Building 5 is proposed for future limited retail with a Public Benefit as described below:

Years 1-20	The greater of \$7,000 or 5% gross receipts	Monthly when operations begin
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- d. **Type 11 - Distribution.** Concerning a distribution Public Benefit, zero (\$0) is due for “wholesale” distribution from this facility to retailers. If the facility begins to distribute for other third party (non Aeriz affiliated product):

Year 1	4% gross receipts	Every quarter following the 2 nd quarter after issuance of the conditional use permit
Years 2-20	5% gross receipts	Every quarter following the 5 th quarter after issuance of the conditional use permit to end of term

- **Fair Share Improvements** - The City is currently adding a signal and improving the Patterson Road and Railroad/Roselle Avenue intersection, which is adjacent to the south property line of the project site. The applicant agrees to pay a 10% fair share (\$180,000) of the total cost of the improvements. Frontage dedications to the City have already been made.

It should be noted that the term for this development agreement is proposed to be substantially longer than previous cannabis related development agreements agreed to by the City of Riverbank. The primary reason for this is related to substantial difference in scale between this project and any other cannabis related projects considered prior to this point. Not only is the size of the property an order of magnitude larger than almost any other industrial property in Riverbank the investment required to acquire and bring the older buildings up to code is significant. This means that the initial investment will take a number of years to repay itself and therefore the developer requested a lengthy term to protect that initial investment. Additionally, this project will be relatively rare in the sense that it will have three (3) industrial type cannabis uses all part of the same business (cultivation, manufacturing, and distribution).

The negotiation of public benefit amounts were developed through a collaborative process between staff and the developer which included reviewing actual comparable examples in other jurisdictions throughout the state and considering the overall scale of the operation. Based on this process staff believes that the proposed public benefit provisions previously stated will be generally competitive for the City while at the same time giving the developer to remain competitive in the marketplace.

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

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

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

- § *Policy LAND-4.1: The City will encourage, through incentives, streamlining, flexible standards, and other means, development of employment-generating uses.*
- § *Policy LAND 4.5: The City will review industrial development applications and apply appropriate conditions to ensure compatibility with nearby existing and planned land uses.*
- § *Policy ED-2.5: The City of Riverbank will take a targeted approach to business attraction that focuses on industry sectors that help the City address the following priorities:*
 - Ø *Attract business that tie into regional growth opportunities*
 - Ø *Attract businesses that address local-serving and regional retail market opportunities*
 - Ø *Attract uses that contribute towards a vibrant and revitalized downtown district.*
- o Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole.

As with other cannabis businesses in the City, safety is paramount. A sound security plan with cameras, alarms, and guards will ensure the safety of Aeriz employees, contractors, and the neighborhood.

- o Will not adversely affect the orderly development of property or the preservation of property values.

The cannery site is currently an eyesore that sits vacant, surrounded by commercial and industrial businesses and neighborhood housing. Property around it is already developed. Rehabilitating the cannery with a prosperous and growing business should raise surrounding property values.

- o Is consistent with the provisions of Government Code sections 65864 through 65869.5.

The project is consistent with the provisions of Government Code sections 65864 through 65869.5 in that a Development Agreement will provide assurance to the applicant that upon approval of the project, the applicant may proceed with the project under existing codes and policies and that the project is not located in an area with a local coastal program.

- o Contains a legal description of the property.

The Development Agreement contains Exhibit A, a legal description of the property.

CONDITIONAL USE PERMIT (CUP)

Prior to commencing operation of any commercial cannabis activity on the site, the developer shall obtain a Conditional Use Permit and any subsequent City approvals. The 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. A public notice for this requirement was posted at the City's usual locations for the special Planning Commission meeting of September 1, 2020 on August 19, 2020. Conditions of Approval can be found attached to Resolution 2020-010 (Attachment 4).

ARCHITECTURE AND SITE PLAN REVIEW (ASPR)

The potential development of new building(s) in Phase 3 will require Architecture and Site Plan Review and CEQA analysis to ensure the proposal is in conformance with the Downtown Specific Plan EIR, adopted in 2015. An amendment to the Downtown Specific Plan may be required.

IV. STRATEGIC GOALS

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

V. ENVIRONMENTAL DETERMINATION

Phases 1 and 2, existing Buildings 1, 2, 3, 4, and 5 of the proposed project qualify for a Class 1 categorical exemption pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility that will not have a significant effect on the environment.

Phase 3, potential new building(s) for cultivation with parking and landscape improvements, will require additional CEQA analysis and may tier off the Downtown Specific Plan EIR at time of development.

VI. RECOMMENDATION

Adopt Ordinance No. 2020-XXX approving a development agreement by and between the City of Riverbank ("City") and DT California, LLC., a Delaware limited liability company doing business as Aeriz.

VII. ATTACHMENTS

Attachment 1 - Ordinance No. 2020-XXX Aeriz DA

Attachment 2 – Aeriz Development Agreement with Exhibits

Attachment 3 – PC Resolution 2020-009

Attachment 4 – PC Resolution 2020-010, no exhibits

Attachment 5 - Public Comment Letter

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
APPROVING DEVELOPMENT AGREEMENT 03-2019 BY AND BETWEEN THE
CITY OF RIVERBANK AND DT CALIFORNIA, LLC, DOING BUSINESS AS AERIZ**

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, DT California, LLC, a limited liability company doing business as "Aeriz" submitted an application to the City for consideration of a development agreement to operate a cannabis facility with cultivation, manufacturing, distribution, and limited retail operations (the "Project"); and

WHEREAS, DT California, 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, DT California, LLC has agreed to purchase that certain real property located at 2906 Santa Fe Street in the City of Riverbank, Assessor's Parcel Numbers 132-034-012, 132-023-020, and 132-034-017 which DT California, LLC intends to develop the Project; and

WHEREAS, City and DT California, 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 September 1, 2020, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, on September 22, 2020, and October 13, 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 DT California, LLC., a limited liability corporation doing business as Aeriz, and the City of Riverbank for the development of the Project, and instructs the City Manager to execute the Development Agreement subject to final, technical revisions as required and approved by the City Attorney.

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

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

SECTION 4. Environmental impacts for the Project have been reviewed and assessed by the City pursuant to CEQA (Public Resources Code section 21000 *et seq.*; California Code of Regulations Title 14, section 15000 *et seq.*). Phases 1 and 2 of the Project are 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. Phase 3 will receive additional CEQA analysis before development.

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

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

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

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the 22 day of September, 2020; motioned by Council Member _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

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

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

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

DEVELOPMENT AGREEMENT

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

RECITALS

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

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

- D. Developer proposes to improve, develop, and use (including the leasing of) real property to conduct Commercial Cannabis Activity, as defined in Section 1.4 (v) of this Agreement and to operate a Cannabis Dispensary, as defined in Section 1.4(n) of this Agreement, in strict accordance with California Cannabis Laws, as defined in Section 1.4 (k) of this Agreement, as amended from time to time (the "Project") and the Municipal Code of the City of Riverbank as amended to comply with changes in the California Cannabis Laws. The Project is phased as shown in Recital I.
- 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 holds an agreement to purchase that certain real property located at 2906 Santa Fe Street in the City of Riverbank, County of Stanislaus, State of California, Assessor's Parcel Numbers 132-023-020, 132-034-017, and 132-034-020 (collectively, the "Site"), more particularly described in the legal description attached hereto as **Exhibit A** and the Site Map attached hereto as **Exhibit B**. The site historically was operated as a cannery that processed the region's fruits and vegetables and, at one time, consisted of buildings totaling at least 503,900 square feet and perhaps as much as 785,000 square feet. The Project area is depicted in the Site Plan attached hereto as **Exhibit C**. Phase 1 of the Project includes use of Buildings 4 and 5 on the Site Plan. Phase 2 of the Project includes use of Buildings 1, 2, and 3 on the Site Plan. A potential Phase 3 may consist of future new construction on the vacant areas of the Property.

- 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 holds a legal and equitable interest in the form of an agreement to purchase the Site for the purpose of owning the Site and operating the Project.
- 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 September 1, 2020, the Planning Commission, in a duly noticed and conducted public hearing, considered Developer's applications for this Agreement and for Conditional Use Permit No. 01-2020.
- O. On September 1, 2020, the Planning Commission recommended the City Council adopt Ordinance No. 2020-XXX, which would allow the Developer to develop and operate the Project at the Site and approved Conditional Use Permit No. 01-2020 with Resolution 2020-010.
- P. On September 22, 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) redevelop an infill location in the City center (iii) create a physical environment that is consistent with and complements City's goals and visions; (iv) protect natural resources from adverse impacts; (v) improve, upgrade, and create additional community facilities and infrastructure, enhance services, and assist in implementing the goals of the General Plan; (vi) reduce the economic risk of development of the Site to both City and Developer; and (vii) create opportunities for job creation.
- 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, City's Downtown Specific Plan ("Specific Plan") and its associated

Cannery District zone (“Zoning”) and has conducted all necessary proceedings in accordance with Riverbank Municipal Code for the approval of this Agreement.

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

AGREEMENT

ARTICLE 1 GENERAL PROVISIONS

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

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

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

<u>Designation</u>	<u>Description</u>
Exhibit A	Legal Description
Exhibit B	Site Plan
Exhibit C	Floor Plans
Exhibit D	Notice of Non-Performance Penalty
Exhibit E	Indemnity 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 Licenses” 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 No. 01-2020 approved by the Planning Commission and 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) “Cultivation Area” means the square footage where any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis within the Canopy (as defined in 3 Cal.C.Reg.§8000(f)) takes place on the Site. Developer shall notify City of the Cultivation Area by the Effective Date of this Agreement. In the event Developer wishes to expand the Cultivation Area at any time during this Agreement, Developer shall notify City within ten (10) days after any expansion. Developer agrees to

allow City access to the Site at any time between the hours of 6:00 a.m. and 11:00 p.m. on any day of the week, or at any reasonable time, to ensure compliance with this requirement.

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

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

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

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

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

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

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

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

(ff) “Marijuana” has the same meaning as “Cannabis” as defined in Subsection 1.4 (e) and those terms may be used interchangeably.

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

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

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

(jj) “Minor Amendment” means a clerical amendment to the Agreement that shall not materially affect the terms of the Agreement and any amendment described as minor herein.

(kk) “Mortgage” has the meaning set forth in Article 7.

(ll) “Non-Performance Penalty” has the meaning set forth in Section 4.5.

(mm) “Notice of Non-Performance Penalty” has meaning set forth in Section 4.5.

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

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

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

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

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

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

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

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

(vv) “State” means the State of California.

(ww) “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.

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

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

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

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

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 twenty (20) 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 five (5) calendar years 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) Specific Plan, (c) Zoning, (d) Agreement, (e) Conditional Use Permit, and (f) 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, in accordance with the requirements set forth in the Development Agreement Statute. The City Manager shall, on behalf of City, have sole discretion for City to determine if an amendment is a Minor Amendment or a Major Amendment. Nothing in this Agreement shall be construed as requiring a noticed public hearing, unless required by law.

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

Section 1.11. Funding Agreement for Processing Costs. Developer has deposited Thirty Thousand Dollars (\$30,000) with City to pay for the Application, all actual fees and expenses incurred by City that are related to the preparation and processing of this Agreement, including recording fees, publishing fees, staff time, consultant and attorney fees and costs (collectively, "Processing Costs"). 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 of written request by City. 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.

(a) **Authorized Licenses.** Developer shall be authorized to develop, construct, and use, or have one or more affiliates use, the Site for Commercial Cannabis Activity consistent with the following license types (the "Authorized Licenses"):

All Indoor Types	Cultivation
Type 6,7	Manufacturer
Type 10	Retailer
Type 11	Distribution

(b) **Limited Retail Activity.** Developer's retail activity at the Site will be limited to commercial cannabis industry operators and will not be open to the general public. Developer shall maintain visitor logs and sale records of retail activity at the Site which shall be subject to periodic inspection by City upon 24-hour notice to ensure compliance with this Section. Developer may seek authorization from City to open retail activity to the general public. Any such request shall be processed as a Major Amendment.

(c) **Affiliate Access and Operation.** Developer shall be permitted to use, or have one or more affiliates use, the Site consistent with the Authorized Licenses for the Term of this Agreement and during the time Developer is, or affiliates are, applying for the Authorized Licenses with the applicable State Licensing Authority, subject to the applicable assignment provisions in section 10.1 of this Agreement. Notwithstanding the foregoing, Developer is, or its affiliates are, required to apply for and obtain the Authorized Licenses from the State of California. If the State Licensing Authority does not grant an Authorized License to Developer or Developer's affiliate, Developer or affiliate, as the case may be, shall immediately cease the Commercial Cannabis Activity sought under the Authorized License denied by the State Licensing Authority. Developer shall 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 to Developer or an affiliate. If no Authorized Licenses are granted by the State of California, Developer shall immediately cease operations. In this situation, the 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 Licenses additional license types once that license is applied for or obtained from the appropriate State Licensing Authority (the “Additional Licenses”). Any such Additional License shall be processed as a Major Amendment.

Section 2.5. Conditional Use Permit. Prior to commencing operation of any Commercial Cannabis Activity on the Site, Developer shall obtain the 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.

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, as necessary, 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 environmental 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 environmental impacts or consideration of environmental mitigation measures or alternatives, as required by CEQA. Developer may provide City information on the infeasibility of any mitigation measures and related issues and City shall consider such information in its decision making.

(a) Future Development at Site. Developer may seek Subsequent City Approvals, as defined in Section 3.1 below, for the construction of additional buildings on the Site. Such approvals may necessitate revisions or amendments to the Specific Plan. In the event Developer’s proposed development of the Site requires an amendment to the Specific Plan, Developer shall pay for all costs related to the preparation of the Specific Plan amendment and any applicable environmental analysis required under CEQA. Such approvals also may necessitate amendment of the Conditional Use Permit or the processing of a new conditional use permit and Developer shall pay for the processing costs of either.

(b) 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 as set forth in this section. For Commercial Cannabis Activity of a retail nature, 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 consistent with Developer's operation of the Project under this Agreement, or Developer's obligation to strictly comply with the same. For Commercial Cannabis Activity of a manufacturing or cultivation nature, City shall limit any amendments to the Riverbank Municipal Code and issuance of rules and regulations and guidelines to those needed to comply with changes to State or applicable Federal law or as necessary to address public health and safety emergencies at the Site.

Section 2.7. Initiatives and Referenda. If any City ordinance, rule or regulation, addition to the Riverbank Municipal Code or other measure of any kind ("Ballot Measure Matters") is enacted or imposed by a city council – sponsored or citizen-sponsored initiative or referendum after the Effective Date that would conflict with this Agreement, the Conditional Use Permit, Subsequent City Approvals, including any amendment to the Conditional Use Permit or a subsequent conditional use permit, or reduce, limit or otherwise prevent the development rights or assurances provided to Developer in this Agreement, such Ballot Measure Matters 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 or rebuild any portions or buildings of or on 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 or the Site. If City determines, in its discretion, that it is not reasonably possible to so address such health and safety emergency, then City may 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. City shall allow Developer to provide input on the matters addressed in this Section 2.12. In addition, before and after City's determination under this Section 2.12, the Parties shall meet and confer on methods to minimize any adverse effect on the Project or the Site, including, without limitation, an adjustment in the Public Benefit rates.

ARTICLE 3

ENTITLEMENT AND PERMIT PROCESSING, INSPECTIONS

Section 3.1. Subsequent City Approvals. City shall permit the development and construction, of the uses contemplated in this Agreement. City agrees to timely grant, pursuant to the terms of this Agreement and the Riverbank Municipal Code, 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 4.2A. Public Benefit – Retail.

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

Effective Date	Public Benefit Due.
First (1 st) Business Day, of the 1 st Month Following Opening of the On-Site Store to the Public through the entire term of the Agreement so long as retail facility is in operation.	\$7,000 or 5% of Gross Receipts from Operations (Retail), whichever amount is greater, and due each month.

(b) Collectively, these amounts shall be known as the “Public Benefit Amount-Retail”.

(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 (Retail) of the Project during the applicable time period. Developer shall provide a copy of such statement to City upon request by City.

(d) The Public Benefit Amount-Retail shall, at all times, be no higher than the lowest amount charged by the City for public benefit on any other retail cannabis use in the City.

Section 4.2.B. Public Benefit – Other Than Retail.

(a) The Parties acknowledge and agree that this Agreement confers substantial private benefits upon Developer that will place burdens upon City infrastructure, services, and neighborhoods. Accordingly, the Parties intend to provide consideration to City to offset these impacts that commensurate with the private benefits conferred on Developer (the “Public Benefit – Other Than Retail”). In consideration of the foregoing, Developer shall remit to City for the various categories of Commercial Cannabis Activity other than retail as follows:

Cultivation		
Years Covered	Public Benefit Rate	When Applied and Due

Years 1-4	\$2.50 per square foot per year of the Cultivation Area	Applied when space is used for commercial cannabis cultivation within the Cultivation Area and is due annually.
Years 5-8	\$2.75 per square foot per year of the Cultivation Area	
Years 9-12	\$3.25 per square foot per year of the Cultivation Area	
Years 13-16	\$3.50 per square foot per year of the Cultivation Area	
Years 17-20	\$4.00 per square foot per year of the Cultivation Area	

Manufacturing		
Years Covered	Public Benefit Rate	When Applied and Due
Years 1-4	1.0% of Gross Receipts from Operations (Manufacturing)	Applied when space is used for manufacturing and is due quarterly.
Years 5-8	1.25% of Gross Receipts from Operations (Manufacturing)	
Years 9-12	1.75% of Gross Receipts from Operations (Manufacturing)	
Years 13-16	2.0% of Gross Receipts from Operations (Manufacturing)	

Years 17-20	2.5% of Gross Receipts from Operations (Manufacturing)	
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Distribution from Project of Products of Third Parties (Type 11 License)		
Years Covered	Public Benefit Rate	When Applied and Due
Year 1	4% of Gross Receipts from Third-Party Product Distribution Operations	Starting the second (2 nd) quarter following the issuance of the Conditional Use Permit and is due quarterly.
Years 2-20	5% of Gross Receipts from Third-Party Product Distribution Operations	Due quarterly.

Distribution from Project's Cultivation and Manufacturing Facilities (Type 11 License)		
Years Covered	Public Benefit Rate	When Applied and Due
Years 1-20	None	N/A

(b) Collectively, these amounts shall be known as the “Public Benefit Amount-Other Than Retail.”

(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.

(d) The cultivation and manufacturing rates in subsection (a) shall be reviewed by the Parties every twenty-four (24) months to ensure that the rates of public benefit paid pursuant to this Section 4.2.B are on a par or more favorable than similar payments required in other local jurisdictions (cities and counties) in the State, whatever form such payments take (i.e., public benefit payments, taxes, charges, assessments, fees or other similar payments.)

Section 4.2.C. Other Public Benefits. The Parties agree that the Project will provide public benefits other than the payments provided for in Section 4.2.A and Section 4.2.B and may provide additional public benefits. For example, Developer estimates that development of Phase 1 and Phase 2 of the Project should provide between 200 and 400 jobs in the City. Further, the Project involves reuse of a currently unused property near the City center constituting in-fill development that will put the Site back into active economic use. In addition, the Project may have additional benefits such as an internship program for the new careers available in the Project and a program for training developmentally disabled persons for employment on the site. The Parties shall cooperate and use reasonable efforts to achieve these additional benefits and any others the Parties agree to pursue.

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 or a subsequent conditional use permit issued in the future.

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

Section 4.5. Penalty. Developer acknowledges that to ensure proper compliance with the terms of this Agreement and any applicable laws, City must engage in costly compliance review, inspections, and, if necessary, enforcement actions to protect the health, safety, and welfare of its residents. Penalty and interest provisions are necessary to assist City in compliance review and enforcement actions. If Developer fail to make any payment when due as required by this Agreement, including the Public Benefit

Amount, City may impose a “Non-Performance Penalty.” A Non-Performance Penalty of one percent (1%) shall be applied to all past due payments. City shall deliver to Developer a “Notice of Non-Performance Penalty,” attached hereto as **Exhibit D**. Payment of the Non-Performance Penalty shall be in a single installment due on or before a date fifteen (15) calendar days following delivery of the Notice of Non-Performance Penalty.

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

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

ARTICLE 5 PUBLIC FACILITIES, SERVICES, AND UTILITIES

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

ARTICLE 6 INSURANCE AND INDEMNITY

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

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

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

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

(iii) Contain standard separation of insured provisions.

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

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

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

(iii) Contain standard separation of insured provisions.

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

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

(a) Prior to taking any actions under this Agreement, furnish City with properly executed certificates of insurance that clearly evidence all insurance required in this

Article, including evidence that such insurance will not be canceled, allowed to expire, or be materially reduced in coverage without thirty (30) days prior written notice to City.

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

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

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

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

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

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

Section 6.5. Waiver of Damages; Exclusion. 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 other than those expressly specified in this Section 6.5.

- (a) Initial Approval or Disapproval of Agreement. Developer 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 the Conditional Use Permit, are: (1) not approved by the City Council or (2) are approved by the City Council, but with new changes, amendments, conditions, or deletions to which Developer is opposed.
- (b) Referendum. 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.
- (c) Breach of Agreement. Developer waives all claims for damages against City for breach of this Agreement, except that Developer may make a claim for damages against City for breach of this Agreement in a sum not to exceed the amount actually paid by Developer in Public Benefit – Other Than Retail payments under Section 4.2.B of this Agreement in the twelve (12) full months prior to the breach asserted by Developer.

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 ninety (90) 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 ninety (90) 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 ninety (90) 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 ninety (90) 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 or equitable 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 ninety (90) day notice period.

(d) Following consideration of the evidence presented and said review before City, and after providing the Charged Party an additional forty-five (45) 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 ninety (90) 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, or if required more frequently under the conditions of approval

of any operable conditional use permit for the Project, 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 twenty (20) 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. This section shall not limit in any way Developer's other remedies if Developer chooses not to terminate or cancel the Agreement.

Section 8.5. Cumulative Remedies of Parties. In addition to any other rights or remedies, City or Developer may institute legal or equitable proceedings, including, without limitation, specific performance, 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 8.1(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, terrorism, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental or public utilities' restrictions or delays imposed where mandated or created by governmental entities or public utilities 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 extended or unless it is terminated earlier, by mutual written agreement of the Parties or for cause pursuant to the terms of this Agreement. Upon termination of this Agreement, City shall record a notice of such termination in substantial conformance with the "Notice of Termination" attached hereto as **Exhibit F**, and this Agreement shall be of no further force or effect except as otherwise set forth in this Agreement.

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

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

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

ARTICLE 10 OTHER GENERAL PROVISIONS

Section 10.1. Assignment and Assumption. Developer in its sole discretion may sell, assign, or transfer all or any part of its rights, title, and interest in the Site under this Agreement. 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 the Commercial Cannabis Activity 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. Notwithstanding the above, the City Manager shall evaluate in good faith any request for a transfer of rights to a third party under this Agreement, and shall not unreasonably withhold approval of such request. The City Manager's evaluation shall take into consideration the experience of and resources available to the prospective transferee relative to their ability to competently assume the Commercial Cannabis Activity for the Project. Additionally, the City Manager may, at his or her discretion, deny a transfer request for any of the reasons contemplated in California Code of Regulations, tit. 16, sections 5017-5018.

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, or if Developer assigns its rights and responsibilities to an affiliate as allowed in this Section 10.1, City and Developer shall execute an "Assignment and Assumption Agreement" in the form attached hereto as **Exhibit G**.

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

Section 10.3. Notices. Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by

any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

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

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

If to Developer: DT California, LLC
330 North Wabash Avenue, Suite 1700
Chicago, IL 60611
Attention: David Thomas

With copy to: Aronberg Goldghen
330 N. Wabash Avenue, Suite 1700
Chicago, IL 60611-3596
Attention: Paul A. Gilman

and: Petrulakis Law & Advocacy, APC
P.O. Box 92
Modesto, CA 95354
Attention: George A. Petrulakis

Section 10.4. Governing Law and Dispute Resolution. The governing law and dispute resolution mechanisms under this Agreement are as follows:

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

(b) Negotiation. In the event of any dispute, claim, controversy, or breach arising out of or relating to this Agreement, other than unlawful detainer and any action

for equitable or injunctive relief, the Parties will use their good faith efforts to settle the dispute, claim, controversy, or breach by negotiating in good faith, and they will attempt to reach a solution satisfactory to both parties no later than forty-five (45) days from the date that either Party gives written notice of its intent to negotiate in good faith to the other Party. Each party may bring up to three (3) people to this negotiation. Should the parties be unable to resolve the dispute, claim, controversy, or breach giving rise to the negotiation, any written claim notice or response will be admissible in any subsequent proceeding for the sole purpose of demonstrating the Parties completed negotiations pursuant to this subsection (b).

(c) Mandatory Mediation. If the negotiation under subsection (b) is unsuccessful, the Parties shall initiate mandatory mediation under this subsection (c) whereby any dispute, claim, controversy or breach arising out of or relating to this Agreement, will be submitted to mediation. The Parties shall select one mediator. If the Parties cannot agree on a mediator, either Party may petition the Superior Court of Stanislaus County for the appointment of a mediator by the presiding judge. Each Party shall submit a brief memorandum setting forth its position on the issues that need to be resolved. The mediation shall be held in Stanislaus County, California or another place chosen by the Parties. Before the mediation proceedings begin, the mediator and all parties to the mediation will execute an agreement to maintain confidentiality of the proceedings under California Evidence Code §§703.5 and 1115–1129 and California Code of Civil Procedure §1775.10, or successor statutes, in order to exclude the use of any testimony or evidence produced at the mediation in any subsequent dispute resolution including court proceedings, arbitration, or reference hearings. The City Manager and Mr. David Thomas will attend the mediation sessions in person with other representatives of the Parties. Persons other than the Parties, the Parties' representatives and the mediator may attend the mediation sessions only with the permission of the Parties. Confidential information disclosed to a mediator by the Parties or by witnesses during the course of the mediation will not be divulged by the mediator. All records, reports, or other documents received by the mediator will be confidential. There will be no stenographic or tape recording of the mediation process.

(d) Post-Mediation Dispute Resolution. If mediation under subsection (c) does not result in a resolution of the dispute, claim, controversy, or breach within ninety (90) days from the date the matter was submitted to mediation, the Parties may proceed to litigation. Notwithstanding the foregoing, the Parties may agree, under a separate agreement, to submit the dispute, claim, controversy, or breach to binding or non-binding arbitration or to hearing by a referee in accordance with California Code of Civil Procedure §§ 638-645.2.

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

Approved to as Form

By: _____
Tom Hallinan
City Attorney

“DEVELOPER”

Date: _____, 2020

DT California, LLC, a Delaware limited
liability company

By: DT Management Group, LLC, an
Illinois limited liability company
Its: Manager

By: _____
David Thomas
Its: Manager

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 _____ 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 _____ 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

Order No. 140-1907909-86

Exhibit "A"

Parcel 1:

Lots 1 and 2 in Block 2 of the City of Riverbank, as per Map thereof recorded October 11, 1910 in Book 5 of Maps, Page 16, Stanislaus County Records.

Parcel 2:

Lots 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 42, 43, 44, 45, 46, 47, 48, 49, 50, and the North 100 feet of the East 1/2 of Lot 51 of Riverbank Acreage Tract, as per Map thereof recorded March 23, 1912 in Volume 6 of Maps, at Page 33, Stanislaus County Records.

Excepting that portion granted to the State of California by Instrument recorded June 8, 1971 in Book 2398 Page 697, Official Records, described as portion of Lots 11 and 12 of the Riverbank Acreage Tract, as per Map thereof recorded March 23, 1912 in Volume 6 of Maps 1 Page 33, Stanislaus County Records, said portion described as follows:

Beginning at the intersection of the Westerly line of said Lot 11 with the Southerly line of existing State Highway Route 10-STA-108 P.M. 32.3; thence (1) along said Southerly line North 89° 54' 00" East, 185.33 feet; thence South 81° 59' 08" West, 181.56 feet; thence South 89° 54' 00" West, 5.50 feet to said Westerly line; thence along last said line North 00° 06' 00" E., 25.00 feet to the point of beginning.

Excepting therefrom:

The following described portion of Lot 11 of Riverbank Acreage Tract as per map of said tract recorded in Volume 6 of Maps at Page 33, Stanislaus County Records, and being located in the Northeast 1/4 of Section 26, Township 2 South, Range 9 East, Mount Diablo Meridian more particularly described as follows:

Beginning at the Southwest corner of said Lot 11; thence along west line of said Lot 11, North 01°05'00" East 265.00 feet to the South line of the right of way granted to the State of California by Instrument recorded June 8, 1971 in Book 2398 Page 697, Official Records; thence, along said South line, South 88°55'00" East 5.50 feet; thence, continuing along said South line, North 83°10'08" East 82.28 feet; thence, parallel with and 87.00 feet Easterly from said west line of Lot 11, South 01°05'00" West 276.33 feet to a point on the South line of said Lot 11; thence, along said South line, North 88°55'00" West 87.00 feet to the point of beginning.

Parcel 3:

That portion of Riverbank Acreage Tract, in the County of Stanislaus, State of California, as per Map filed in Volume 6 of Maps, at Page 33, Stanislaus County Records, being land within the boundaries of certain streets shown on said Map heretofore been abandoned, described as follows, to wit:

- A. That portion of 60 foot wide Topeka Street, running Easterly from the East lines of Lots 13 and 20 of said tract to the Westerly line of Railroad Avenue.
- B. That portion of 60 foot wide Santa Fe Street, running Easterly from the East line of Lots 20 and 45 of said tract to the Westerly line of Railroad Avenue.
- C. That portion of 60 foot wide Stanislaus Street running Easterly from a point 75 feet West of the East lines of Lots 46 and 51 of said tract to the Westerly line of Railroad Avenue.
- D. That portion of 50 foot wide Railroad Avenue running Northerly, from the North line of Sierra Street produced Easterly to the South line of Atchison Street (Oakdale - Sonora Highway).
- E. That portion of Railroad Avenue described as follows: Beginning at a point on the East line of Section 26, Township 2 South, Range 9 East, Mount Diablo Base and Meridian, that bears South 0° 10' 25" West 90.00 feet from the intersection of the North right of way line of said Sierra Street and the East line of said Section 26; thence North 0° 10' 25" East along the East line of said Section 26, a distance of 90.00 feet to the North right of way line of said Sierra Street; thence North 88° 55' 32" West along said North right of way line, a distance of 42.00 feet; thence in a Southeasterly direction to the point of beginning.

Excepting that portion of Railroad Avenue granted to the City of Riverbank, in Deed recorded January 26, 1972 in Book 2448 Page 254, described as follows:

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DEVELOPMENT AGREEMENT
CITY OF RIVERBANK
& DT CALIFORNIA, LLC
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Commencing at the intersection of the Northerly prolongation of the East line of Railroad Avenue with the Easterly prolongation of the North line of Sierra Street; thence North 88° 55' West along the prolongation North line of Sierra Street 40.03 feet to the point of beginning; thence South 27° 35' East, 58.50 feet; thence South 21° 52' East 33.96 feet to a point on the East line of Railroad Avenue, said point also being on the East line of said Section 26; thence North 25° 28' 50" West, 92.34 to the point of beginning.

Parcel 4:

An irregular shaped parcel of land in the City of Riverbank, County of Stanislaus, State of California, being a portion of the Northwest quarter of Section 25, Township 2 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the Southwesterly corner of said Northwest quarter of Section 25; thence North (bearing assumed for purposes of this description) along the Westerly line of said Northwest quarter, said Westerly line being also the Easterly line of Railroad Avenue (50 feet wide) 447.92 feet to the most Southwesterly corner of that certain parcel of land described in that certain Deed from the Atchison, Topeka, & Santa Fe Railway Company to Hershel California Fruit Products Company, Inc. dated June 7, 1955; thence continuing North along the Westerly line of last said parcel, also being the Westerly line of the Northwest quarter of said Section 25, a distance of 422.67 feet to the Southwesterly corner of that certain parcel of land conveyed by the Atchison, Topeka & Santa Fe Railway Company to Riverbank Canning Co. by deed dated April 24, 1936; thence continuing Northerly along the Westerly line of last said parcel, a distance of 183.4 feet to a point hereinafter referred to as point "A"; thence continuing Northerly along said Westerly line 397.77 feet; thence Southeasterly along the arc of a curve that is concentric with and distant Southwesterly 200.00 feet measured radially from the Northeasterly line of that certain parcel of land as described in deed to the San Francisco and San Joaquin Valley Railway Company (predecessor in interest to the Atchison, Topeka & Santa Fe Railway Company) recorded May 15, 1899 in Volume 67 of Deeds, Page 162, records of said County, concave Northeasterly and having a radius of 11,509.82 feet to a point that is distant Easterly along a direct line 108.2 feet from the hereinabove described point "A"; thence Southeasterly along a direct line 133.2 feet to a point in a line that is parallel with and distant Southwesterly 200.5 feet, measured at right angles from said Northeasterly line of last said parcel; thence Southeasterly along said parallel line 41.8 feet to a point in the Northerly line of that certain parcel of land as described in deed dated June 7, 1955 from the Atchison, Topeka and Santa Fe Railway Company to Hershel California Fruit Products Co., Inc., said point being in a line that is parallel with and distant Southwesterly at right angles 50.5 feet from the centerline of the main track of the Atchison, Topeka and Santa Fe Railway Company; thence along said parallel line South 17° 24' 30" East 972.55 feet to the Southerly line of said Northwest quarter; thence along last said Southerly line, being the center line of Patterson Road (50 feet wide), North 88° 51' 30" West, a distance of 445.83 feet to the point of beginning.

Parcel 5:

An irregular shaped parcel of land in the City of Riverbank, County of Stanislaus, State of California, being a portion of the 200 foot wide right of way of the Atchison, Topeka and Santa Fe Railway Company in the Northwest quarter of Section 25, Township 2 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Commencing at the intersection of the Southerly line of said Northwest quarter, said Southerly line being also the center line of Patterson Road (50 feet wide) with the Easterly line of that certain 16.3 acre parcel of land described in deed dated May 3, 1899, and recorded May 15, 1899, in Volume 67 of Deeds, Page 162, records of said County, said Easterly line being parallel and/or concentric with and distant Easterly 150.00 feet measured at right angles and/or radially from the center line of the Atchison, Topeka and Santa Fe Railway Company's "Original Main Tract"; thence North 17° 24' 30" West (bearing assumed for purpose of this description) along said Easterly line 284.72 feet to a point in a line that is concentric with and distant Northeasterly 30.00 feet measured radially from the center line of said Railway Company's "Oakdale Branch Main Tract" as said track is designated in the records of said Railway Company, last said point being the true point of beginning for this description; thence North 17° 24' 30" West, continuing along said Easterly line 788.58 feet; thence Northerly, continuing along said Easterly line, along the arc of a curve, tangent to last said course, concave Easterly and having a radius of 11,309.20 feet, a distance of 328.53 feet; thence Northerly, continuing along said Easterly line; to the Southeasterly corner of that certain parcel described in easement granted to the Atchison, Topeka and Santa Fe Railway Company to the City of Riverbank, in document dated the 28th of April, 1961, and recorded on December 15, 1961 in Volume 1729 Page 172, Official Records of Stanislaus County, California; thence Westerly, along the Southerly boundary of last said parcel conveyed to the City of Riverbank, to the Northwesterly corner of that certain parcel described in deed from Carnation Company to Contadina Foods, Inc., dated May 31, 1969, and recorded October 30, 1969 in Volume 2300 Page 180, records of Stanislaus County, said point being on a line that is parallel and/or concentric with and distant Easterly 100 feet, measured at right angles and/or radially, from the Westerly line of said railway right-of-way; thence Southerly, along last said parallel and/or concentric line, to the Northwest corner of that certain parcel of land described in grant deed from the Atchison, Topeka and Santa Fe Railway Company, to Hershel California Fruit Products Co., Inc., dated April 21, 1959, and recorded in Volume 1588 Page 428, Official Records of Stanislaus County, said point being in a line that is parallel with and distant Easterly 46.00 feet measured at right angles from the tangent portion of said "Original Main Tract", hereinabove described as having a bearing of North 17° 24' 30" West; thence South 17° 24' 30" East along last said parallel line 743.77 feet; thence South 25° 45' 21" East 199.74 feet to a point in a line

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that is concentric with and distant Northeasterly 30.00 feet measured radially from the center line of said "Oakdale Branch Main Tract"; thence South 40° 09' 40" East 193.92 feet to the true point of beginning.

Excepting therefrom all minerals, oil and gas as reserved by Atchison, Topeka and Santa Fe in deed recorded November 4, 1964 as Instrument No. 43717 in Volume 1989 of Official Records, Page 65.

An excluding that certain real property described on Exhibit A-1 attached hereto:

Also Excepting therefrom:

Parcel One:

That certain property described as Parcel 1 in the deed dated April 21, 1959 from the Atchison, Topeka, and Santa Fe Railway Company to Hershel California Fruit Products Co., Inc., as Illinois Corporation, recorded January 11, 1960, as Instrument Number 625 in Volume 1588 of Official records, Page 427, Stanislaus County Records, said property lies in the Northwest quarter of Section 25, Township 2 South, Range 9 East, Mount Diablo Base and Meridian, situate in the City of Riverbank, County of Stanislaus, State of California.

Excepting therefrom all minerals contained therein including, without limiting the generality thereof, oil, gas and other hydrocarbons substances, as well as metallic or other solid minerals, without, however, the right to go upon or use the surface of said land, or any part thereof, for the purpose of drilling for, mining, or otherwise removing any of said minerals, as excepted in the deed from the Atchison, Topeka, and Santa Fe Railway company, recorded November 4, 1964 in Volume 1989 of Official records, at Page 64, as Instrument number 43717, Stanislaus County records.

Parcel Two:

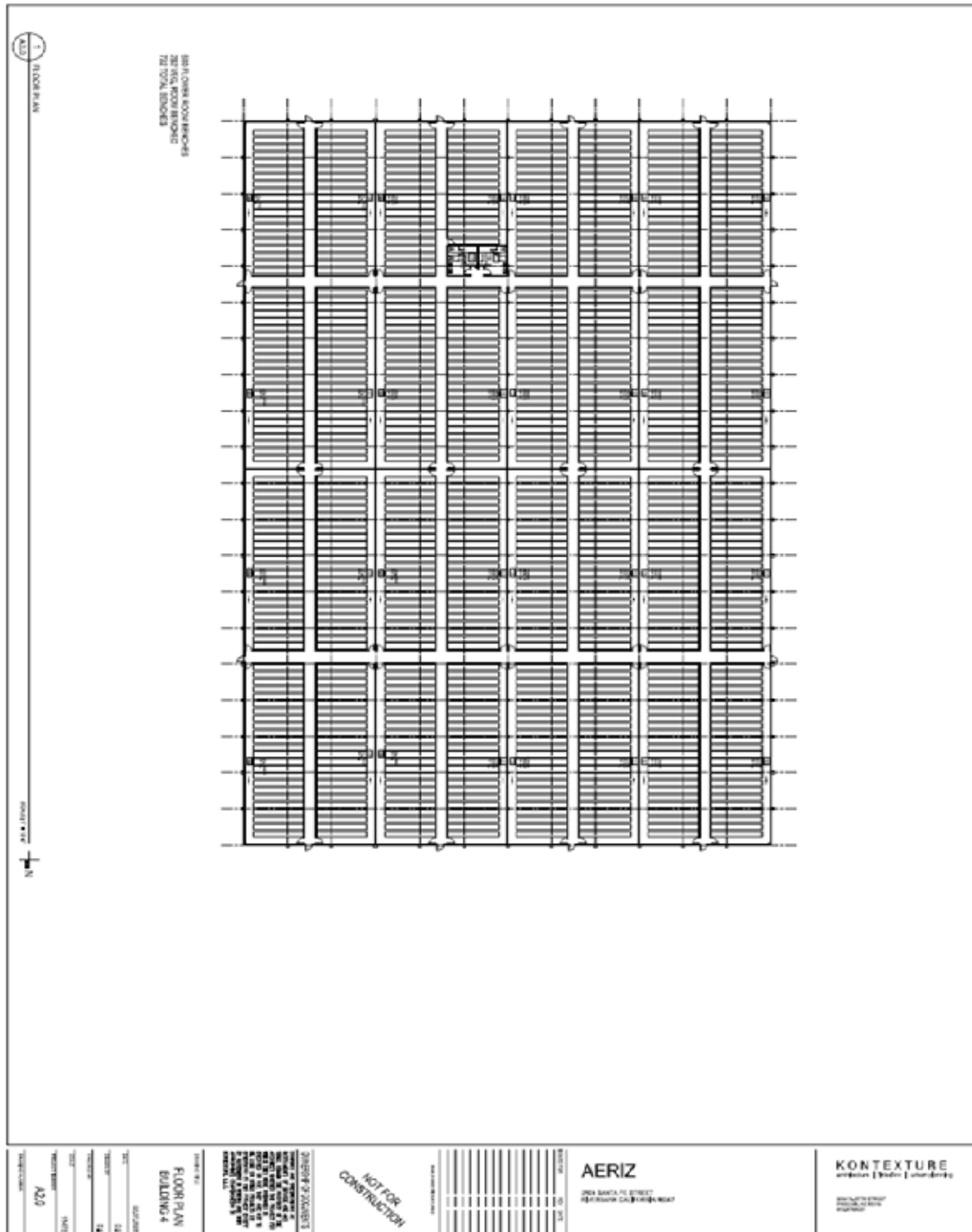
That portion of the property conveyed to Contadina Foods Inc., a California Corporation by the deed recorded October 30, 1969 in Volume 2300 of Official Records, Page 180, Stanislaus County Records lying in the Northwest quarter of Section 25, Township 2 South, Range 9 East, Mount Diablo Base and Meridian, situate in the City of Riverbank, County of Stanislaus, State of California, more particularly described as follows:

Beginning at the Northeast corner of the property described as Parcel 1 in the deed dated April 21, 1959 from the Atchison, Topeka, and Santa Fe Railway Company to Hershel California Fruit Products Co., Inc. an Illinois corporation, recorded January 11, 1960 as Instrument number 625 in Volume 1588 of Official Records, Page 427, Stanislaus County Records; thence South 74° 15' 22" West along the northerly line of said Hershel California Fruit Products Co. property, a distance of 100.00 feet to the Westerly line of said Contadina Foods property and the beginning of a non-tangent curve concave to the East having a radius of 11409.20 feet to which a radial line bears South 74° 15' 22" West; thence Northerly along said curve through a central angle of 00° 22' 36", a distance of 75.00 feet to a line that lies 75.00 feet northerly of and parallel of said north line of Hershel California Fruit Products Co. property; thence along last said line North 74° 15' 22" East; a distance of 100.00 feet to the Easterly line of said Contadina Foods property and the beginning of a non-tangent curve concave to the East having a radius of 11309.20 feet to which a radial line bears South 74° 34' 10" West; thence Southerly along the arc of said non-tangent curve through a central angle of 00° 22' 48", a distance of 75.00 feet to the point of beginning.

[illegible]

Exhibit C

Building 4 and 5 Floor Plans



{CW096294.7}

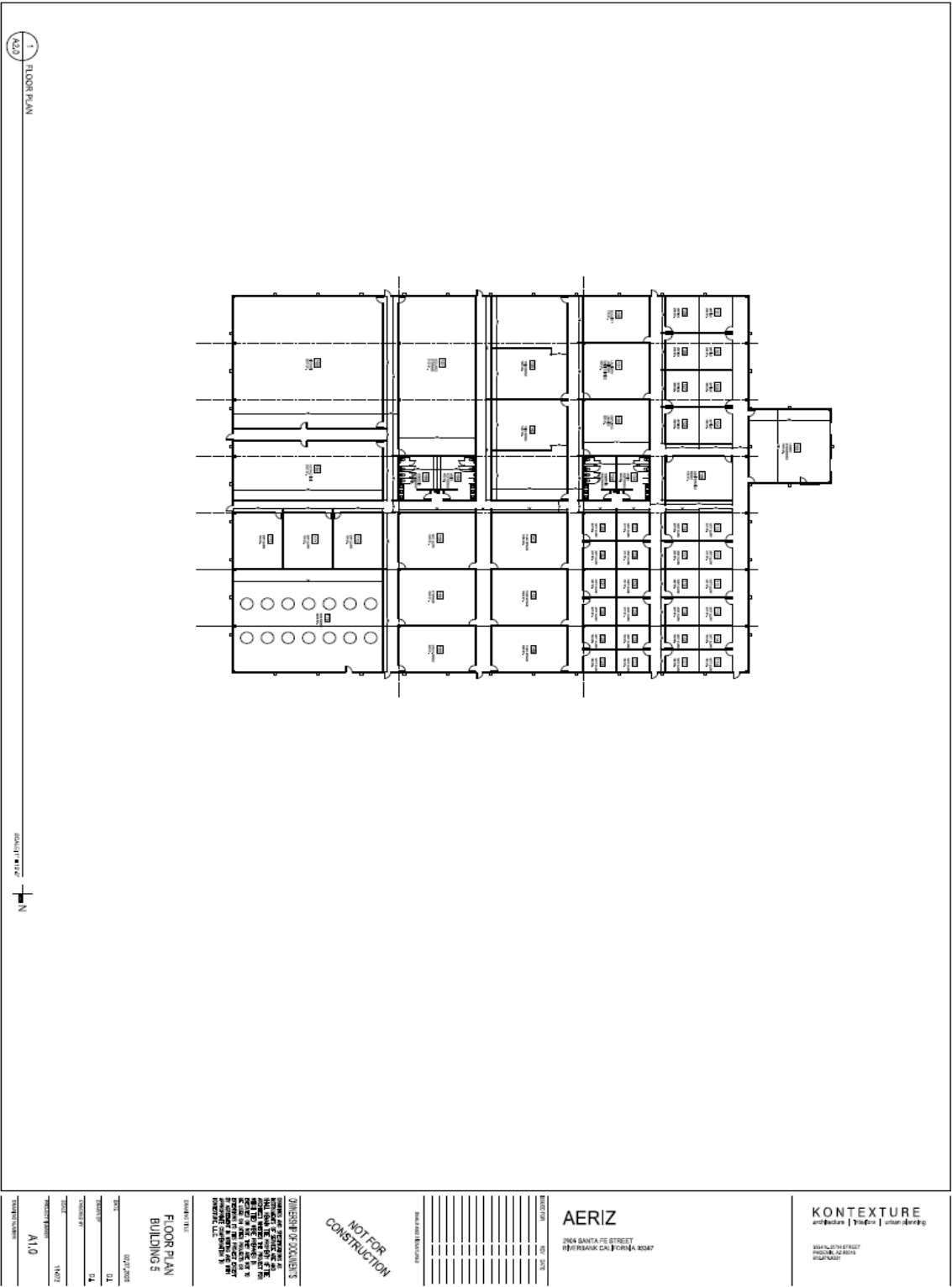


Exhibit D

Notice of Non-Performance Penalty

DATE: _____, 20__

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

DT California, LLC, a Delaware limited liability company
330 North Wabash Avenue, Suite 1700
Chicago, IL 60611
Attn: David Thomas

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 _____, 2020, City recorded a development agreement between City and DT California, LLC ("Developer"), dated _____, 2020 (the "Development Agreement"), relating to the development and operation of a cannabis _____.
- B. Pursuant to Sections 4.2A and 4.2.B of the Development Agreement, Developer agrees to pay to City a Public Benefit during the term of the Development Agreement as specified in those sections.
- C. On _____, 20__, a Public Benefit – Retail or Public Benefit - Other Than Retail 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 any Public Benefit-Retail, Public Benefit-Other Than Retail, 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 DT California, LLC, a Delaware limited liability company (“Applicant”). City and Applicant may be referred to herein individually as a “Party” or collectively as the “Parties.” There are no other parties to this Agreement.

RECITALS

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

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

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

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

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

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

G. Applicant has an agreement to purchase that certain real property located in the City, identified as Stanislaus County Assessor’s Parcel Numbers 132-010-027, 132-023-020, 132-034-017, and 132-034-020 (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 Development Agreement, 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 Development Agreement, City shall have the absolute and sole authority to control the litigation and make litigation decisions, including, but not limited to, selecting counsel to defend City and settlement or other disposition of the matter.

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

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

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

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

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

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

With copy to

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

and

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

If to Applicant:

DT California, LLC
330 North Wabash Avenue, Suite 1700
Chicago, IL 60611
Attention: David Thomas

With copy to:

Aronberg Goldghen
330 N. Wabash Avenue, Suite 1700
Chicago, IL 60611-3596
Attention: Paul A. Gilman

and:

Petrulakis Law & Advocacy, APC
P.O. Box 92
Modesto, CA 95354
Attention: George A. Petrulakis

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

DT California, LLC, a Delaware limited liability company

By: DT Management Group, LLC, an Illinois limited liability company

Its: Manager

By: David Thomas

Its: Manager

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

DT California, LLC, a Delaware limited liability company
330 North Wabash Avenue, Suite 1700
Chicago, IL 60611
Attn: David Thomas

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 _____, 2020, City recorded a development agreement between City and DT California, LLC ("Developer"), dated _____, 2020 (the "Development Agreement"), relating to the development and operation of a commercial cannabis facility.
- B. Pursuant to Sections 1.7 and 9.1 of the Development Agreement, the term of the Development Agreement expires _____ years from _____, 2020, 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 DT California, LLC, a Delaware limited liability company ("Developer"), and _____ ("Assignee"). Developer may be referred to herein as ("Assignor").

RECITALS

A. On _____, 2020, 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 DT California, LLC a Delaware limited liability company relating to the improvement, development, and use of real property to operate commercial cannabis facilities (the "Development Agreement")", originally recorded upon Stanislaus County Assessor's Parcel Numbers 132-010-027, 132-023-020, 132-034-017, and 132-034-020, (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:

DT California, LLC., a Delaware limited liability company

By: DT Management Group, LLC, an Illinois limited liability company

Its: Manager

By: _____
David Thomas

Its: Manager

ASSIGNEE

_____, a
California _____

By: _____

AGREED TO AND ACCEPTED:

CITY OF RIVERBANK
a California municipal corporation

City Manager

**CITY OF RIVERBANK
RESOLUTION NO. 2020-009**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK,
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE
APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF
RIVERBANK AND DT CALIFORNIA, LLC, A CALIFORNIA LIMITED LIABILITY
CORPORATION DOING BUSINESS AS AERIZ**

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

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

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

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

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

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

WHEREAS, DT California, LLC, a California limited liability company doing business as "Aeriz" submitted an application to the City for consideration of a development agreement to operate a cannabis cultivation, extraction, manufacture, distribution, and limited retail facility (the "Project"); and

Riverbank Planning Commission

Resolution 2020-009

Meeting of September 1, 2020

Page **1** of **3**

WHEREAS, DT California, 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, DT California, LLC has purchased that certain real property located at 2906 Santa Fe Street in the City of Riverbank, Assessor's Parcel Numbers 132-034-020, 132-034-017, and 132-023-020 on which DT California, LLC intends to develop the Project; and

WHEREAS, the City and DT California, 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, the Planning Commission held a duly noticed public hearing on September 1, 2020, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, Phase 1 and Phase 2 of the proposed Project qualify for a categorical exemption pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility that will not have a significant effect on the environment. Phase 3, a new building with parking and landscape improvements, will require additional CEQA analysis and will be based on the Downtown Specific Plan Program EIR; and

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

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

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

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 1st day of September 2020; motioned by Commissioner Dinan, seconded by Commissioner Link, and upon roll call was carried by the following Planning Commission vote of 4-1 (absence):

AYES: Commissioners: Link, Dinan, Basso, and Reuben

NAYS:

ABSENT: Chair Fenrich (excused)

ABSTAIN:

Attest:

Approved:

Donna M. Kenney

Steve Link

Donna M. Kenney
Secretary to the Planning Commission

Steve Link
Chairperson

**City of Riverbank
Planning Commission
Resolution No. 2020-010**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK
APPROVING THE REQUEST OF DT CALIFORNIA, LLC FOR CONDITIONAL USE
PERMIT APPLICATION NO. 01-2020 FOR THE AERIZ PROJECT WITHIN THE
CANNERY DISTRICT (CD) OF THE DOWNTOWN SPECIFIC PLAN AT 2906 SANTA
FE STREET, (APNS 132-034-020, 132-034-017, 132-023-020).**

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

WHEREAS, the project proponent is David Thomas of DT California, LLC; and

WHEREAS, the applicant is requesting to develop a cannabis cultivation, extraction, manufacture, distribution, and retail facility within the Cannery District (CD) of the Downtown Specific Plan; and

WHEREAS, the property has a general plan designation of Mixed Use (MU); and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the proposed Use Permit is consistent with all applicable general and specific plans; and,

WHEREAS, the proposed Conditional Use Permit with the conditions of approval is in conformity with both the intent and provisions of the Zoning Ordinance, RMC 153.216 (c) of the City of Riverbank Code of Ordinances; and

WHEREAS, Phase 1 and Phase 2 of the proposed Project qualify for a categorical exemption pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility that will not have a significant effect on the environment. Phase 3, a new building with parking lot and landscape improvements, will require additional CEQA analysis and be based on the Downtown Specific Plan Program EIR; and

WHEREAS, the request of David Thomas for Conditional Use Permit 01-2020 is hereby granted and approved, subject to the following conditions:

- 1) This approval is dependent upon and limited to the proposals and plans contained, supporting documents submitted, presentations made to staff, Planning Commission and/or City Council as affirmed to by the applicant. Any

variation from these plans, proposals, supporting documents or presentations is subject to review and approval by staff prior to implementation.

- 2) The applicant shall secure and comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- 3) The applicant shall comply with all regulations and code requirements of the Community Development Director, City Engineer, Building Official, Stanislaus Consolidated Fire Protection District, the Police Chief and any other agencies requiring review of the project. If required, these agencies shall be supplied copies of the final maps, site plans, public improvement plans, grading plans and building plans.
- 4) All conditions of approval for this project shall be written by the project developer on all building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading and construction plans kept on the project site. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Community Development Director must be received before any changes are constituted in site design, grading, building design, building colors or materials, etc.
- 5) Site plans shall be in substantial conformance to the approved site plan and must be submitted, in English units, to the City Engineering Department for review and approval. Plans shall be prepared, wet signed and sealed by a civil engineer, land surveyor, or architect registered in the State of California and licensed to prepare site plans.
- 6) Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents or presentations to staff, Planning Commission or City Council, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to be violated.
- 7) Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the applicant a copy of this signed resolution and an approved building permit.
- 8) The hours of construction, including equipment warm-up, shall be limited to 7:00 a.m. to 6:30 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on weekends and legal holidays

- 9) All new construction requires building permits in accordance with all applicable building and fire codes and submission of a plot and grading plan prepared by a registered professional civil engineer showing property lines, building locations, topography and such other data as required by the Community Development Department.
- 10) The applicant shall defend, indemnify and hold harmless the City of Riverbank, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, or any aspect of the City's consideration of applicant's project. The applicant recognizes and agrees that applicant's voluntary commitment to meet the obligations described in this condition is an integral factor in the City's approval of this project. The intent of this condition is to require the applicant to bear the cost of any and all litigation instituted to overturn or in any way modify the City's approval of this project. Such costs include without limitation, any award of attorney's fees and costs to a prevailing plaintiff or petitioner.
- 11) This approval may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the approval or add/modify conditions approval.
- 12) All improvements, public and private, shall be designed and constructed in accordance with the most recent edition of the Standard Plans and Specifications all applicable state and local ordinances, standards and requirements. Should a conflict arise, the governing specification shall be determined by the City Engineer.
- 13) All exterior light fixtures shall be shown on plans subject to staff review and approval. All lights attached to buildings shall provide a soft "wash" of light against the wall. All building and parking or yard lights shall conform to City Standards and shall compliment the site and building architecture.
- 14) During construction activities, the project sponsor shall reduce or prevent to the maximum extent practicable the direct or indirect discharge of any pollutant into the storm drain system utilizing best management practices contained in the California Storm Water Best Management Practices Handbook for Construction Activities. Construction activities include, but are not limited to: watering operations; roadwork and paving operations; concrete and painting; structure construction and painting; construction material storage and handling; construction waste/debris storage and disposal; and, construction equipment/vehicle cleaning, maintenance and fueling operations. The project

sponsor is also responsible for training all contractors and subcontractors on the best management practices which are identified in the California Storm Water Best Management Practices Handbook for Construction Activities.

- 15) The City is currently adding a signal and improving the Patterson Road and Railroad/Roselle Avenue intersection, which is adjacent to the south property line of the project site. The applicant agrees to pay a 10% fair share (\$180,000) of the total cost of the improvements to the satisfaction and timing of the City Engineer.
- 16) Phase 3 of the Project requires Architecture and Site Plan Review of any new structures, the parking lot improvements, and a landscape/irrigation review and approval.
- 17) The design of any new structures, including fences, shall be consistent with the guidelines of the Downtown Specific Plan.
- 18) Any necessary lot merges and/or lot line adjustments shall be completed to the satisfaction and timing of the City Engineer.
- 19) Trash enclosures shall be constructed to Riverbank City Standards 1101 through 1104.
- 20) All signage will be reviewed under separate permit.
- 21) Semi-trucks and trailers entering and exiting the Project Site are prohibited from using the Santa Fe Street and Topeka Street intersections with Callander Avenue (Caltrans).

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission that requested Conditional Use Permit Application 01-2020 is approved subject to those conditions established by Resolution No. 2020-010 and Exhibit "A" Site Plans and Exhibit "B" Floor Plans.

Passed and adopted by the Planning Commission of the City of Riverbank at a special meeting held on the 1st of September 2020, motioned by Commissioner Link, seconded by Commissioner Basso, and upon roll call was carried by the following vote 4-1 (absence):

AYES: Commissioners: Link, Dinan, Basso, and Reuben

NOES:

ABSENT: Chair Fenrich (excused)

ABSTAIN:

Attest:

Donna M. Kenney

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

Approved:

Steve Link

**Steve Link, Chairperson
Planning Commission**

**Exhibits: A – Site Plans
 B – Floor Plans**

ATTACHMENT 5

Aeriz Project
September 1, 2020

As a downtown resident, I am opposed to this project. The existing Downtown Specific Plan and EIR was focused only on the Cannery Reuse Project- August 31, 2009. The project was a plaza with residential and retail businesses and offices. This project did not happen. The Aeriz Project is manufacturing and cultivating. The Specific Plan and EIR does not address a 30+ acre industrial project. Addressing the Specific Plan and EIR before this project is considered would give adequate time for the city to address the issues including the health and safety impacts to the residents, as well as time for comments from the residents and other parties such as air board, fire, etc. who should be included.

Notice:

The notice published August 19, 2020 stated the meeting materials for this item will be on the website 14 days prior to the meeting. The letter mailed out to property owners also stated this. The materials were not posted until Aug 26, 2020. This prevented requesting documents based on the material as there is a ten day waiting period. It appears only property owners were notified. The notice states the project is commercial cannabis activities-it does not notice the manufacturing and the volatile substances to be used.

Cannabis Code: The Riverbank Municipal code does not address manufacturing in the cannabis code.

Specific Plan: The Specific Plan shows the Cannery District's boundary ending west of the tracks. The two parcels listed in the plan as 132-010-027 and 132-034-017 are not zoned in the Cannery District. *The specific plan (pg 218) states: because of the physical separations from the development area of the cannery district-these properties are treated differently. Why are they included in this project and documents?* The EIR (passed two years before) the Downtown Specific Plan was focused on the Cannery Reuse Project only (residential/business district) which no longer exists. *What are the reasons that this 30+ acre project is being allowed without any studies or EIR?*

Air and Manufacturing: The staff report indicates there is a manufacturing operation and an extraction process. The applicant will use BHO and CO2 for the extraction process which requires a volatile type license. The application indicates a "use of disposal of potentially hazardous materials, such as toxic substances, flammable or explosives." The Specific Plan and EIR does not allow this. A request for information on the manufacturing process has not been responded to. This project is surrounded by residential and businesses also a church and skateboard park. The skateboard park and residential on the east side is very close to these operations. *Where are the studies regarding the impacts to the residents? How will the emissions from the extraction process be handled to protect the residents? How will the emissions and odors from the cultivation process be handled? What is the manufacturing process? What substances will be use?*

Utilities: There have been no studies on the impacts to the city utilities.

ATTACHMENT 5

Water The Aeriz application indicates an estimated usage of 25,000 gal per day. *Is this for both phase 1 and 2? How much for phase 3? What is the impact on the city water system?*

Sewer The Aeriz application indicates 12,500 gal per day. It also states 2,500 gals/day/acre. These equal different total amounts of usage. *How much is the total useage? How much for phase 3? Doesn't this require a waste permit? What is the impact to the sewer system and the sewer ponds?*

Solid Waste The Aeriz application indicates 180 cubic yards of non hazardous waste per month. *How much hazardous waste will be generated? How much in phase 3?*

Storm Water The project indicates a retention basin on the property. *How much storm water will be retained? How will it be disposed of? Will it be dumped into the First St.basin? If so, how will the impacts be handled?*

Traffic The staff report indicates 8-10 vans per week for building 5. This is where the manufacturing and extractions is indicated. *What will these splinter vans carry? Will they or other vehicles carry the manufacturing extraction wastes? Will they be allowed in residential neighborhoods? What is the total amount of traffic including employees, etc.? Buildings 1,2,and 3 are by the church-will they use the same access to Highway 108? Wha is the total amount of all traffic expected for 3 phases?*

Noise There is no noise study. *What is the decibel range of noise from the manufacturing, extraction and cultivation processes? How will the noise issues be addressed?*

Hazardous Waste: The application indicates the cannery is on a Hazardous Waste and Substances Sites list. *How will contamination of the ground and the buildings be handled during construction, remodeling and other uses?*

Please respond to these questions. Thank you

Evelyn Halbert

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARING

Meeting Date:	September 22, 2020
Subject:	First Reading and Introduction by Title Only of a Proposed Ordinance Approving Development Agreement No. 02-2020 for the Ward Villas Affordable Housing Project to Extend the Life of the Approved Ward Villas Tentative Map 01-2015 to Real Property at 2912 Ward Avenue (APN 132-036-003)
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council approve Ordinance No. 2020-XXX for a Development Agreement which extends the life of approved Ward Villas Tentative Map 01-2015 relating to real property located at 2912 Ward Avenue (APN 132-036-003).

SUMMARY

The proposed project consists of a Development Agreement ("DA"), which extends the life of TM 01-2015, an approved twenty-eight (28) lot single-family residential subdivision. The project site currently has a General Plan Land Use designation of Medium Density Residential (MDR) and is currently zoned Planned Development (R-1). The Planning Commission, with a vote of 4-1(absence) at their regular meeting of August 18, 2020, recommended that the City Council approve the Development Agreement.

The project site is located in Riverbank and bound by Ward Avenue to the north; Roselle Avenue to the east; Fern Court to the south; and Don Ramon Avenue to the west. The formal address of the project site is 2912 Ward Avenue. The project site is vacant land except for an older residence to be removed. The site is surrounded by developed subdivisions.

A. Tentative Map 01-2015

Ward Villas Tentative Map 01-2015 was approved by the Planning Commission on January 19, 2016 and the General Plan Amendment and Rezone for the Project were approved by the City Council on February 9, 2016. According to State Subdivision law, an approved tentative map has a life of twenty-four (24) months (to install improvements

and be approved as a Final Map). This particular map was set to expire on January 19, 2018. Pursuant to the City's Subdivision Ordinance, the Planning Commission may approve a requested extension of a tentative map for an additional three (3) years, total. The property owner requested from the Planning Commission and received three 1-year extensions on October 17, 2017, September 18, 2018, and November 19, 2019. Currently, the map is set to expire January 19, 2021. The Development Agreement (Attachment 1, Exhibit A) would extend the map for 5 years with an additional 5-year extension possible. There has been no Architecture and Site Plan Review of the housing yet and there are no design guidelines submitted. There are conceptual floor plans and elevations attached of conceptual housing envisioned by the applicant (Attachment 1, Exhibit A), who is working to create affordable housing.

Tentative Map 01-2015 was approved with the following findings:

1. The proposed map is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted.*
2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted as they relate to connectivity, sidewalks, and the provision of amenities.*
3. The site is physically suitable for the type of development. *The site is suitable for a new subdivision of this type.*
4. The site is physically suitable for the proposed density of the development. *The site is physically suitable for a proposed density of 8-16 dwelling units per net acre.*
5. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitats. *The design of the subdivision should not injure fish, wildlife, or their habitats, none of which are present on the site.*
6. The design of the subdivision or the type of improvements is not likely to cause serious public health problems. *The design of the subdivision should not cause serious health problems.*
7. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of, property within the proposed subdivision. In this connection, the City Council may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This division shall only apply to easements of record or to easements established by judgement of a court of competent jurisdiction. *The design of the subdivision does not conflict with any*

easements of record.

B. Architecture / Design

The Project lacks specific architectural designs at this time so the future builder of the tentative map will be required to submit an Architecture and Site Plan Review application, of which the Planning Commission has final discretionary approval.

During the August 18, 2020 regular Planning Commission meeting, one public comment was received from the neighboring property to the south of this site. A pool is being planned for their rear yard, which sits at a lower elevation than the Project site. To help ensure privacy, the developer offered to consider one or more of the following options: restrict the adjacent rear lots to single story houses, provide a two-story floor plan without window/sight access to the pool location, plant additional landscaping to screen the south property line, and/or add height to the south property line fence.

C. Low Impact Development (LID) Standards

The City developed LID guidelines due to storm water discharge standards implemented by the State of California through the MS4 permit process. Tentative Map 01-2015 will adhere to the City's and State's LID guidelines. All project storm water will be collected and disposed of on-site through the use of a terminal storm water retention basin. There is no park component but the developer will install benches, a table, and a grill along the perimeter of the landscaped basin.

I. Development Agreement

A. Term

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

B. System Development Fees

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

As Council is aware the City has been working on a cooperation agreement with the developer to memorialize specific grant and affordable housing loan assistance to the project. The core components of these specifics have been developed and agreed to in theory subject to future City Council approval. It is anticipated that this separate document will be available for Council consideration at the first meeting in October.

PUBLIC NOTICE

On September 10, 2020, public notices for the City Council hearing were mailed to interested parties and property owners within 300 feet of the project location. The City Council hearing notice was published in the Riverbank News and posted on the City's website on September 9, 2020. It was also posted at City Hall North, South, the post office and sent to the library on September 9, 2020. The subject property was posted for its Planning Commission hearing on August 6, 2020 and the posting remains up.

ATTACHMENTS

Attachment 1 – Draft Ordinance No. 2020-XXX

Exhibit A – Ward Villas Development Agreement with Exhibits

Attachment 2 – Planning Commission Resolution No. 2020-007

ATTACHMENT 1

CITY OF RIVERBANK ORDINANCE NO. 2020-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 02-2020 FOR the WARD VILLAS AFFORDABLE HOUSING PROJECT TO EXTEND THE LIFE OF THE APPROVED WARD VILLAS TENTATIVE MAP 01-2015 TO REAL PROPERTY AT 2912 WARD AVENUE (APN 132-036-003)

WHEREAS, Cary Pope, who proposes to develop 28 residential lots in the City of Riverbank ("City") and related public improvements, is requesting to extend by Development Agreement the life of Tentative Map 01-2015, a subdivision known as Ward Villas (the "Project"); and

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

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

WHEREAS, On February 9, 2016, the City Council adopted Resolution No. 2016-008, approving a general plan amendment redesignating 2.4 acres to medium-density residential (MDR) which allows for a net density of eight to sixteen (8-16) dwelling units per net acre; and

WHEREAS, On February 9, 2016, the City Council adopted Resolution No. 2016-009, approving Tentative Map 01-2015 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 28 residential lots on 2.4 acres; and

WHEREAS, On February 9, 2016, the City Council adopted Ordinance No. 2016-010, approving a rezone of 2.4 acres to Planned Development and allowing for a net density of eight to sixteen (8-16) dwelling units per acre; and

WHEREAS, the City of Riverbank Planning Commission held a duly noticed public hearing on Tuesday, August 18, 2020 to consider the Ward Villas Development

ATTACHMENT 1

Agreement and provide their recommendation of approval to the City Council with a vote of 4-1(absence); and

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

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on September 22, 2020 to consider the introduction of the Ward Villas Development Agreement for first reading; and

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on September 22, 2020 to consider the approval of the Ward Villas Development Agreement; and

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

1. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank; and
2. The City Council finds that the Ward Villas Development Agreement:
 1. Is consistent with the objectives, policies, and programs and residential land uses established by the 2005 Riverbank General Plan; and
 2. Is consistent with the provisions of Government Code Section 65864 through 65869.5; and
 3. Is in conformity with the public convenience and general welfare and good land use practices because the terms of the Development Agreement establish appropriate and adequate mechanisms to fund and install infrastructure needed to support public services relating to the Project and General Plan planning area; and
 4. Will provide funding and infrastructure to support the Project, and will not adversely affect the orderly development of property or the preservation of property values; and
 5. Will provide funding and infrastructure to ensure that adequate public services are available to serve the Project without being detrimental to the health, safety, and general welfare of the City of Riverbank; and

ATTACHMENT 1

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

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

Section 1: The City Council of the City of Riverbank approves a Development Agreement by and between Cary Pope and the City of Riverbank relating to the development known as “Ward Villas” located on the following APN: 132-036-003.

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

Section 3: Notice of the City Council public hearing on the proposed Development Agreement Ordinance was published in the Riverbank News, a newspaper of general circulation, on September 9, 2020; and Notices of the public hearing on the proposed Development Agreement were mailed to all interested parties and property owners within 300 feet of the property, according to the most recent assessor’s roll, on September 10, 2020.

Section 4: Pursuant to the California Environmental Quality Act (CEQA) environmental impacts relating to the Project were evaluated and Tentative Map 01-2015 was exempt pursuant to Section 15332 (Class 32, In-Fill Development Projects) of the State CEQA Guidelines. The adopted tentative map meets the conditions prescribed by CEQA Section 15332 (a-e). Pursuant to CEQA Guidelines Section 15378, the Development Agreement is within the purview of the Ward Villas Project, for which environmental impacts have already been reviewed. Thus, approval of the Development Agreement does not require further environmental review.

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

Section 6: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

ATTACHMENT 1

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the 22th day of September, 2020; motioned by Council Member _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

EXHIBIT A

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

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

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

(Space above line for recorder's use only)

APN: 132-036-003

DEVELOPMENT AGREEMENT BY AND BETWEEN THE

CITY OF RIVERBANK

AND

CARY POPE

RELATING TO THE DEVELOPMENT KNOWN AS THE
“WARD VILLAS”

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

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF RIVERBANK, a California municipal corporation ("City") and CARY POPE ("Developer"). Developer and City may hereinafter be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement.

This Agreement is made with reference to the following facts:

RECITALS

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

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

C. Developer represents that, as of the recordation of this Agreement, it will have a legal or equitable interest to land consisting of approximately 2.42 acres, as shown on the tentative map attached hereto as **Exhibit A**, and legally described in **Exhibit B** (the "Property").

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

(i) On February 9, 2016, the City Council adopted Resolution No. 2016-008, approving a general plan amendment redesignating 2.42 acres to medium density residential (MDR) which allows for a net density of eight to sixteen (8-16) dwelling units per acre;

(ii) On February 9, 2016, the City Council adopted Resolution No. 2016-009, approving tentative subdivision map 01-2015 (the "Ward Villas Tentative Map") and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 28 residential lots on 2.42 acres;

(iii) On February 9, 2016, the City Council adopted Ordinance No. 2016-010, approving a rezone of 2.42 acres to Planned Development and allowing for a net density of eight to sixteen (8-16) dwelling units per acre;

E. Pursuant to the California Environmental Quality Act, it has been determined that the proposed Tentative Map is exempt pursuant to Section 15332 (Class 32) In-Fill Development

Projects of the State CEQA Guidelines. The proposed Tentative Map meets the conditions prescribed by CEQA Section 15332(a-e).

F. Developer has proposed to develop the Property into 28 residential lots and related public improvements in conformance with the provisions of this Agreement and the Project Approvals (the “Project”).

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

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

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

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

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

ARTICLE 1 DEFINITIONS

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

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

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

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

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

1.05. “Conditions of Approval” shall mean the consolidated conditions of approval for the Project, attached and incorporated hereto as **Exhibit C**. The Conditions of Approval supersede previous conditions adopted in connection with City Resolution Nos. 2015-017 and 2015-018.

1.06. “Developer” shall mean, Cary Pope, and may include Developer’s assignees where such assignment is validly made pursuant to this Agreement.

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

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

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

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

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

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

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

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

1.15. “Property” shall mean 2.42 acres of real property located north of Fern Court, east of Don Ramon Avenue, west of Roselle Avenue, and south of Ward Avenue, in the City of Riverbank and the County of Stanislaus, State of California, as shown on the Ward Villas Tentative Map in **Exhibit A**.

1.16. “Ward Villas Tentative Map” shall refer to the Tentative Subdivision Map for the Project, as approved by the City Council on February 9, 2016 by Resolution No. 2016-009, attached and incorporated hereto as **Exhibit A**, which may be amended from time to time in compliance with this Agreement.

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

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

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

ARTICLE 2 GENERAL PROVISIONS

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

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

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

- Exhibit A: Resolution 2016-009 and Ward Villas Tentative Map
- Exhibit B: Legal Description of Property
- Exhibit C: Consolidated Conditions of Approval
- Exhibit D: System Development Fee Reimbursement
- Exhibit E: Ward Villas SDF
- Exhibit F: Draft Subdivision Improvement Agreement
- Exhibit G: Draft Assumption and Assignment Agreement

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

2.05. Term.

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

(b) Extension. Developer may request to extend the Term of the Agreement one time for the length of five (5) years. The City Council may approve a one-time extension. If

approved, the extension shall be recorded on the Property in the official records of Stanislaus County.

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

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

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

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

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

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

ARTICLE 3 DEVELOPMENT OF THE PROPERTY

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

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

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

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

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

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

3.07. Subdivision Maps.

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

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

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

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

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

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

(d) Other Public Agencies. The Parties acknowledge that other public agencies outside of the control and authority of the City may regulate aspects of the development of the Project. This Agreement does not limit the authority of any such public agency. To the extent Developer requires permits or approvals from other public agencies, however, City agrees to cooperate with Developer to obtain such permits and approvals for the Project.

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

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

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

3.09. Development Timing. Developer shall be obligated to comply with the terms and conditions at those times specified in either the Project Approvals or this Agreement. The Parties acknowledge that Developer cannot predict with certainty when or the rate at which phases of the Property would be developed. Such decisions depend upon numerous factors which are not all within the control of Developer, such as market orientation and demand, interest rates, competition and other factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development controlling the parties' agreement, it is the intent of the City and Developer to hereby acknowledge and provide for the right of Developer to develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment, subject to the terms, requirements and conditions of the Project Approvals and this Agreement. The City acknowledges that such a right is consistent with the intent, purpose and understanding of the parties to this Development Agreement, and that without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statute, City Council Resolution No. 1999-039 and this

Agreement. Developer shall use their best efforts, in accordance with their business judgment and taking into consideration market conditions and other economic factors influencing Developer's business decision, to commence or to continue development, and to develop the Project in a regular, progressive and timely manner in accordance with the provisions and conditions of this Agreement and with the Project Approvals.

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

ARTICLE 4 FEES, COSTS AND REIMBURSEMENTS

4.01. Processing and Inspection Costs. As this is a joint City-Developer project, the City may waive those processing, inspection and plan checking fees and charges normally required by City under the current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Developer hereunder.

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

4.03. System Development Fee Credits. City and Developer have agreed in concept to System Development Fee credits or reimbursements attributable to Developer, as provided in the agreement attached as **Exhibit D** (the "System Development Fee Reimbursement Agreement" or "Reimbursement Agreement"). City shall review, consider and remit fee credits and reimbursements attributable to Developer consistent with the City's System Development Fee ("SDF") program. City may update its SDF program to incorporate a sewer capacity fee, to update the traffic fee, and/or to update the community park component of the parks fee. Updates to the City's SDF program fees must occur within two (2) years after the Effective Date of this Agreement to be applicable to the subject Property. In no event, however, shall City adopt or increase the SDF fee for sewer capacity, traffic, or the community park component of the parks fee by more than twenty-five percent (25%) of the current SDF amounts shown on **Exhibit E** ("Eligible Project Specific Reimbursements") attached hereto. In the event the City Manager

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

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

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

ARTICLE 5 IMPROVEMENTS, SERVICES AND UTILITIES

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

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

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

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

5.05. Parkland Dedication and Improvement. Developer may offer to dedicate parkland within the storm drainage area, in order to satisfy parkland dedication requirements in accordance with the Quimby Act (Gov. Code § 66477), currently 5 acres of parkland per 1,000

persons (1 acre of park per 58 new dwelling units) and to comply with City Code provisions related to park improvements.

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

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

ARTICLE 6 CITY OBLIGATIONS

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

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

ARTICLE 7 DEFAULT, REMEDIES, TERMINATION

7.01. General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either Party to perform any term or provision of this Agreement shall constitute a default. Any Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which the default may be cured. During any such thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings. After notice and expiration of the thirty (30) day period, if such default has not been

cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may terminate this Agreement and institute legal or equitable action to cure, correct or remedy any default, including but not limited to an action for specific performance of the terms of this Agreement. In no event shall either Party be liable to the other for consequential damages for any default or breach of this Agreement.

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

7.03. Default by City. In the event City does not accept, review, approve or issue development permits, entitlements, or other land use or building approvals for use in a timely fashion as provided in this Agreement or as otherwise agreed to by the parties, or the City otherwise defaults under the terms of this Agreement, Developer shall have all rights and remedies provided herein or under applicable law or equity (except as limited herein). Developer shall provide City with written notice of the default and the City shall have thirty (30) days to notify Developer of City's initial action to cure the default and ninety (90) days from receipt of Developer's notice to cure the default.

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

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

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

ARTICLE 8 INDEMNIFICATION

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

8.02. Third Party Legal Challenge. In the event of any legal or equitable act, action, or other proceeding instituted by a third party, other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending said action or proceeding. If Developer elects to file a validation action in order to confirm validity of this Agreement, City agrees to cooperate with Developer in this litigation and further agrees to refrain from raising any arguments that challenge the validity of this Agreement.

ARTICLE 9 ASSIGNMENT; MORTGAGEE PROTECTION

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

9.02. Mortgagee Not Obligated. Notwithstanding the provisions of Section 9.01 above, no mortgagee shall have any affirmative obligation or duty under this Agreement to construct or complete improvements, or to guarantee such construction or completion. A mortgagee who takes lawful possession of the Property shall, however, assume any or all development rights consistent with any vested rights and this Agreement. Foreclosure under a mortgage, deed of trust, deed in lieu of foreclosure or sale following foreclosure or deed in lieu of foreclosure is permitted without the consent of the City. Following its acquisition of all or a portion of the Project, such holder of

any mortgage or deed of trust, or any successor in interest thereto, shall be entitled to the benefits of this Agreement, shall be bound by its terms and obligations, and shall have standing to enforce the provisions of this Agreement, including the terms and conditions of Project Approvals which pertain to the Project or such portion thereof in which it holds an interest. Any such holder or successor who comes into possession of the Project, or any portion thereof, shall take the Project, or such portion thereof, subject to any claims for payments or charges against the Project or such portion thereof, which accrue under this Agreement or Project Approvals prior to the time such holder or successor comes into possession of the Project or such portion thereof. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder or successor to devote the Project, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by Project Approvals and this Agreement, subject to all of the terms and conditions of this Agreement.

9.03. Assignment of Rights. Subject to compliance with Section 9.04 below, Developer may sell, assign or transfer the Project in whole or in part to any person or entity at any time during the Term of this Agreement. Developer shall seek City's prior written consent to any sale, assignment or transfer, which consent shall not be unreasonably withheld or delayed. Failure by City to respond within forty-five (45) days to any request made by Developer for such consent shall be deemed to be City's approval of the sale, assignment or transfer in question. City may refuse to give its consent only if, in light of the proposed assignee's reputation and financial resources, such assignee would not in City's reasonable opinion be able to perform the obligations proposed to be assumed by such assignee. Such determination shall be made by the City Manager, and may be appealable by Developer to the City Council. To the extent reimbursements or fee credits from City are required pursuant to this Agreement or the Project Approvals, any and all such reimbursements and credits shall be distributed to Developer unless Developer and the subsequent Landowner specifically direct City in writing to distribute such reimbursements, or apply such credits, otherwise.

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

ARTICLE 10 GENERAL

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

10.02. Project is a Private Undertaking. Both Parties acknowledge that the Project is a private development. No partnership, joint venture or other association of any kind between Developer and the City is formed by this Agreement. The only relationship between the City and Developer is that of a governmental entity regulating the development of private property and the owner of such private property. However, the City may at its discretion enter into a cooperation agreement with the developer as it relates to facilitation of affordable housing development.

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

10.04. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

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

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

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

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

If to Developer: Cary Pope
3237 Riverside Drive
Riverbank, CA 95367
Email: cpope@pmz.com
Phone: 209-456-6297

DEVELOPMENT AGREEMENT
City of Riverbank and Cary Pope
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10.10. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue shall be in the Superior Court of Stanislaus County.

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

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

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

[Signatures on following page]

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

CITY	DEVELOPER
The City of Riverbank, a California municipal corporation	Cary Pope
By: _____ Richard O'Brien, Mayor	_____, President
Date: _____	
APPROVED AS TO FORM:	
By: _____ Tom Hallinan, City Attorney	
ATTEST:	
By: _____ City Clerk	

Ward Villas Tentative Map

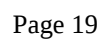


EXHIBIT B

Legal Description of Property

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

The East half of Lot 96 of Riverbank Acreage Tract as per Map filed March 23, 1912 in Vol. 6 of Maps, Page 33, Stanislaus County Records.

EXHIBIT C

Consolidated Conditions of Approval

1. Applicant shall comply with the City of Riverbank Standard Conditions as contained in Planning Commission Resolution 2013-014, including annexing into a Community Facilities District, or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and
2. Applicant shall provide a labor, material and warranty bond as a part of his subdivision improvement agreement prior to map recordation; and
3. Fencing along the east, west, and south property lines and separating individual lots shall be six (6) feet tall. If adjacent neighbor fences need replacement during construction, vinyl shall be replaced with vinyl and wood shall be replaced with wood or vinyl. Vinyl fencing shall be installed on the two parcels fronting Ward Avenue to the satisfaction of the Community Development Director; and
4. A Major Tree Conservation Permit including a Tree Removal Permit Application, Tree Survey and Tree Protection Plan is required before a grading permit can be issued; and
5. The private street name, Chavez Street shall be approved by City Council unless a street with that name already exists in Stanislaus County; and
6. CFD 2016-01 shall be responsible for maintenance of the basin and common areas, landscaping (including front yards), and walls and fences (including graffiti removal and re-staining wooden fencing when it fades from sprinklers); and
7. Three (3) sets of landscape and irrigation plans shall be prepared and submitted with fee for review and approval by the City's contract landscape architect; and
8. The developer shall provide functionally opening windows on all elevations to the satisfaction of the Community Development Director; and
9. The developer shall install sidewalks on both sides of the private street; and
10. The developer shall install a concrete pad on Ward Avenue for school children to wait on to the satisfaction of the Community Development Director; and
11. The developer shall record a ten (10) foot water line easement between Lot 10 and Lot 11, from Rocky Lane to the private street to loop the water system; and
12. Pursuant to RMC section 153.162 (E)(3) the developer shall provide seven (7) amenities for the seven (7) deviations from standard ordinance requirements: 1. enhanced landscaping (i.e. larger size plants, more dense plantings); 2. a colored concrete or brick crosswalk across the private street at Ward Avenue; 3. One (1) grill and one (1) table at the storm water basin; 4. upgraded garage (carriage) doors; 5. French doors instead of sliding

doors in the living rooms; 6. outdoor outlets to support electric mowers, trimmers, and Christmas lights; and 7. two (2) benches at the storm water basin.

13. Per the Planning Commission meeting of August 18, 2020, the Developer agrees to help ensure privacy for a pool at the adjacent property to the south by considering one or more of the following options: restrict the adjacent rear lots to single story houses, provide a two-story floor plan without window/sight access to the pool location, plant additional landscaping to screen the south property line, and/or add height to the south property line fence.

EXHIBIT D

Draft System Development Fee Reimbursement

SDF Fee Reimbursements

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

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

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

EXHIBIT E

SDF

Adjusted SDF Fee Schedule

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

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

EXHIBIT F

Draft Subdivision Improvement Agreement

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

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

(Space above this line for Recorder's use)

SUBDIVISION IMPROVEMENT AGREEMENT FOR THE WARD VILLAS SUBDIVISION

This **SUBDIVISION IMPROVEMENT AGREEMENT** ("Agreement") is made and entered into this ___ day of __ 20__, by and between the City of Riverbank, a California municipal corporation ("City") and Cary Pope, and / or Assignee(s) ("Subdivider"). City and Subdivider may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement. This Agreement is made with reference to the following:

RECITALS

A. Subdivider is possessed of a tract of land consisting of approximately 2.42 acres, lying in the City of Riverbank, County of Stanislaus, California, known as "Ward Villas" (the "Subdivision").

B. On January 19, 2016, the Planning Commission approved Tentative Subdivision Map No. 2016-001 for the Subdivision with conditions of approval (the "Tentative Map"). Resolution No. 2016-___ approving the Tentative Map is attached hereto as **Exhibit A** and incorporated herein by this reference (the "Resolution of Approval").

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

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

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

F. In order for the City to approve and record a Final Map for the Subdivision, the Subdivider must either complete all of the improvements required by the Subdivision Laws, Resolution of Approval, Improvement Plans and Tentative Map ("Improvements"), or execute an agreement with the City to complete the Improvements within a specified period of time.

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

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

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

AGREEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I. Require each contractor and subcontractor to have a competent foreman on the job at all times when that contractor or subcontractor, or any employee or agent thereof, is performing any work related to the Improvements. Subdivider shall maintain an office with a

telephone and Subdivider or a person authorized to make decisions and act for Subdivider in Subdivider's absence shall be available at the site of any Improvements within three (3) hours of being called at such office by the City at any time when construction work is being performed on the Improvements.

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

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

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

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

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

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

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

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

10. Repair of Defective Work. If, however, within a period of one (1) year after final acceptance by the City Council of the Improvements, any portion of the Improvements or any

work done under this Agreement fails to fulfill any of the requirements of this Agreement, the Improvement Plans or the Improvement Standards, Subdivider shall without delay and without any cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements or work. If the Subdivider fails to act promptly in accordance with this requirement, or if the exigencies of the situation require repairs or replacements to be made before Subdivider can be notified or correct the situation, then the City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Subdivider shall pay to City the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by City.

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

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

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

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

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

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

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

A. *Faithful Performance Securities.* [omitted]

B. *Payment Security.* [omitted]

C. *Guarantee and Warranty Securities.* The Securities provided for guarantee and warranty of workmanship shall be released after one (1) year following the completion and acceptance of the Improvements, and inspection thereof by the City's Construction Inspector and approved by the Engineer. If, however, the Engineer and Manager determine there are defects in the Improvements that require correction pursuant to Section 10 above, the Manager shall utilize the Securities to make all necessary corrections, including payment of reasonable expenses and fees and attorney's fees.

13. Inspections.

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

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

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

14. Default of Subdivider.

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

i. Subdivider's failure to timely complete construction of the Improvements;

ii. Subdivider's failure to timely cure any defect in the Improvements to the satisfaction of the Manager;

iii. Subdivider's failure to timely deposit additional Securities as may be required by this Agreement;

iv. Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which Subdivider fails to discharge within thirty (30) days;

v. the commencement of a foreclosure action against the Subdivision or a portion thereof, or any conveyance in-lieu or in avoidance of foreclosure; or

vi. Subdivider's failure to perform any material obligation under this Agreement.

B. *Notice of Default.* In the event of Subdivider's default, Subdivider shall be deemed to be in breach of this Agreement and the City may serve written notice upon Subdivider and Subdivider's surety, if any, of the breach of this Agreement. Subdivider shall have fifteen (15) days from receipt of written notice by City to cure any default.

C. *Remedies; Performance by City.*

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

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

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

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

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

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

15. Environmental Warranty.

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

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

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

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

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

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

(b)

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

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

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

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

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

16. Design or Construction Defect.

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

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

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

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

the Improvement Work or Improvements specified in this Agreement prior to the completion and acceptance of the Improvement Work or Improvements. All such risks shall be the responsibility of and are hereby expressly assumed by Subdivider.

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

19. Indemnity/Hold Harmless.

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

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

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

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

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

A. Proof of Insurance.

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

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

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

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

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

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

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

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

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

iii. Worker's Compensation Insurance.

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

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

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

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

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

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

If to City:	City of Riverbank 6707 Third Street Riverbank, CA 95367 Attn: Donna M. Kenney, Planning and Building Manager
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With copies to:	City of Riverbank 6707 Third Street Riverbank, CA 95367 Attn: Sean Scully, City Manager
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and Churchwell White, LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attn: Douglas L. White, Esq.

If to Subdivider: Cary Pope
3237 Riverside Drive
Riverbank, CA 95367
209-456-6297
cpope@pmz.com

and _____

23. General Provisions:

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

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

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

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

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

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

G. *Integration.* This Agreement, together with its specific references, attachments and Exhibits, constitute all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the Parties with respect to the subject

matter of this Agreement. Neither Party shall be liable for any representations made, express or implied, not specifically set forth herein. It is the intention of the Parties that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

(c)

[Signatures on following page]

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

SUBDIVIDER:

Cary Pope, President

By: _____
Name: Cary Pope
Title: President
Date Signed: _____

CITY:

CITY OF RIVERBANK, a California
municipal corporation:

By: _____
Sean Scully, City Manager

Date: _____

ATTEST:

By: _____
Annabelle Aguilar, City Clerk

APPROVED AS TO FORM:

By: _____
Tom Hallinan, City Attorney

California All-Purpose Acknowledgment

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

State of California)
)
County of Stanislaus)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

California All-Purpose Acknowledgment

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

State of California)
)
County of Stanislaus)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

EXHIBIT A

Tentative Map Resolution of Approval

City of Riverbank
Planning Commission
Resolution No. 2016-006

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
RIVERBANK RECOMMENDING APPROVAL OF THE REQUEST OF
TROY WRIGHT FOR A VESTING TENTATIVE MAP 01-2015 TO
SUBDIVIDE 2.42 ACRES INTO 28 PLANNED DEVELOPMENT SINGLE
FAMILY RESIDENTIAL LOTS, LOCATED AT
2912 WARD AVENUE APN: 132-036-003**

WHEREAS, a vesting tentative map application has been received from Troy Wright/ Applicant and Rachel Garcia and Mary Chavez/Owners, to divide a parcel (APN 132-036-003) of 2.42 acres, into 28 Planned Development single family residential lots, a private street and a basin/emergency vehicle access; and

WHEREAS, the City Subdivision Ordinance, Section 152.037 states that as a condition of approval of a tentative map, the subdivider shall dedicate and develop parkland, pay a fee in lieu thereof, or both, at the option of the City. In this case the City has chosen to accept the payment of an in-lieu fee for parkland dedication based on values of land at the time the Final Map is recorded. The obligation for this project is the value of .24 acres; and

WHEREAS, public facilities represent the public's investment in the development of the complex, urban infrastructure that is necessary to support the physical operation of the city; and

WHEREAS, the proposed tentative map is consistent with the following General Plan policies discussed at length in the staff report: CONS 4.2 (storm water), CONS 8.6 (compact development), CONS 8.9 (drought-tolerant landscaping) and SAFE 2.2 (fire protection); and

WHEREAS, with modification by adopted Conditions of Approval, the proposed tentative map will become consistent with the following General Plan policies discussed at length in the staff report: DESIGN 1.3 (connectivity), DESIGN 1.6 (connectivity), DESIGN 2.5 (sidewalks), DESIGN 2.7 (sidewalks), DESIGN 2.8 (transit amenity), DESIGN 3.1 (connectivity), DESIGN 3.2 (porches), DESIGN 3.5 (driveway and garage widths), and DESIGN 5.2 (porches); and

WHEREAS, Vesting Tentative Map 01-2015 was reviewed by the Riverbank Planning Commission at a regular meeting held on January 19, 2016 in the manner prescribed by law; and

WHEREAS, The Planning Commission did consider a proposed Exemption pursuant to the California Environmental Quality Act and considers this to be the appropriate level of environmental review in this case. The Planning Commission finds that the proposed project meets the conditions prescribed in Section 15332 (a-e) (Class 32, In-Fill Development Projects) of the State CEQA Guidelines; and

WHEREAS, The Riverbank Planning Commission recommends approval of the requested Vesting Tentative Map date-stamped January 13, 2016 prepared by Hawkins and Associates Engineering, Inc. and modified by adopted Conditions of Approval, and incorporated herein as a part

of this Planning Commission Resolution; and

WHEREAS, The Planning Commission of the City of Riverbank hereby finds and adopts the following findings:

- A. The project is consistent with the General Plan with modification by the adopted conditions of approval.
- B. Notice to the general public and adjoining neighbors in the time and in the manner required by State Law and City Code was provided.
- C. Pursuant to the California Environmental Quality Act, the proposed project is exempt pursuant to Section 15332 (Class 32, In-Fill Development Projects) of the State CEQA Guidelines. The proposed Project meets conditions prescribed by CEQA Section 15332 (a-e).
- D. The approval of Vesting Tentative Map 01-2015 to divide parcel APN 132-036-003 of 2.42 acres, into 28 single family lots will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood in that the project is similar to, and compatible with, neighboring uses in the area.

WHEREAS, The request for the Vesting Tentative Map is hereby recommended for conditional approval by the Planning Commission of the City of Riverbank, subject to and modified by the following conditions:

- 1. Applicant shall comply with the City of Riverbank Standard Conditions as contained in Planning Commission Resolution 2013-014, including annexing into a Community Facilities District, or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and
- 2. All frontage improvements (curb, gutter, and sidewalk) along Ward Avenue and the private street shall be designed, completed, and inspected by the City prior to Final Map Recordation.
- 3. Fencing along the east, west, and south property lines and separating individual lots shall be six (6) feet tall. If adjacent neighbor fences need replacement during construction, vinyl shall be replaced with vinyl and wood shall be replaced with wood or vinyl. A decorative wall meeting city standards shall be installed on the two parcels fronting Ward Avenue to the satisfaction of the Community Development Director.
- 4. A Major Tree Conservation Permit including a Tree Removal Permit Application, Tree Survey and Tree Protection Plan is required before a grading permit can be issued.
- 5. The private street name, Chavez Street shall be approved by City Council unless a street with that name already exists in Stanislaus County.
- 6. The required Home Owner's Association shall be responsible for maintenance of the basin and common areas, landscaping (including front yards), and walls and fences (including graffiti removal and re-staining wooden fencing when it fades from sprinklers).

7. The Park-in-lieu fee obligation for this project is .24 acres to be paid based on values of land at the time the Final Map is recorded.
8. Three (3) sets of landscape and irrigation plans shall be prepared and submitted with fee for review and approval by the City's contract landscape architect.
9. The developer shall provide functionally opening windows on all elevations to the satisfaction of the Community Development Director.
10. The developer shall install sidewalks on both sides of the private street.
11. The developer shall install a concrete pad on Ward Avenue for school children to wait on to the satisfaction of the Community Development Director.
12. The developer shall record a ten (10) foot water line easement between Lot 10 and Lot 11, from Rocky Lane to the private street to loop the water system
13. Pursuant to RMC section 153.162 (E)(3) the developer shall provide seven (7) amenities for the seven (7) deviations from standard ordinance requirements: 1. enhanced landscaping (i.e. larger size plants, more dense plantings); 2. a colored concrete or brick crosswalk across the private street at Ward Avenue; 3. A decorative block wall and vinyl fencing instead of wooden fencing where fencing is visible from the streets; 4. upgraded garage (carriage) doors; 5. French doors instead of sliding doors in the living rooms; 6. outdoor outlets to support electric mowers, trimmers, and Christmas lights; and 7. two (2) benches at the storm water basin.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission recommends for approval Vesting Tentative Map No. 01-2015, subject to those Conditions of Approval established by Resolution No. 2016-006 and to be recorded as modified.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 19th day of January, 2016; motioned by Commissioner McKinney, seconded by Commissioner Stewart, and upon roll call was carried by the following vote of 4-0:

AYES: Commissioner's: Hughes, Stewart, Villapudua and McKinney

NOES: None

ABSENT: None

ABSTAIN: None

Attest:


Donna M. Kenney
Planning and Building Manager

Approved:


Patricia Hughes, Chairperson
Planning Commission

Exhibit G
Assumption and Assignment Agreement

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

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

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

ASSIGNMENT AND ASSUMPTION AGREEMENT

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

R E C I T A L S

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

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

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

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

A G R E E M E N T

1. Assignor hereby assigns, effective as of [the Effective Date or Assignor's conveyance of the Assigned Parcels to Subsequent Landowner], [all of] or [if only a portion of, describe] the rights, interests, burdens and obligations of Assignor under the Agreement with respect to the Assigned Parcels. Assignor retains all of the rights, interests, burdens and obligations under this Agreement with respect to all property other than the Assigned Parcels within the Subject Property owned by Assignor.

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

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

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

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

ASSIGNOR:

SUBSEQUENT LANDOWNER:

_____, a _____

_____, a _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

APPROVED:

City Manager

EXHIBIT A

Assigned Parcels

[Provide legal description of assigned parcels]

California All-Purpose Acknowledgment

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

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

State of California)
)
County of _____)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

California All-Purpose Acknowledgment

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

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

State of California)
)
County of _____)

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

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

Witness my hand and official seal.

(Signature)

(Seal)

ATTACHMENT 2

**City of Riverbank
Planning Commission
Resolution No. 2020-007**

**A Resolution of the Planning Commission of the City of Riverbank ("City"),
Recommending that the City Council Adopt an Ordinance
Approving a Development Agreement by and Between the
City of Riverbank and Cary Pope for the
Ward Villas Affordable Housing Project (APN 132-036-003)**

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

WHEREAS, the Riverbank City Attorney and City staff have negotiated a development agreement ("Development Agreement") with Cary Pope, Developer ("Cary Pope"), to provide Cary Pope with a vested right to develop approximately 28 single-family residential lots on approximately 2.42 acres in connection with the project known as Ward Villas Affordable Housing Project ("Ward Villas" or "Project"), and to extend the life of Tentative Map 01-2015 relating to the Project; and

WHEREAS, the Development Agreement provides a vested right for Cary Pope to improve, develop, and use real property to develop approximately 28 single family residential lots within Ward Villas as defined in the Development Agreement; and

WHEREAS, staff had determined that Tentative Map 01-2015 was exempt pursuant to Section 15332 (Class 32, In-Fill Development Projects) of the State CEQA Guidelines. The adopted tentative map meets the conditions prescribed by CEQA Section 15332(a-e). Thus, approval of the Development Agreement does not require further environmental review; and

WHEREAS, the Planning Commission held a duly noticed public hearing on August 18, 2020, to consider the Development Agreement and make recommendations to the City Council; and

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

ATTACHMENT 2

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

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

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

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 18th day of August 2020; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following Planning Commission vote of 4-1(absence):

AYES: Commissioners: Stewart, Dinan, Link, and Basso

NAYS:

ABSENT: Chair Fenrich (excused)

ABSTAIN:

Attest:

Approved:

Donna M. Kenney

Joan Stewart

Donna M. Kenney, Secretary
Planning and Building Manager

Joan Stewart, Vice Chair
Planning Commission

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: CONSENT CALENDAR

Meeting Date:	September 22, 2020
Subject:	Mobile Food Vendor Pilot Program Extension
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

Staff recommends that the City Council review the report and extend the Mobile Food Vendor Pilot Program for an additional six (6) months.

SUMMARY

Riverbank has had a Mobile Food Vendor Pilot Program in place since April 1, 2019. The current expiration date for the program is October 1, 2020. At their meeting of September 24, 2019, the Council directed staff to work on a Mobile Food Vendor ordinance to replace the pilot program. Due to Covid-19 outreach/enforcement and development priorities, the ordinance is not complete and a request is made to extend the pilot program an additional six (6) months so the permitted Mobile Food Vendors can remain in business while staff completes the ordinance. Staff has not received any complaints of truck operators violating their permits although there were some social distancing concerns in the spring that were quickly resolved. In general the feedback from the community has been very positive relating to the Mobile Food Vendor operation.

ATTACHMENTS

1. Resolution No. 2020-XXX

CITY OF RIVERBANK

RESOLUTION NO. 2020-XXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, EXTENDING A MOBILE FOOD VENDOR PILOT PROGRAM WITHIN
THE CITY OF RIVERBANK FOR SIX (6) MONTHS**

WHEREAS, in 2018 the Planning Commission held a workshop to discuss the public's desire to allow Mobile Food Vendors to park and vend within Riverbank city limits; and

WHEREAS, as a result of the workshop, staff was directed to approach the City Council with a request to consider a Mobile Food Vendor program or ordinance; and

WHEREAS, staff drafted a Mobile Food Vendor Pilot Program ("Pilot Program") and presented it to the City Council for their review and staff direction; and

WHEREAS, on January 22, 2019 the Riverbank City Council approved a six (6) month Pilot Program for mobile food vendors and staff implemented it utilizing a Temporary Use Permit process (for City Park perimeter parking) and an Administrative Use Permit process (for private property parking); and

WHEREAS, the Pilot Program began on April 1, 2019 with the issuance of the first Temporary Use Permit and an end date of October 1, 2019; and

WHEREAS, on September 24, 2019 at their regular meeting and with only two (2) mobile food vendors in operation, the Council determined there had not been adequate time to assess the impacts of the Pilot Program; therefore, Council extended the pilot program for twelve (12) months to October 1, 2020; and

WHEREAS, the City Council also directed staff to work on an ordinance to regulate mobile food vendors which is not yet complete due to Covid-19 responsibilities and development priorities.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby extends the Mobile Food Vendor Pilot Program for an additional six (6) months to April 1, 2021 to allow permitted vendors to continue their operations.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22th day of September 2020; motioned by _____, seconded by _____, and upon roll call was carried by the following vote of __-__:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

PROPOSED

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	September 22, 2020
Subject:	Resolution Authorizing an Animal Control Services Agreement with the City of Oakdale to Provide Animal Control Services in the City of Riverbank
From:	Sean Scully, City Manager
Submitted by:	Norma Torres-Manriquez, Administrative Analyst II/Human Services Specialist

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution authorizing an Animal Control Services Agreement with the City of Oakdale to Provide Animal Control Services in the City of Riverbank.

SUMMARY

Administration staff is requesting authorization from the City Council to renew the existing Animal Control Services Contract with the City of Oakdale which includes updates agreed upon through negotiations between respective city staff. Under the proposed agreement, this contract would be approximately two years in length and expire on June 30, 2022.

BACKGROUND

The City of Oakdale Animal Services has been providing animal control services to Riverbank since 2009; responding to animal-related calls and patrolling for loose and roaming animals. Oakdale Animal Control Services currently provides patrol services to Riverbank residents 40 hours each week during agreed upon days and hours of the day. All personnel costs associated with the patrols are paid by the City of Riverbank. After normal business hours, animal control officers also respond to emergency-only animal related calls in Riverbank on a fee for service basis.

The proposed updated contract has no changes in services or operations and only includes cost of living increases to the cost of operations and maintenance; the total increase is \$16,880.18 per year. The agreement also includes updated language on Attachment 2 of the agreement to replace the Emergency Animal Response Costs to bring it more in alignment with the City of Oakdale's labor association MOU.

Riverbank Staff has worked with City of Oakdale Staff in negotiating the proposed contract; the new agreement was to be finalized by July 1, 2020, however, due to the Covid situation and scheduled protests both Cities agreed to a temporary extension in order to allow sufficient staff time to complete the contract negotiations. The updated agreement will become effective from the signature date through FY 20/22, expiring June 30, 2022. The agreement stipulates that either party may terminate the agreement upon thirty (30) days written notice. The proposed agreement and a description of the fees are provided and identified as Exhibit A.

STRATEGIC PLAN

While this item is not contrary to the City's Strategic Plan, this project has been prioritized in order to ensure the continuity of services from the City of Oakdale.

FINANCIAL IMPACT

Animal Control Services are funded via the General Fund. Costs are generally offset by the issuance of annual dog licenses and citations issued.

FY 2020-2022 budget impact will be for a total appropriation of \$232,287 (per year).

ATTACHMENT

1. Resolution
2. Exhibit A: Animal Control Services Agreement

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA,
AUTHORIZING AN ANIMAL CONTROL SERVICES AGREEMENT WITH THE CITY OF
OAKDALE TO PROVIDE ANIMAL CONTROL SERVICES IN THE CITY OF RIVERBANK**

WHEREAS, the City of Oakdale operates an Animal Control Services Program under the management of the Oakdale Police Department; and

WHEREAS, the City of Riverbank desires to renew an agreement with the City of Oakdale to receive animal control services in Riverbank; and

WHEREAS, the proposed updated agreement has no changes in services or operations, however, will include cost of living increases to the cost of operations and maintenance for a total increase of \$16,880.18 per year; and

WHEREAS, the agreement also includes updated language on attachment 2 of the agreement to replace the Emergency Animal Response Costs to bring it more in alignment with the City of Oakdale's labor association MOU; and

WHEREAS, all services provided are paid by the City of Riverbank in accordance with the new agreement and attachment 2 attached hereto as **Exhibit A**; and

WHEREAS, the City of Riverbank may terminate the proposed agreement upon thirty (30) day written notice to the City of Oakdale.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the Animal Control Services Agreement with the City of Oakdale to provide animal-related patrols (40-hours weekly) in the City of Riverbank and animal control support services. The Term of the agreement shall be from the signature date through June 30, 2022.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22nd day of September, 2020; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of _____ :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment: Exhibit A: Animal Control Services Agreement

This Agreement is entered into this ____ day of _____, between the City of Riverbank and the City of Oakdale. This Agreement is effective through June 30, 2022.

ARTICLE 1

DESCRIPTION OF SERVICES

1.1 TERMS AND CONDITIONS

The City of Oakdale will provide the following limited Animal Control Services to the City of Riverbank. The services selected by the City of Riverbank are described as follows, and are subject to the following terms and conditions. This agreement relates to the impounding of cats, dogs, and small animals not exceeding 150 pounds during specified duty hours of the City of Oakdale's Animal Control Officer(s). Refer to **Attachment 1** for specific cost for service.

1.2 PATROL SERVICES

The City of Oakdale will provide animal related patrol services within the incorporated limits of the City of Riverbank for a period of forty (40) hours of each week. Oakdale Animal Control will provide the City of Riverbank with a schedule of regular patrol hours. However, extenuating circumstances (i.e., employee illness) may prevent the City of Oakdale from providing patrols on a specific schedule. Should such extenuating circumstances occur, Oakdale Animal Control agrees to notify the Riverbank Police Services Watch Commander and the City of Riverbank, Administrative Services Department, to modify the schedule to ensure the required patrol services are provided. The fee that the City of Riverbank agrees to pay the City of Oakdale for these services is described in **Attachment 1**. Refer to **Attachment 1** for service costs.

1.3 EMERGENCY CALL OUT

During hours when City of Oakdale Animal Control officers are not patrolling incorporated areas of the City of Riverbank, Oakdale Animal Control officers will respond to the City of Riverbank to assist with dog, cat, and small animal related emergencies. Such incidents will be verified by a Riverbank Police Services Officer, or a Riverbank contracted Security Officer, or other Riverbank personnel as designated by the City Manager.

Fees vary depending upon the time of day that the request is placed. Refer to **Attachment 2**. Emergency Call Outs for the City of Riverbank are considered:

- (I) INJURED/SICK ANIMALS: When any injured/sick stray domestic or non--domestic animal weighing less than 150 pounds is found in a public place and the owner is unknown or untraceable. Owned injured/sick animals are the responsibility of the owner.
- (II) STRAY ANIMAL BITE: When any animal or species known to be endemic to rabies (generally warm blooded mammals), bites or exposes a human and the owner is unknown, (owned animals are to be confined by the owner, and an Oakdale Animal Services Officer can handle the case the following work day).
- (III) DANGEROUS ANIMALS: When any animal is presenting an immediate danger to the public safety.
- (IV) AGENCY ASSISTANCE: An Oakdale Animal Services Officer will respond to emergency call-outs as defined in (I), (II), and (III) above, once the emergency has been verified by an on-duty peace officer, when available, or authorized security officer working under contract for the City of Riverbank, when available.
- (V) PUBLIC SAFETY: On occasion, animal control calls that are determined to pose a public safety concern, which do not meet the definitions of an emergency as stated in (I) (II) or (III) above, requires animal control service. Such incidents will be verified by a Riverbank Police Services Officer, or a Riverbank contracted Security Officer, or other Riverbank personnel as designated by the City Manager.

All call out requests for animal control services not within the scheduled hours of patrolling the City of Riverbank shall be paid by the City of Riverbank as indicated in **Attachment 2**.

1.4 VETERINARIAN/MEDICAL SERVICES AND ASSOCIATED COSTS

The City of Oakdale will provide veterinarian/medical services for animals captured within the City of Riverbank. The City of Oakdale also agrees to provide office supplies and equipment for Oakdale Animal Control employees. Euthanasia drugs, dog and cat food, animal disposal services, spay and neutering, cleaning and drain chemicals, and miscellaneous items will also be supplied. The fee that the City of Riverbank agrees to pay the City of Oakdale for these services and supplies is described in **Attachment 1**.

1.5 IDENTITY OF OWNER

All animals received by Oakdale Animal Control Officers will be checked for a microchip and/or city license, in an attempt to identify their owner.

ARTICLE 2

GENERAL PROVISIONS

2.1 SHELTER ATTENDANT

The City of Oakdale will employ two part-time (32-hour a week and 12-hour a week) shelter attendants. The job duties will include but will not be limited to feeding the animals, cleaning the facility, and to accept and release animals from the Oakdale Animal Control Shelter. The Oakdale Animal Control Services supervisor will set this employee's work schedule.

The Cities of Oakdale and Riverbank agree to share equally the cost of the two shelter attendants. See **Attachment 1** for a summary of the cost.

2.2 RADIO/TELEPHONE DISPATCH COSTS

It is anticipated that the Oakdale Police Department will receive nearly 1500 animal-related calls from the City of Riverbank during the duration of this contract. The City of Oakdale is expected to incur a monthly cost of \$2,000 to dispatch officers for these services. The City of Riverbank agrees to pay for the cost for these services for the duration of this agreement as indicated in **Attachment 1**.

2.3 ANIMAL CONTROL SUPERVISOR COSTS

It is anticipated that the Oakdale Animal Control Unit Supervisor will have to commit at least 8 hours a week to supervising all animal services personnel who will be serving and supporting the City of Riverbank each week. The City of Riverbank agrees to pay for the cost of this service for the duration of this agreement as indicated on **Attachment 1**.

2.4 LIVESTOCK AND LARGE ANIMAL HANDLING COSTS

Although the Oakdale Animal Control Unit is not equipped to handle livestock on a regular basis, and in the interest of maintaining a high level of service for the City of

Riverbank, our Animal Control Unit may be able to assist with such calls depending on the size, disposition and location of the animal. Accepting such calls will be decided on a case-by-case basis and all additional costs including but not limited to housing, feed and veterinarian services will be paid by the City of Riverbank.

2.5 MODIFICATION OF AGREEMENT/FEE SCHEDULE

This agreement may be modified and/or amended at any time by mutual agreement of the parties, in writing. Any increase in fees shall not exceed 10-percent (10%) annually unless mutually agreed upon by both parties.

The fee schedule (**Attachment 1 and Attachment 2**) becomes effective the signature date and expires on June 30, 2022. The cities of Oakdale and Riverbank agree to re-open this agreement on the first business day of May 2022, to begin discussions about a contract extension. However, any salary and fringe benefit increases incurred by the City of Oakdale for the positions of Animal Control Officer, Shelter Attendant, Dispatcher, or Police Sergeant (positions dedicated to providing services to Riverbank under this agreement) may be cause for renegotiation of said contract at any time through June 30, 2022.

The respective City Managers are authorized to make monetary changes up to \$5,000 and all non-monetary changes to the Agreement.

2.6 PAYMENT OF FEES

The City of Riverbank agrees to pay the City of Oakdale for the services selected and billed, within thirty (30) days of receipt of statement of charges.

2.7 ACCEPTANCE/TERMINATION OF AGREEMENT

This Agreement shall become effective immediately upon approval of the Riverbank City Council and the Oakdale City Council. Either party may terminate the Agreement upon thirty (30) days written notice.

2.8 ANIMAL CONTROL VEHICLE

The City of Riverbank has provided, at no cost to the City of Oakdale, an animal control vehicle designed to contain and transport small animals. The vehicle will be used exclusively by designated Oakdale animal control officer(s). The vehicle will be stored at

the Oakdale Police facility when not in service as a convenience to the Oakdale Animal Control officer(s) for emergency animal call-outs occurring in the City of Riverbank. The City of Oakdale has purchased the vehicle for \$1.00 and agrees to amortize its purchase in a manner agreeable to both parties. However, if this Agreement is terminated prior to the full amortization of the animal control vehicle, the vehicle becomes the property of the City of Riverbank. The City of Riverbank will be charged for maintenance and fuel for use of the vehicle to provide services to the City of Riverbank (**refer to Attachment 1**).

In the event that the Riverbank Animal Control vehicle becomes non-serviceable during the lifespan of this contract, the City of Riverbank shall provide, at no cost to the City of Oakdale, an animal control vehicle designed to contain and transport small animals. The vehicle will be used exclusively by designated Oakdale animal control officer(s). The vehicle will be stored at the Oakdale Police facility when not in service as a convenience to the Oakdale Animal Control officer(s) for emergency animal call-outs occurring in the City of Riverbank. The City of Riverbank shall allow the City of Oakdale to purchase the vehicle for \$1.00 and agrees to amortize its purchase in a manner agreeable to both parties. However, if this Agreement is terminated prior to the full amortization of the animal control vehicle, the vehicle becomes the property of the City of Riverbank. The City of Riverbank will be charged for maintenance and fuel for use of the vehicle to provide services to the City of Riverbank (**refer to Attachment 1**).

Beginning July 1, 2020, the City of Riverbank agrees to pay the City of Oakdale \$6,000.00 per fiscal year (\$500 per month) for the duration of this contract to be set aside into a vehicle replacement account. These funds will be used to offset the future replacement of the Riverbank Animal Control vehicle and transportation box. (**refer to Attachment 1**).

2.9 COLLECTION OF FEES

The City of Riverbank has adopted an ordinance that authorizes City of Oakdale Animal Control officer(s) to enforce standard animal-related licensing requirements and nuisance-related problems (i.e., leash law violations) in Riverbank. The City of Riverbank has also agreed to adopt the City of Oakdale's existing animal-related user fees (i.e., animal license fee) to allow Oakdale Animal Control employees to impose fees for services rendered within the City of Riverbank.

The City of Riverbank agrees to collect fees for penalties imposed by the Riverbank City Animal Code and all user fees for services rendered in the incorporated areas of the City of Riverbank. One-hundred-percent (100%) of all fees collected will be transferred to and retained by the City of Oakdale. Thirty-five-percent (35%) of said fees will be paid to the City of Oakdale to be used to help pay costs associated with animal control. The

remaining sixty-five-percent (65%) will be used to offset costs charged to the City of Riverbank for animal control services.

2.10 REPORTING

The City of Oakdale agrees to furnish at the request of the City of Riverbank quarterly reports stating the number of calls responded to, the actual time worked for patrol services, the time worked responding to emergency call outs, and the number of animals apprehended or received.

2.11 VICIOUS AND POTENTIALLY DANGEROUS DOGS

Vicious and potentially dangerous animals shall be handled as set forth in the Oakdale Municipal Code by the Oakdale Police Chief or their designee. Hearings involving Riverbank animals shall take place within the city limits of Riverbank. If the City of Riverbank requests that an Oakdale Animal Control Officer(s) provide assistance in a legal proceeding to declare a dog vicious or potentially dangerous, the City of Riverbank shall pay to the City of Oakdale the weighed labor rate of the Oakdale Animal Services officer who provided the assistance.

2.12 HOLD HARMLESS

To the fullest extent permitted by law, the cities shall indemnify, defend, and hold the other harmless, its officers, representatives, agents and employees against any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities and expenses, including without limitation attorney's fees, to the extent arising or resulting from any negligent acts, errors or omissions of such indemnifying party or its assistants, employees, or agents, including all claims relating to the injury or death of any person or damage to any property. The cities agree to waive rights of recovery for damage to city property because of negligence of the other city. The cities also agree to waive any rights of recovery for liabilities under the Workers Compensation Laws of the State of California, Labor Code Sections 3200 et seq.

2.13 RECONCILIATION

The City of Oakdale and the City of Riverbank agree that there will be a reconciliation of revenues and expenditures at the end of the contract. Any adjustment shall be reflected as an increase or decrease to the final contract amount.

IN WITNESS WHEREOF, this agreement was executed on the date first written above.

CITY OF OAKDALE

CITY OF RIVERBANK

Bryan Whitemyer, City Manager

Sean Scully, City Manager

ATTEST:

ATTEST:

Rouze Roberts, City Clerk

Annabelle Aguilar, CMC, City Clerk

APPROVED AS TO FORM:

APPROVED AS FORM:

Thomas P. Hallinan, City Attorney

Thomas P. Hallinan, City Attorney

ATTACHMENT 1

City of Oakdale Annual Cost Summary for Animal Control Services

Description	Annual Cost
Animal Control Officer (F/T 40-hours)	\$83,991
Shelter Attendant (32-hours – 50%)	\$17,794
Shelter Attendant (12-hours – 50%)	\$5,942
Dispatcher Services (est. 750 CFS \$2,000/month)	\$24,000
Supervisor (8-hours per week)	\$36,981
Office Supplies	\$3,864
Euthanasia Drugs	\$5,645
Dog and Cat Food	\$880
Disposal	\$6,630
Veterinarian Costs	\$4,980
Spay/Neutering Costs	\$15,600
A/C Vehicle Fuel	\$7,000
AC Vehicle Maintenance	\$2,000
AC Vehicle and Transportation Box Replacement Schedule	\$6,000
Cleaning Supplies/Drain Chemicals	\$3,680
Misc. Animal ID&Confinement	\$5,600
Training	\$1,700
TOTAL COSTS	\$232,287

ATTACHMENT 2

Emergency Animal Response Costs

The City of Riverbank agrees to compensate the City of Oakdale for the direct personnel costs of two (2) hours of straight time pay for each day of standby performed by animal services personnel to ensure personnel are available for responses during off-duty times. Animal services personnel assigned to standby status may not consume alcoholic beverages and must otherwise maintain fitness for duty at all times while on standby. Personnel assigned to standby duties must respond within fifteen (15) minutes to calls or voice messages.

Animal services personnel recalled to work outside and not continuous with regularly scheduled hours require a minimum compensation of three hours at a rate of one and one-half times the employee's regular straight time rate of pay to be billed to the City of Riverbank on a case by case basis.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.3

SECTION 6: NEW BUSINESS

Meeting Date:	September 22, 2020
Subject/ Title:	Award Bid for the Pavement Restoration Project 2020 to Dryco Construction, Inc. and Authorize Execution of Future Change Orders
From:	Sean Scully, City Manager
Submitted by:	Kathleen Cleek, Development Services Administration Manager Laura Graybill, Project Coordinator

RECOMMENDATION

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

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

SUMMARY

On November 8, 2016 the Stanislaus County voters approved a ½ cent sales tax measure (Measure L) to fund local and regional transportation projects and programs. Through an analysis of the City's Pavement Management Plan the City has identified 35 road segments to Type II Slurry Seal using funds the City has received through Measure L. A Type II Slurry Seal is a thin maintenance treatment when placed on the pavement surface the mixture breaks and cures creating a new wearing surface.

The City has also identified 11 road segments to Cape Seal using funding received through Senate Bill (SB) 1, the Road Repair and Accountability Act of 2017. This Act was passed by the Legislature and signed into law by Governor Brown in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide. SB 1 includes accountability and transparency provisions that ensure residents of the City of Riverbank are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year. Cape Seal is a two-step pavement preservation process that combines two surface treatments. Initially, a chip seal is applied and then covered with a single pass micro-surfacing. A Cape Seal can be used to address minor cracking.

This bid also includes a condition of subdivision approval for the Diamond Bar West Subdivision. One of the conditions before the City accepts the maintenance responsibility of the subdivision, a Type II Slurry seal is required on all 8 road segments within the subdivision. To get a better price for the developer in slurring the 8 road segments, staff added the 8 roads to the City's Type II Slurry Seal project. This portion of the project was bid through separate line items and will be completely paid by the developer Mark Wilbur.

The bid opening was held on Thursday, September 10, 2020 to consider the bids for the Pavement Restoration Project 2020. The following bids were received:

Dryco Construction, Inc.	\$533,454.54
VSS International, Inc.	\$543,000.00
Doolittle Construction	\$583,185.38
American Pavement Systems, Inc.	\$585,958.60
Pavement Coatings Co.	\$659,050.10

Work on the project includes, but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary for Type II Slurry Seal, Cape Seal, striping removal, installation of new striping, traffic control and all other work included on the plans for the above-mentioned project.

Bids have been reviewed and Dryco Construction, Inc. has been identified as the lowest responsible bidder for the project.

Staff budgeted \$323,504.55 for the Measure L portion of work and \$274,526.00 for the SB1 portion of work. The lowest responsible bidder came in lower than anticipated. This will allow us to use these funds on other current projects schedule with Measure L and SB1. The developer paid portion of the project was estimated at \$66,688.35. The bid came in at \$62,645.75, which is \$4,042.61 under budget.

This project is being funded by three separate funds, Measure L, SB-1 and Developer Mark Wilbur (Diamond Bar West):

Measure L – Original Budget:	\$323,504.55
<u>Type II Slurry Seal work bid total:</u>	<u>\$233,782.40</u>
Amount under budget for Measure L:	\$89,722.15
SB1 Funds – Original Budget:	\$274,526.00
<u>Cape Seal bid total:</u>	<u>\$237,026.40</u>
Amount under budget for SB1:	\$ 37,499.60
Diamond Bar West Subdivision – Engineer's Estimate	\$ 66,688.35
<u>Type II Slurry Seal bid total:</u>	<u>\$ 62,645.74</u>
Amount under budget for Diamond Bar Subdivision:	\$ 4,042.61

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

FINANCIAL IMPACT

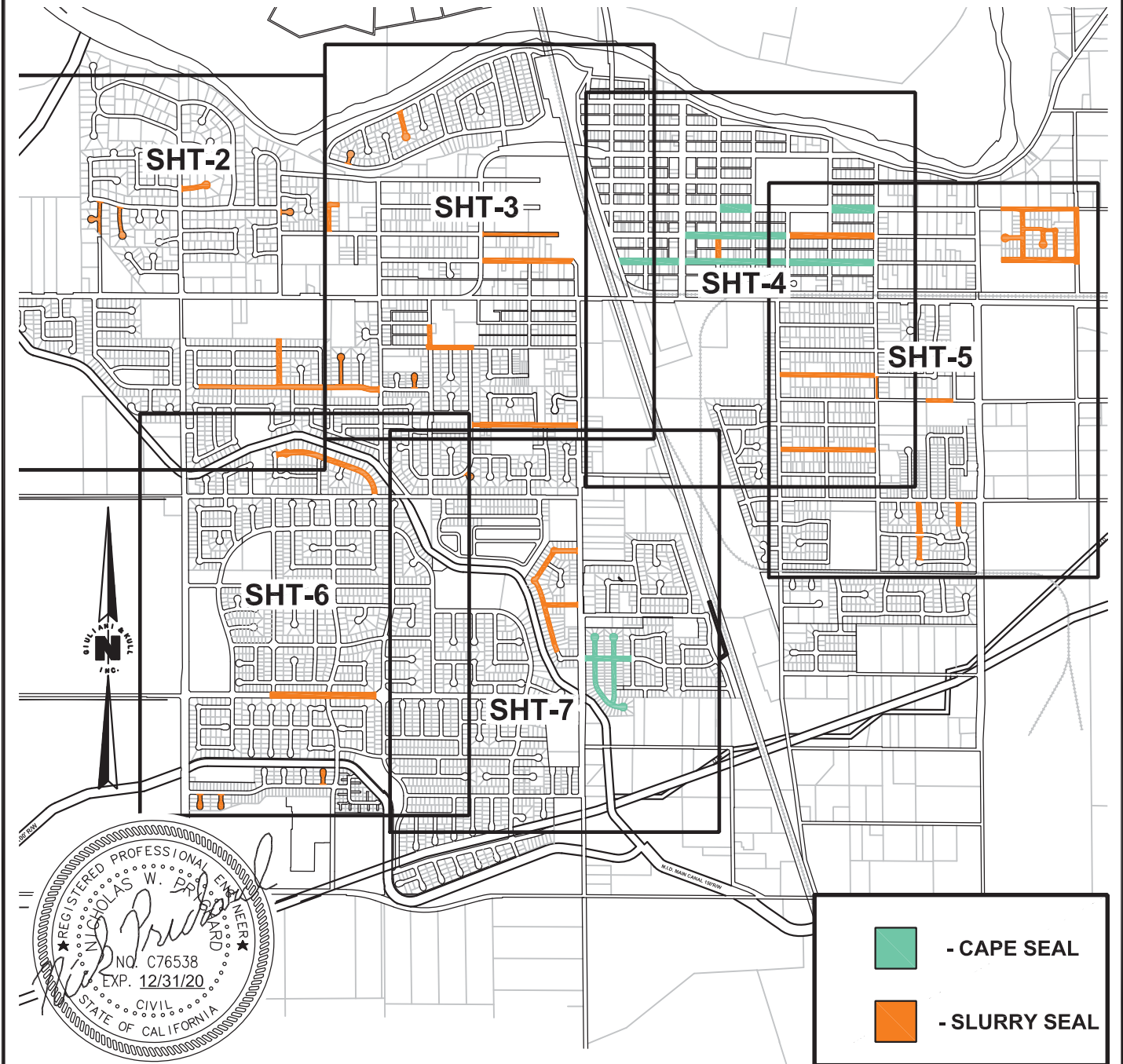
Three funding sources have been programmed for this project as follows:

- Measure L Funds - \$323,504.55
- SB-1 Road Maintenance and Rehabilitation Funds - \$274,526.00
- Developer Mark Wilbur (Diamond Bar West) - \$66,688.35

ATTACHMENT

- 1) Site Maps and Street Lists

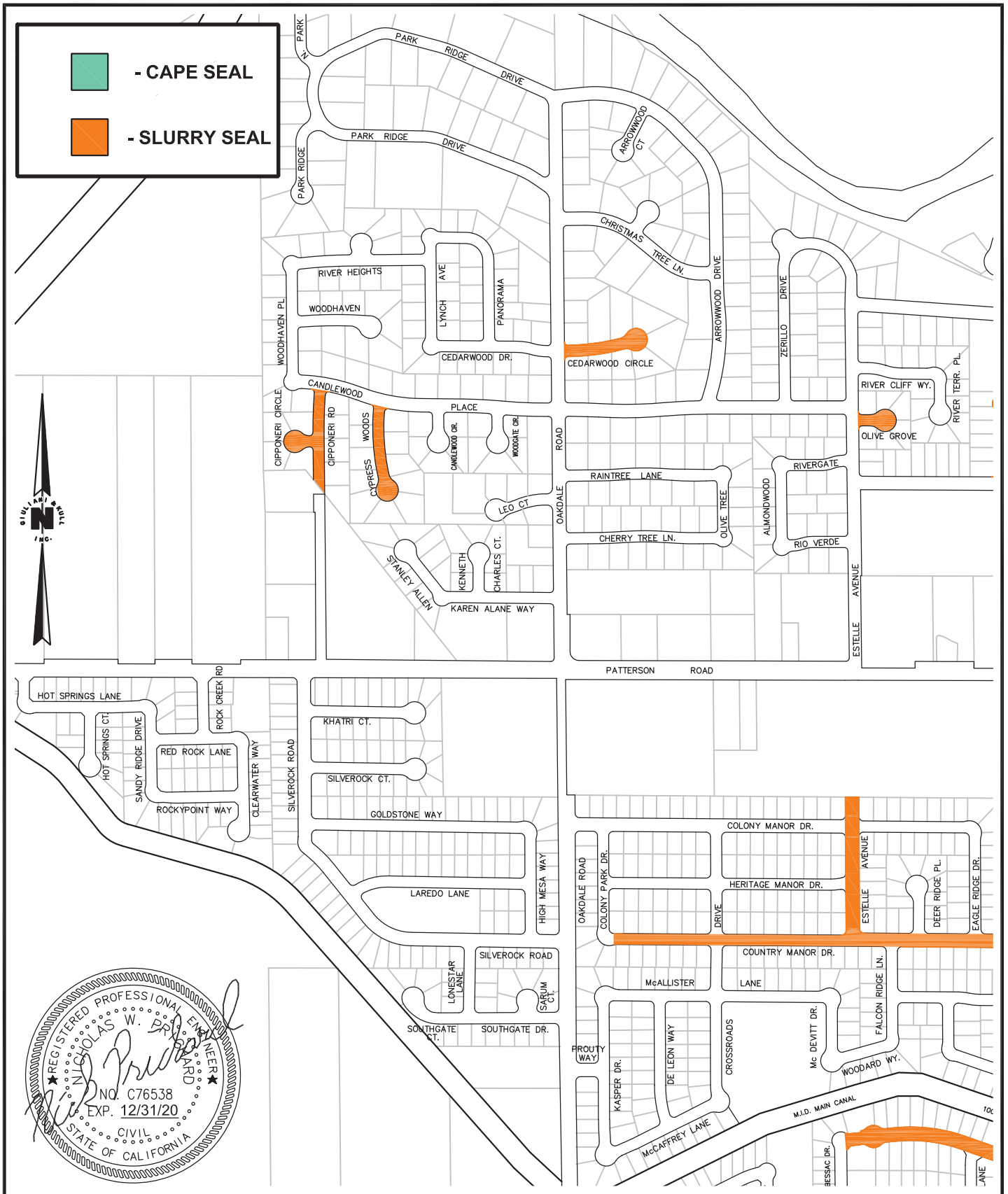
CITY OF RIVERBANK PAVEMENT RESTORATION PROJECT 2020



GK Giuliani & Kull, Inc.
Engineers • Planners • Surveyors
440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
(209) 847-8726 Fax (209) 847-7323
Auburn • San Jose • Oakdale

SCALE	1" = 2000'
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SHEET	1 OF 10

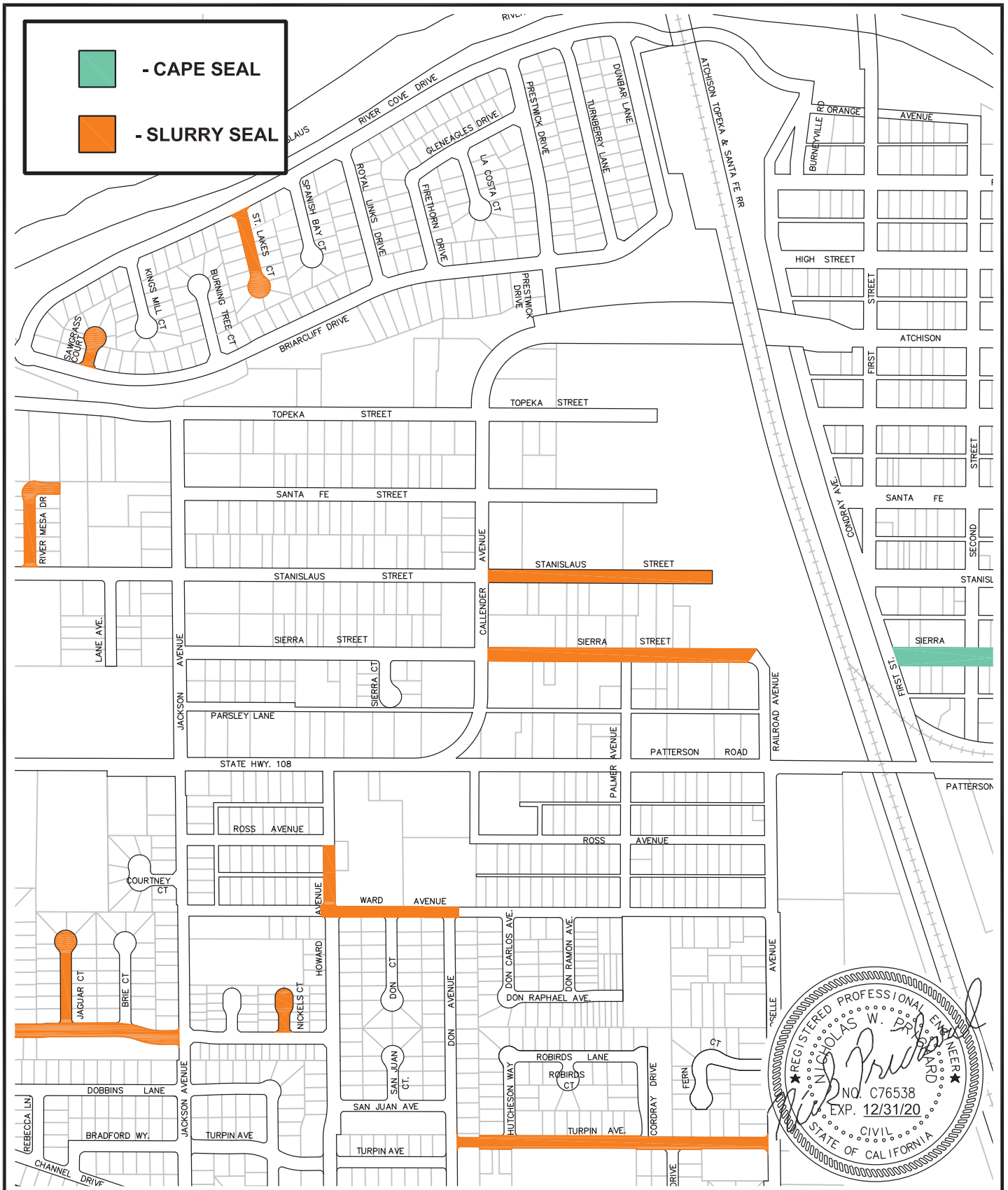
COVER SHEET - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA



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SHEET	2 OF 10

STREET INDEX - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA



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SHEET	3 OF 10

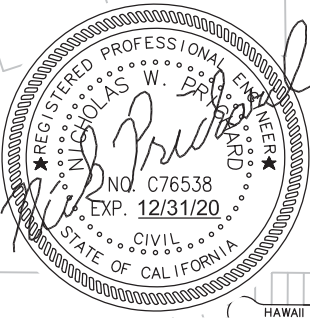
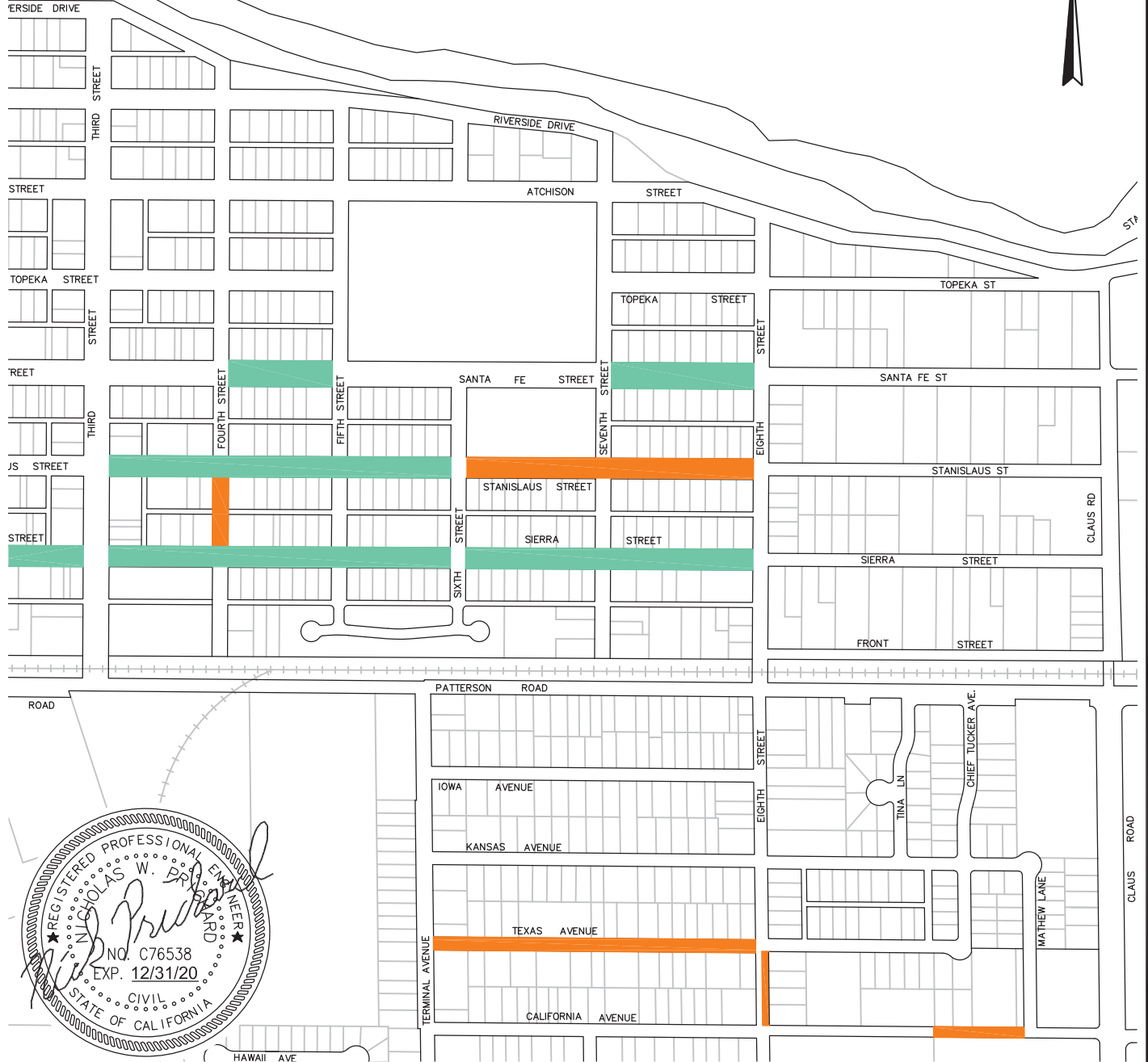
STREET INDEX - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA



- CAPE SEAL



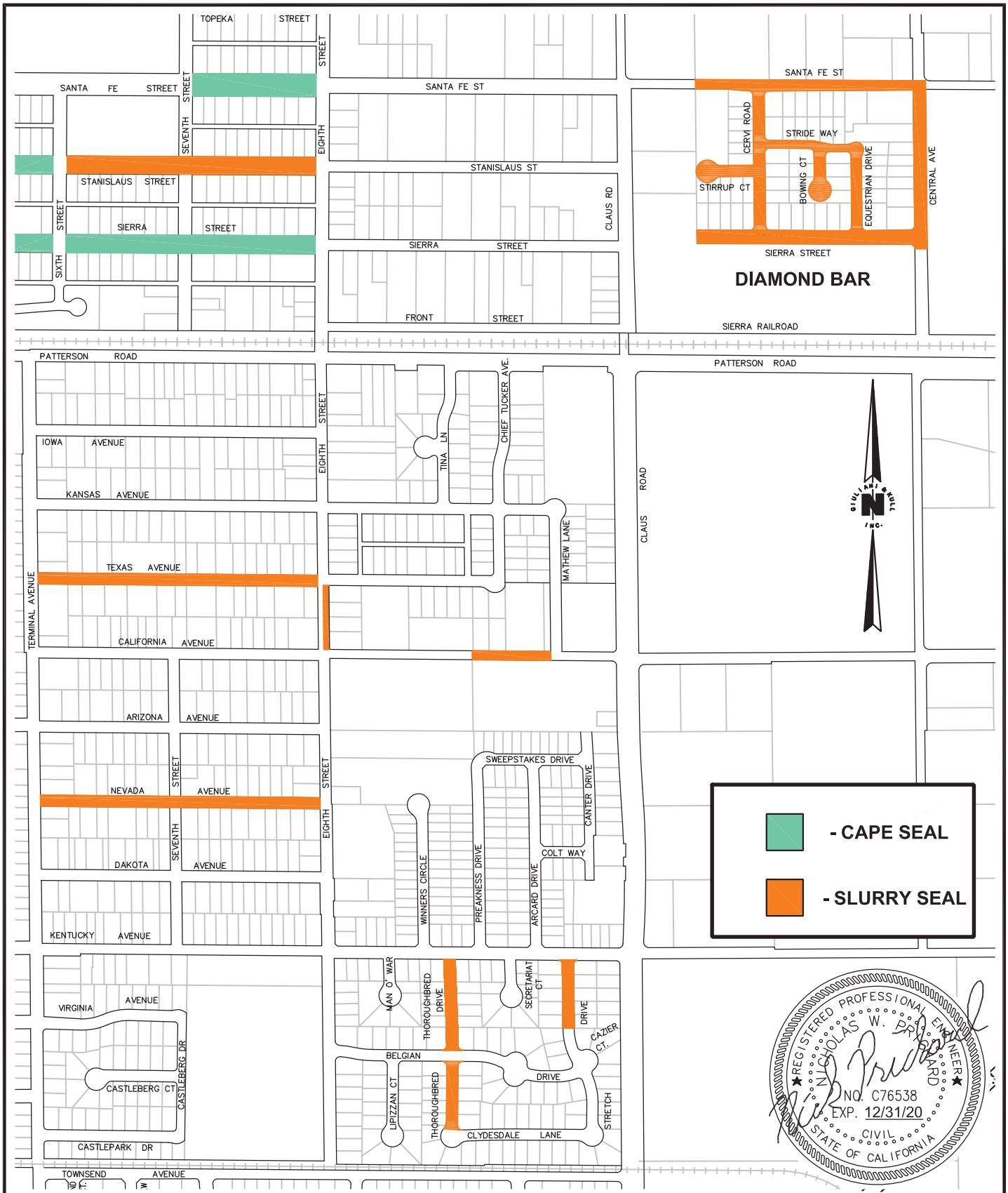
- SLURRY SEAL



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JOB NO.	20122
SHEET	4 OF 10

STREET INDEX - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA



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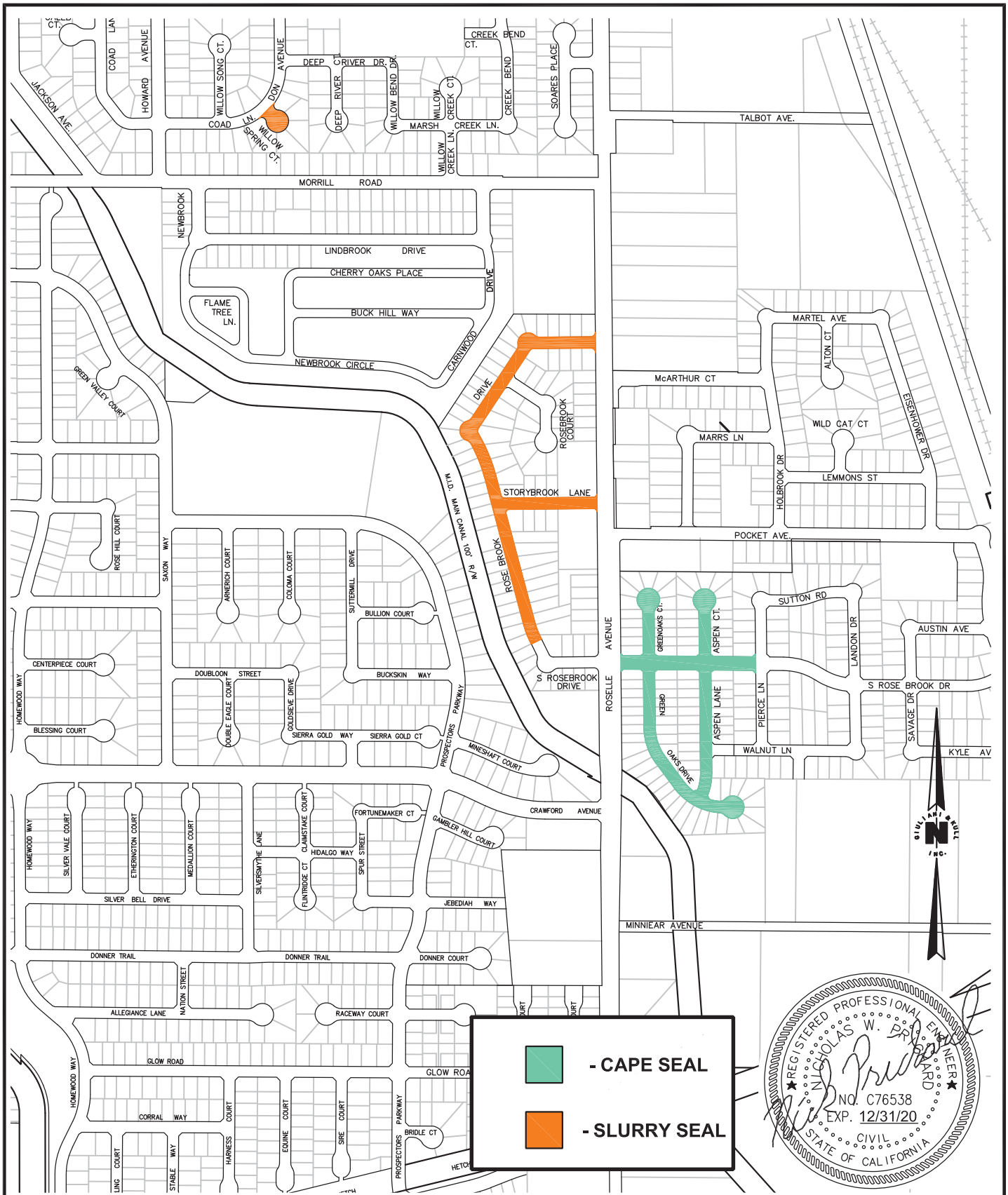
STREET INDEX - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA



STREET INDEX - 2020

PAVEMENT RESTORATION PROJECT

RIVERBANK, CALIFORNIA



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JOB NO.	20122
SHEET	7 OF 10

STREET INDEX - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA

Type II Slurry Seal					
Section ID	Street Name	G&K-Length	G&K-Width	G&K-Area (ft ²)	G&K-Area (yd ²)
130	4th STREET	280	40	11,620	1,291
-	8th Street	265	18	582	65
705-A	BORDONA DRIVE	1,515	37	56,636	6,293
116-A	CALIFORNIA AVENUE	350	28	9,268	1,030
489	CEDARWOOD CIRCLE	375	32	14,485	1,609
980	CIPPONERI CIRCLE	125	80	6,645	738
977-A	CIPPONERI ROAD	425	32	13,800	1,533
1033-A/1040-A	COUNTRY MANOR DRIVE	2,440	36	82,150	9,128
560-A	CRAWFORD AVENUE	1,570	45	50,377	5,597
982	CYPRESS WOODS CIRCLE	420	32	15,426	1,714
753	DAMAR COURT	200	60	9,298	1,033
1063-A	ESTELLE AVENUE	620	37	23,655	2,628
751	HANNAH COURT	200	60	8,880	987
1013	HOWARD AVENUE	315	16	7,705	856
1076	JAGUAR COURT	412	36	18,460	2,051
283-A	NEVADA AVENUE	1,240	38	53,357	5,929
1082	NICKELS COURT	190	32	9,025	1,003
390	NORTH ROSE BROOK DRIVE	310	32	12,630	1,403
504	OLIVE GROVE COURT	160	56	8,100	900
968	RIVER MESA DRIVE	345	32	16,457	1,829
391-A	ROSE BROOK DRIVE	1,410	32	50,591	5,621
1167	SAWGRASS COURT	185	56	9,825	1,092
518-A	SIERRA STREET	1,220	42	49,250	5,472
1171	ST LAKES COURT	400	37	17,790	1,977
761	ST ELMO COURT	200	56	9,122	1,014
169-A	STANISLAUS STREET	830	42	69,694	7,744
943	STANISLAUS STREET	1,130	60	35,820	3,980
416	STORY BROOK LANE	430	32	14,504	1,612
221	STRETCH DRIVE	310	32	10,664	1,185
102	TEXAS AVENUE	2,070	32	43,777	4,864
250	THOROUGHbred DRIVE	420	32	14,400	1,600
251	THOROUGHbred DRIVE	380	32	9,900	1,100
1106-A	TURPIN AVENUE	1,400	37	49,640	5,516
952-A/956-A	WARD AVENUE	520	32	16,028	1,781
1122	WILLOW SPRING COURT	114	84	7,394	822
TOTAL		22,776		836,955	92,995



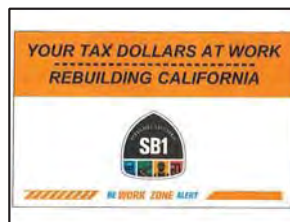
CONSTRUCTION PROJECT FUNDING SIGN - MEASURE L
COLLECT FROM CITY OF RIVERBANK CORP YARD
30"x48" ALUMINUM PANEL ATTACHED TO A TYPE 2 BARRICADE.
SIGNS SHALL BE PLACED AT THE DIRECTION OF THE CITY
ENGINEER DURING TYPE II SLURRY WORK.

GK Giuliani & Kull, Inc.
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DRAWN BY	NWP
CHECKED BY	WFK
JOB NO.	20122
SHEET	8 OF 10

STREET INDEX - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA

Cape Seal					
Section ID	Street Name	G&K-Length	G&K-Width	G&K-Area (ft ²)	G&K-Area (yd ²)
447	ASPEN COURT	300	32	12,800	1,422
445-A	ASPEN LANE	587	32	19,590	2,177
442-A	GREEN OAKS DRIVE	872	32	31,865	3,541
441	GREENOAKS COURT	300	32	12,800	1,422
339-A	S. ROASEBROOK DRIVE	622	36	22,426	2,492
124-A	SANTA FE STREET	418	66	27,827	3,092
124-A	SANTA FE STREET	565	66	37,572	4,175
158-A	SIERRA STREET	780	60	46,330	5,148
160-A	SIERRA STREET	1,330	60	80,545	8,949
163-A	SIERRA STREET	1,130	60	68,296	7,588
171-A	STANISLAUS STREET	1,328	60	75,321	8,369
TOTAL		8,232		435,372	48,375



CONSTRUCTION PROJECT FUNDING SIGN - SB 1
COLLECT FROM CITY OF RIVERBANK CORP YARD
30"x48" ALUMINUM PANEL ATTACHED TO A TYPE 2 BARRICADE.
SIGNS SHALL BE PLACED AT THE DIRECTION OF THE CITY
ENGINEER DURING CAPE SEAL WORK.

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SCALE	N/A
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JOB NO.	20122
SHEET	9 OF 10

STREET INDEX - 2020
PAVEMENT RESTORATION PROJECT
RIVERBANK, CALIFORNIA

Type II Slurry Seal - Diamond Bar					
Section ID	Street Name	G&K-Length	G&K-Width	G&K-Area	G&K-Area
-	BOWING COURT	210	32	9,790	1,088
308	CENTRAL AVENUE	693	27	20,635	2,293
-	CERVI ROAD	616	32	20,360	2,262
-	EQUESTRIAN DRIVE	330	34	11,916	1,324
-	SANTA FE STREET	1,958	36	37,078	4,120
122	SIERRA STREET	962	27	29,412	3,268
-	STIRRUP COURT	250	32	10,640	1,182
-	STRIDE WAY	440	32	14,884	1,654
TOTAL		5,459		154,715	17,191

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.4

SECTION 6: NEW BUSINESS

Meeting Date:	September 22, 2020
Subject:	Utility Billing Discussion and Feedback
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager/Director of Finance

RECOMMENDATION

It is recommended that the City Council provide feedback on the 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 continued to face 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 September 30, 2020 and November 30, 2020.

BACKGROUND

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

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

As part of the COVID-19 response, the City has closed all City buildings in an effort to protect the public and employees. This has hindered our residents' ability to make in-person payment on the utility bill that is currently due on September 30, 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.

There will be two billings due for the remainder of 2020. It is recommended that the City Council provide feedback for these two billings in order to finalize discussions on this item for this calendar year.

Given the guidance from the Governor and in an effort to avoid having residents contact City Hall South requesting to make payment arrangements we are presenting the following options for feedback:

1. **Status Quo:** Due dates and Penalty Application would be as follows:

Billing Due Date	Penalties Applied
September 30, 2020	October 1, 2020
November 30, 2020	December 1, 2020

2. **Delay the due date** on the utility bills due and apply penalties as follows:

Billing Due Date	Penalties Applied
October 14, 2020	October 15, 2020
November 16, 2020	November 17, 2020

3. **Do not apply penalties** for delinquent bills after the September 30, 2020 due date.

Billing Due Date	Penalties Applied
September 30, 2020	None.
November 30, 2020	None.

Pursuant to the Governor’s orders, staff will not perform shut-offs for delinquent billings during the months of October-December.

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 \$60,000 in fees for the two billing cycles

ATTACHMENT

There are no attachments to this item.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.5

SECTION 6: NEW BUSINESS

Meeting Date:	September 22, 2020
Subject:	Direction on League of California Cities Annual Conference Resolutions
Submitted by:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council provide direction to the voting member regarding the City of Riverbank's position on the resolution which will be considered at this year's League of California Cities Annual Conference General Assembly.

SUMMARY

This year the general assembly will be considering one resolution which was submitted prior to the filing deadline. Resolution Number 1 will be referred initially to the Governance, Transparency & Labor Relations and Public Safety policy committees. After a recommendation is decided at the committee stage, the resolutions will then proceed to the General Assembly, typically held on the last day of the conference. The sole resolution this year is submitted by the City of Cerritos with concurrence from the Cities of Hawaiian Gardens, Lakewood, Ontario, Rancho Cucamonga and Roseville. The resolution calls on Congress to amend Section 230 of the Communication Decency Act of 1996 to require social media companies to remove materials which promote criminal activity.

BACKGROUND

The League of California Cities has distributed a resolutions packet to the member Cities (attached). The annual conference resolutions are put forth as a process for making decisions on important issues that face municipalities in California. In general, the annual conference resolutions are broad policy decisions that do not focus on specific geographic areas or more targeted issues that are within the purview of the various league policy committees.

Resolution Number 1: "A RESOLUTION OF THE GENERAL ASSEMBLY OF THE LEAGUE OF CALIFORNIA CITIES CALLING FOR AN AMENDMENT OF SECTION 230 OF THE COMMUNICATIONS DECENCY ACT OF 1996 TO REQUIRE SOCIAL MEDIA COMPANIES TO REMOVE MATERIALS WHICH PROMOTE CRIMINAL ACTIVITIES"

The resolution specifically seeks to amend the Communications Decency Act (CDA) of 1996 in a way that would limit the liability immunity provided to online platforms under the CDA as it relates to the use of online platforms as a forum to enable criminal activity. Under the CDA currently immunity from liability exists “for providers of an interactive computer service who publish information provided by third-party users. Essentially, this protects websites from lawsuits if a user post something illegal, although there are exceptions” (see attached analysis for more info).

The City of El Cerritos notes significant issues that the City experienced with regard to looting and coordination of that activity on social media platforms. The City became aware of further planned illegal activity and felt it had the responsibility to spend funds to protect against the planned threats. The amendment seeks to “incentivize social media companies to establish and implement a reasonable program to identify and remove content that solicits criminal activity.” The incentive in this case would be the potential liability exposure for firms who do not act to remove these types of posts which could (or do) end up causing significant harm at the expense of a local community.

Obviously there are a number of complicated important components which should be considered when looking at this resolution for a macro perspective. First, there are the obvious First Amendment related issues to limiting speech, although the analysis notes that “while illegal types of speech enjoy limited or no First Amendment protection, the line for delineating between legal and illegal speech is very difficult to determine”. Second, social media companies such as Facebook have stated “by exposing companies to potential liability for everything that billions of people around the world say, this would penalize companies that choose to allow controversial speech and encourage platforms to censor anything that might offend anyone”.

Ultimately, the legislative analysis by the league boils down this issue to four key questions:

1. What would this resolution’s impact be on free speech and government censorship?
2. What are the expectations for cities when they receive information from a social media platform about a potentially credible threat in their respective communities? Does a city becomes liable for having information from a social media platform and the threat occurs?
3. What would the costs be to develop and maintain new data governance policies, including data infrastructure, to store this information?
4. What is the role of the League in engaging in issues relating to someone’s privacy?

Council should discuss this matter broadly when determining what direction to give the voting member as the issue relates in a broad context with many different applications.

FINANCIAL IMPACT

No direct financial impact at this time but depending on any future action of Congress increased costs are possible for compliance.

ATTACHMENTS

- 1) League Resolution Packet



*Annual Conference
Resolutions Packet*

2020 Annual Conference Resolutions



October 7 – 9, 2020

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, one resolution has been introduced for consideration at the Annual Conference and referred to League policy committees.

POLICY COMMITTEES: Two policy committees will meet virtually at the Annual Conference to consider and take action on the resolution referred to them. The committees are: Governance, Transparency & Labor Relations and Public Safety. These committees will meet virtually on Tuesday, September 29, with the Governance, Transparency and Labor Relations Policy Committee meeting from 9:30 – 11:30 a.m. and the Public Safety Policy Committee meeting from 1:00 – 3:00 p.m. The sponsor of the resolution has been notified of the time and location of the meeting.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet virtually at 1:00 p.m. on Thursday, October 8, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president.

GENERAL ASSEMBLY: This meeting will be held virtually at 11:00 a.m. on Friday, October 9.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, October 8.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 - General Resolutions Committee		
		3 - General Assembly		

GOVERNANCE, TRANSPARENCY & LABOR RELATIONS POLICY COMMITTEE

		1	2	3
1	Amendment to Section 230 of The Communications Decency Act of 1996			

PUBLIC SAFETY POLICY COMMITTEE

		1	2	3
1	Amendment to Section 230 of The Communications Decency Act of 1996			

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

ACTION FOOTNOTES

* Subject matter covered in another resolution

** Existing League policy

*** Local authority presently exists

KEY TO ACTIONS TAKEN

- | | |
|-----|---|
| A | Approve |
| D | Disapprove |
| N | No Action |
| R | Refer to appropriate policy committee for study |
| a | Amend+ |
| Aa | Approve as amended+ |
| Aaa | Approve with additional amendment(s)+ |
| Ra | Refer as amended to appropriate policy committee for study+ |
| Raa | Additional amendments and refer+ |
| Da | Amend (for clarity or brevity) and Disapprove+ |
| Na | Amend (for clarity or brevity) and take No Action+ |
| W | Withdrawn by Sponsor |

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Resolution Process](#).

1. A RESOLUTION OF THE GENERAL ASSEMBLY OF THE LEAGUE OF CALIFORNIA CITIES CALLING FOR AN AMENDMENT OF SECTION 230 OF THE COMMUNICATIONS DECENCY ACT OF 1996 TO REQUIRE SOCIAL MEDIA COMPANIES TO REMOVE MATERIALS WHICH PROMOTE CRIMINAL ACTIVITIES

Source: City of Cerritos

Concurrence of five or more cities/city officials

Cities: City of Hawaiian Gardens, City of Lakewood, City of Ontario, City of Rancho Cucamonga, City of Roseville

Referred to: Governance, Transparency and Labor Relations and Public Safety Policy Committees

WHEREAS, local law enforcement agencies seek to protect their communities' residents, businesses, and property owners from crime; and

WHEREAS, increasingly, criminals use social media platforms to post notices of places, dates and times for their followers to meet to commit crimes; and

WHEREAS, Section 230 of the Communications Decency Act of 1996 currently provides online platforms (including social media platforms) immunity from civil liability based on third-party content and for the removal of content; and

WHEREAS, in the 25 years since Section 230's enactment, online platforms no longer function simply as forums for the posting of third-party content but rather use sophisticated algorithms to promote content and to connect users; and

WHEREAS, the United States Department of Justice, in its June 2020 report, "Section 230 — Nurturing Innovation or Fostering Unaccountability?," concluded the expansive interpretation courts have given Section 230 has left online platforms immune from a wide array of illicit activity on their services, with little transparency or accountability, noting it "makes little sense" to immunize from civil liability an online platform that purposefully facilitates or solicits third-party content or activity that violates federal criminal law; and

WHEREAS, current court precedent interpreting Section 230 also precludes state and local jurisdictions from enforcing criminal laws against such online platforms that, while not actually performing unlawful activities, facilitate them; and

WHEREAS, amendment of Section 230 is necessary to clarify that online platforms are not immune from civil liability for promoting criminal activities; and

NOW, THEREFORE, BE IT RESOLVED at the League General Assembly, assembled at the League Annual Conference on October 9, 2020 in Long Beach, California, that the League calls upon the U.S. Congress to amend Section 230 of the Communications Decency Act of 1996 to condition immunity from civil liability on the following:

1. Online platforms must establish and implement a reasonable program to identify and take down content which solicits criminal activity; and
2. Online platforms must provide to law enforcement information which will assist in the identification and apprehension of persons who use the services of the platform to solicit and to engage in criminal activity; and
3. An online platform that willfully or negligently fails in either of these duties is not immune from enforcement of state and local laws which impose criminal or civil liability for such failure.

Background Information to Resolution

Source: City of Cerritos

Background:

Social media platforms are now used as a primary means of communication, including by criminals who use them to advertise locations, dates, and times where the criminal acts will take place. Such communications, because they occur online, render the online platform immune from any civil liability for the costs incurred by law enforcement agencies that respond under Section 230 of the Communications Decency Act of 1996. Immunity from civil liability extends even to injunctive relief, thus preventing local governments from merely seeking an injunction against the online platform to have such a post removed.

The City of Cerritos supports the rights of free speech and assembly guaranteed under the First Amendment, but believes cities should have the ability to hold social media companies liable for their role in promoting criminal acts. Recently, the City suffered thousands of dollars in damages to respond to online threats that the Cerritos Mall would be looted. Anonymous posts on Instagram.com invited followers to “work together to loot Cerritos [M]all” only several days after the Lakewood Mall had been looted, causing thousands of dollars in damages. The posts were made under the names “cerritosmalllooting” and “cantstopusall,” among others. The City of Cerritos had no choice but to initiate response to protect the Mall and the public from this credible threat.

At the same time local governments face historic shortfalls owing to the economic effects of COVID-19, the nation’s social media platforms are seeing a record rise in profits. The broad immunity provided by Section 230 is completely untenable. Online platforms should be held responsible—and liable—for the direct harm they facilitate. Local governments are in no position to bear the costs of the crimes facilitated by these companies alone.

Congress is currently reviewing antitrust legislation and by extension, Section 230’s immunity provisions. The League urges Congress to amend Section 230 to limit the immunity provided to online platforms when they promote criminal activity to provide local governments some measurable form of relief.

League of California Cities Staff Analysis on Resolution No. 1

Staff: Charles Harvey, Legislative Representative
Bijan Mehryar, Legislative Representative
Caroline Cirrincione, Policy Analyst
Johnnie Piña, Policy Analyst

Committees: Governance, Transparency and Labor Relations
Public Safety

Summary:

This resolution states that the League of California Cities should urge Congress to amend Section 230 of the federal Communications Decency Act of 1996 (CDA) to limit the immunity provided to online platforms where their forums enable criminal activity to be promoted.

Ultimately, the policy objectives proposed under this resolution, if enacted, would incentivize social media companies to establish and implement a reasonable program to identify and remove content that solicits criminal activity.

Background:

The City of Cerritos is sponsoring this resolution in reaction to events whereby persons, using social media platforms to coordinate locations, dates, and times for their planned criminal activity, have committed acts of looting and vandalism resulting in both actual economic harm for targeted businesses, and pecuniary loss to cities who used resources to prevent such acts from occurring when such plans are discovered.

For example, just days after the Lakewood Mall had been looted, the City of Cerritos uncovered online communications via social media that persons were planning to target the nearby Cerritos Mall. Consequently, the city felt compelled to undertake measures to protect the Cerritos Mall, costing the city thousands of dollars to guard against what officials believed to be a credible threat.

Staff Comments:

Overview:

While there is certainly an argument to substantiate concerns around censorship, the use of social media as a tool for organizing violence is equally disturbing.

Throughout much of the 2020 Summer, there have been many reports of looting happening across the country during what were otherwise mostly peaceful demonstrations. Combined with the speculation of who is really behind the looting and why, the mayhem has usurped the message of peaceful protestors, causing a great deal of property damage in the process. Likewise, these criminal actions have upended the livelihood of some small business owners, many of whom were already reeling in the wake of the COVID-19 pandemic.

While social media allows people to connect in real time with others all over the world, organized illegal activity using social media is made easier by the anonymous nature of virtual interactions.

Nation's Reaction to the Murder of George Floyd:

Shortly after the senseless killing of George Floyd by law enforcement on May 26, 2020, civil unrest began as local protests in the Minneapolis–Saint Paul metropolitan area of Minnesota before quickly spreading nationwide to more than 2,000 cities and towns across the United States, and in approximately 60 countries in support of the Black Lives Matter movement. Protests unfolded across the country throughout the entire month of June and into July, and persisted in a handful of cities such as Portland and Seattle into the month of August.

Although the majority of protests were peaceful, some demonstrations in cities escalated into riots, looting, and street skirmishes with police. While much of the nation's focus has been on addressing police misconduct, police brutality, and systemic racism, some have used demonstrators' peaceful protests on these topics as opportunities to loot and/or vandalize businesses, almost exclusively under the guise of the "Black Lives Matter" movement. It has been uncovered that these "flash robs"¹ were coordinated through the use of social media. The spontaneity and speed of the attacks enabled by social media make it challenging for the police to stop these criminal events as they are occurring, let alone prevent them from commencing altogether.

As these events started occurring across the country, investigators quickly began combing through Facebook, Twitter, and Instagram seeking to identify potentially violent extremists, looters, and vandals and finding ways to charge them after — and in some cases before — they sow chaos. While this technique has alarmed civil liberties advocates, who argue the strategy could negatively impact online speech, law enforcement officials claim it aligns with investigation strategies employed in the past.

Section 230 and other Constitutional Concerns

At its core, Section 230(c)(1) of the CDA provides immunity from liability for providers and users of an "interactive computer service" who publish information provided by third-party users. Essentially, this protects websites from lawsuits if a user posts something illegal, although there are exceptions for copyright violations, sex work-related material, and violations of federal criminal law.

Protections from Section 230 have come under more recent scrutiny on issues related to hate speech and ideological biases in relation to the influence technology companies can hold on political discussions.

Setting aside Section 230, there are some potential constitutional issues one could raise, should there be an attempt to implement such a resolution into statute.

¹ The "flash robs" phenomenon—where social media is used to organize groups of teens and young adults to quickly ransack and loot various retail stores—began to occur sporadically throughout the United States over the past ten years.

In the United States, the First Amendment prohibits the government from restricting most forms of speech, which would include many proposals to force tech companies to moderate content. While “illegal” types of speech enjoy limited or no First Amendment protection, the line for delineating between “legal” and “illegal” speech is very difficult to determine. Consequently, one would expect online platforms to push back on whether there is a constitutionally feasible way for them to “identify” protected speech versus unprotected speech, or whether there is a feasible way to define “content which solicits criminal activity.” A law requiring companies to moderate content based on the political viewpoint it expresses, for example, would likely be struck down as unconstitutional.

Nonetheless, private companies can create rules to restrict speech if they so choose. Online platforms sometimes argue they have constitutionally-protected First Amendment rights in their “editorial activity,” and therefore, it violates their constitutional rights to require them to monitor (i.e., “identify and take down”) content that may be protected under the First Amendment. They may also argue, along the same lines, that the government may not condition the granting of a privilege (i.e., immunity) on doing things that amount to a violation of their first amendment rights. This is why Facebook and Twitter ban hate speech and other verifiably false information, for example, even though such speech is permitted under the First Amendment.

With respect to privacy and the Fourth Amendment, online platforms may argue that requiring them to “provide to law enforcement information that will assist in the identification and apprehension of persons who use the services of the platform to solicit and to engage in criminal activity,” turns them into government actors that search users’ accounts without a warrant based on probable cause, in violation of the Fourth Amendment.

Industry Perspective

Unsurprisingly, industry stakeholders have strong opinions for what such changes could mean for their respective business models.

For instance, a Facebook spokesperson recently noted in a Fortune article that, “By exposing companies to potential liability for everything that billions of people around the world say, this would penalize companies that choose to allow controversial speech and encourage platforms to censor anything that might offend anyone.”

The article acknowledges that in recent years, both political parties have put social media companies under increased scrutiny, but they are not unified in their stated concerns. While Republicans accuse the companies of unfairly censoring their post, Democrats complain that these companies fail to do enough to block misinformation, violent content, and hate speech.

The article concludes that there is no way companies like Facebook and Twitter could operate without Section 230, and that the removal of this section would thereby “eliminate social media as we know it.”

Recent Federal Action on Social Media

The President recently issued an *Executive Order on Preventing Online Censorship*. In it, he notes the following:

“The growth of online platforms in recent years raises important questions about applying the ideals of the First Amendment to modern communications technology. Today, many Americans follow the news, stay in touch with friends and family, and share their views on current events through social media and other online platforms. As a result, these platforms function in many ways as a 21st century equivalent of the public square.

Twitter, Facebook, Instagram, and YouTube wield immense, if not unprecedented, power to shape the interpretation of public events; to censor, delete, or disappear information; and to control what people see or do not see.”

Ultimately the President implores the U.S. Attorney General to develop a proposal for federal legislation that “would be useful to promote the policy objectives of this order.” The President is not subtle in communicating his desire to ultimately see legislation heavily slanted toward the preservation of free speech on social media, which some interpret as a maneuver to preempt Twitter and Facebook from regulating speech they otherwise deem as hateful or demonstrably false.

Considerations for Congress

Courts have generally construed Section 230 to grant internet service providers broad immunity for hosting others’ content. Many have claimed that Section 230’s immunity provisions were critical to the development of the modern internet, and some continue to defend Section 230’s broad scope. But simultaneously, a variety of commentators and legislators have questioned whether those immunity provisions should now be narrowed, given that the internet looks much different today than it did in 1996 when Section 230 was first enacted.

One way for Congress to narrow Section 230’s liability shield would be to create additional exceptions, as it did with FOSTA and SESTA². If a lawsuit does not fall into one of the express exceptions contained in Section 230(e)³, courts may have to engage in a highly fact-specific inquiry to determine whether Section 230 immunity applies: Section 230(c)(1) immunity will be inapplicable if the provider itself has developed or helped to develop the disputed content, while Section 230(c)(2) immunity may not apply if a service provider’s decision to restrict access to content was not made in good faith.

Date Storage and Usage Considerations for Cities

Section 2 of the conditions the resolution applies to civil immunity requires that online platforms provide relevant information to law enforcement to assist in the identification and apprehension of persons who use the services of the platform to solicit and to engage in criminal activity. This section would most likely require the development of new procedures and protocols that govern law enforcements usage and retention of such information. Those new policies and procedures would undoubtedly raise privacy concerns depending on how wide the latitude is for law

² The Fight Online Sex Trafficking Act (FOSTA) and the Stop Enabling Sex Traffickers Act (SESTA) create an exception to Section 230 that means website publishers *would* be responsible if third parties are found to be posting ads for prostitution — including consensual sex work — on their platforms.

³ Section 230(e) says that Section 230 will not apply to: (1) federal criminal laws; (2) intellectual property laws; (3) any state law that is “consistent with” Section 230; (4) the Electronic Communications Privacy Act of 1986; and (5) civil actions or state prosecutions where the underlying conduct violates federal law prohibiting sex trafficking.

enforcement to request such information. In those circumstances cities could end up themselves incurring new liability for the governance of data that could either violate certain privacy rules or increase their data governance costs.

Fiscal Impact:

Unlike the costly resources needed to support or oppose a ballot measure, a federal resolution from the League of California Cities that simply urges Congress to undertake certain action should have a negligible fiscal impact, if any monetary impact at all.

Regarding cities, if social media had no immunity for its failure to police content that solicits criminal activity, then an individual city could theoretically save thousands if not millions of dollars, depending on its size and other subjective circumstances. Collectively, cities across the country could potentially save at least hundreds of millions between redress for actual economic harm suffered and/or the cost of preventative measures taken to stop criminal activity from occurring in the first place.

Conversely, if social media platforms were to shut down, due to an inability to comply with a policy requirement to regulate speech on the internet, it is unclear on how cities might be impacted from a fiscal standpoint.

Existing League Policy:

Public Safety:

Law Enforcement

The League supports the promotion of public safety through:

- Stiffer penalties for violent offenders, and
- Protecting state Citizens' Option for Public Safety (COPS) and federal Community Oriented Police Services (COPS) funding and advocating for additional funding for local agencies to recoup the costs of crime and increase community safety.

Violence

The League supports the reduction of violence through strategies that address gang violence, domestic violence, and youth access to tools of violence, including but not limited to firearms, knives, etc.

The League supports the use of local, state, and federal collaborative prevention and intervention methods to reduce youth and gang violence.

Governance, Transparency & Labor Relations:

Private Sector Liability

The League will work closely with private sector representatives to evaluate the potential for League support of civil justice reform measures designed to improve the business climate in California. These measures should be evaluated on a case-by-case basis through the League police process.

Questions to Consider:

Many cities obviously believe that creating civil liability for social media platforms—due to their role in providing the communication mediums for those who organize looting attacks— is key to deterring this organized criminal activity.

If such a change was actually passed by Congress, it would force social media to essentially police every conversation on stakeholders' respective platforms, putting immense pressure on the industry to make subjective determinations about what conversations are appropriate and what are unacceptable.

At the end of the day, there are a few questions to consider in assessing this proposed resolution:

- 1) *What would this resolution's impact be on free speech and government censorship?*
- 2) *What are the expectations for cities when they receive information from a social media platform about a potentially credible threat in their respective communities? Does a city become liable for having information from a social media platform and the threat occurs?*
- 3) *What would the costs be to develop and maintain new data governance policies, including data infrastructure, to store this information?*
- 4) *What is the role of the League in engaging in issues relating to someone's privacy?*

Support:

The following letters of concurrence were received:

City of Hawaiian Gardens
City of Lakewood
City of Ontario
City of Rancho Cucamonga
City of Roseville

LETTERS OF CONCURRENCE

Resolution No. 1

Amendment to Section 230 of the Communications
Decency Act of 1996



CITY OF HAWAIIAN GARDENS

"Our Youth - Our Future"

August 7, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

This proposed resolution with the required background information will be submitted to the League of California Cities for consideration by the General Assembly at the Annual Conference on October 9, 2020. (Attachments 1 and 2) The intent of the resolution is to address the use of social media platforms for posting information that leads followers to meet and commit crimes and to also hold these platforms and the persons who post said information civilly and criminally accountable for all costs incurred by the local jurisdictions where the crimes occurred.

The public safety efforts in the City of Hawaiian Gardens would certainly benefit from such legislation. This letter serves to support the City of Cerritos in their efforts to submit of the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,



Ernie Hernandez
City Manager

cc Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us

Jeff Wood
Vice Mayor

Ariel Pa
Council Member

Steve Craft
Council Member

Diane DuBois
Council Member



Todd Rogers
Mayor

August 5, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

This proposed resolution, with the required background information, will be submitted to the League of California Cities for consideration by the General Assembly at the Annual Conference on October 9, 2020. (Attachments 1 and 2) The intent of the resolution is to address the use of social medial platforms for posting information that leads followers to meet and commit crimes and to also hold these platforms and the persons who post said information civilly and criminally accountable for all costs incurred by the local jurisdictions where the crimes occurred.

This letter serves to support the City of Cerritos in their efforts to submit the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

Todd Rogers
Mayor

cc: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us

Lakewood

CITY OF

303 EAST "B" STREET, CIVIC CENTER ONTARIO



ONTARIO

CALIFORNIA 91764-4105

(909) 395-2000

FAX (909) 395-2070

PAUL S. LEON
MAYOR

DEBRA DORST-PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SCOTT OCHOA
CITY MANAGER

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

August 6, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

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This letter serves to support the City of Cerritos in their efforts to submit the above-mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

Alan D. Wapner
Council Member
League of California Cities Board Member

c: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us



CITY OF RANCHO CUCAMONGA

10500 Civic Center Drive | Rancho Cucamonga, CA 91730 | 909.477.2700 | www.CityofRC.us

August 6, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

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On behalf of the City of Rancho Cucamonga, this letter serves to support the City of Cerritos in their efforts to submit the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

L. Dennis Michael
Mayor

cc: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us



City Council
311 Vernon Street
Roseville, California 95678

August 7, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

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On behalf of the City of Roseville, this letter serves to support the City of Cerritos in their efforts to submit the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

A handwritten signature in black ink, appearing to read "John B. Allard II", is written over a horizontal line.

John B. Allard II,
Mayor

Cc: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us
Jason Gonsalves, Joe A. Gonsalves and Son