CITY COUNCIL / LRA BOARD
Mayor/Chair:
Richard D. O'Brien
Vice Mayor/Chair (CM-D1) Luis Uribe
Council/Authority Members:
District 2 Rachel Hernandez
District 3 Cal Campbell
District 4 Darlene Barber-Martinez

CITY OF RIVERBANK
REGULAR CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY
Board Hybrid Meetings
(In-Person: Face Covering Required)
(Virtual via ZOOM)
Council Chambers, 6707 Third St., Suite B
Riverbank, CA 95367

choose civility

AGENDA

TUESDAY, SEPTEMBER 14, 2021– 6:00 P.M.

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

NOTICE: THIS IN-PERSON AND VIRTUAL HYBRID MEETING WILL BE HELD IN ACCORDANCE WITH THE GOVERNOR'S EXECUTIVE ORDER N-29-20, AS AMENDED BY ORDER N-08-21 REGARDING THE OPEN MEETING REQUIREMENTS OF THE RALPH M. BROWN ACT, THE FEDERAL AMERICANS WITH DISABILITIES ACT, AND ALSO WITH THE GOVERNOR'S "REOPENING" ORDERS (June 15, 2021),THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH'S COVID GUIDANCE, AND THE RECENT STANISLAUS COUNTY HEALTH OFFICER'S MANDATORY FACE COVERING ORDER (Sept.2, 2021). THIS IS TO ENSURE THE PUBLIC CONTINUES TO HAVE SAFE ACCESS TO PARTICIPATE IN MEETINGS. REFER TO THE LAST PAGE OF THE AGENDA FOR PARTICIPATION INFORMATION.

1. CALL TO ORDER

2. FLAG SALUTE

3. INVOCATION

4. ROLL CALL

5. AGENDA CHANGES

6. 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.*

7. 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)** and time cannot be yielded to another person**.** Under State Law, matters presented during the public comment period cannot be discussed or acted upon.

Refer to the last page of this agenda for the Public Comment Procedures via ZOOM.

8. PRESENTATIONS (For informational only)

Item 8.1. Proclamation – Historical Museum- 100th Year Anniversary.

Item 8.2. 2021 Cheese & Wine Festival Update.

9. 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 9.1. Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 9.2. A **Resolution** Authorizing the Approval of a Subrecipient Agreement between the City of Riverbank and the County of Stanislaus for the Community Development Block Grant Program for FY 2021-2022.

Item 9.3. Award Bid for the Patterson Road at First Street Project to Dirt Synasty, Inc. and Authorize Execution of Future Change Orders.

Item 9.4. A **Resolution** Providing the City Manager, or Their Designee, Signature Authority for the Submittal of an Application for Funding to the State Water Board Community Water System COVID Relief Program.

Item 9.5. A **Resolution** Authorizing the Allocation of Funds to Update the Parks & Recreation Component of the City's System Development Fees and Authorize the City Manager to Enter into an Agreement for Professional Services between Willdan Financial Services and the City of Riverbank to Conduct the Study.

Item 9.6. **Resolution** to Award a Contract for the Solid Waste Rate Study to Bartle Wells Associates, Authorize the City Manager to Execute the Contract, and Authorize a Budget Appropriation in the amount of $15,000 from the General Fund Reserves for Said Contract.

10. PUBLIC HEARINGS

The Public Hearing Notice was published in the Riverbank News on 09/01/2021 and for Items 10.2 and 10.3 a Notification Letter was mailed on 08/30/2021 to each property owner within 300 feet of the property project matter based on the latest equalized assessment rolls of record by the Stanislaus County Assessor.

Item 10.1. **Public Hearing to Adopt Resolution of the City Council of the City of Riverbank Annexing of Territory to a Community Facilities District, Authorizing the Levy of a Special Tax, and Submitting Levy of Tax to Qualified Electors, City of Riverbank Community Facilities District No. 2016-1(Public Services) Annexation No. 1; and**

Resolution of the City Council of the City of Riverbank Declaring Results of a Special Annexation Election, Determining Validity of Prior Proceedings, and Directing Recording of Amended Notice of Special Tax Lien, City of Riverbank Community Facilities District No. 2016-1(Public Services) Annexation No. 1.

It is recommended that the City Council hold a public hearing and adopt resolutions annexing territory to a City of Riverbank Community Facilities

District 2016-1 (Public Services) and to authorize the levy of a special tax therein to finance certain City services.

Item 10.2. **First Reading by Title Only and Introduction of a Proposed Ordinance Approving the Rezone of 4.6± Acres to Planned Development Located at 4131 Kentucky Avenue (APN 062-022-020) – A Project Known as Countryside III; and**

A Resolution Approving Vesting Tentative Map 03-2020 For Mcroy Wilbur Communities, Located At 4131 Kentucky Avenue (APN 62-022-020) – A Project Known as Country Side III.

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval, which initiates the second reading at the September 28, 2021, regular City Council meeting or soon thereafter to consider its adoption, and by separate roll call vote adopt the proposed resolution for the planned development project.

Item 10.3. **First Reading by Title Only and Introduction of a Proposed Ordinance Approving the Rezone of 5.9 ± Acres to Planned Development, Located At 6448 Claus Road (Apn 062-020-001) – A Project Known as The Heritage Collection; and**

A Resolution Approving Tentative Map 01-2021 for SCM Hearthstone, LLC, Located At 6448 Claus Road (Apn 062-020-001) – A Project Known as The Heritage Collection

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval, which initiates the second reading at the September 28, 2021, regular City Council meeting or soon thereafter to consider its adoption, and by separate roll call vote adopt the proposed resolution for the planned development project.

11. NEW BUSINESS

Item 11.1. **A Resolution Approving the City of Riverbank 2022-2027 Strategic Plan –** It is recommended that City Council:

1. Approve the proposed resolution which approves the proposed City of Riverbank 2022-2027 Strategic Plan.
2. Alternative action: The Council may choose to approve the strategic plan with specific amendments (if desired).
3. Alternative action: Request revisions or more analysis and consider at a future Council meeting date.

Item 11.2. **Riverbank Recycled Water Project Planning Studies – Project Status Report and Implementation Steps** – Staff recommends that City Council receive an update and presentation on the current status of the City of Riverbank Recycled Water Planning Studies and provide feedback and direction on proposed implementation steps as appropriate.

Item 11.3. **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.

12. 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/LRA Board during this time.

Item 12.1. Staff

Item 12.2. Council/Authority Member

Item 12.3. Mayor/Chair

13. 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 13.1. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to Government Code Section 54956.9)
Name of Case: Carlson Morgan, LLC vs. City of Riverbank Local Redevelopment Authority
Stanislaus Superior Court Case No.: CV-21-001556

Item 13.2. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
(Pursuant to Government Code Section 54956.8)
Property: APN: 132-017-017; Address: 3338 Sierra St, Riverbank, CA
Agency Negotiator: Sean Scully, City Manager
Property Negotiator: Delbert and Gracie Liles
Under Negotiation: Price, terms of payment, or both

Item 13.3. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
(Pursuant to Government Code Section 54956.8)
Property: APN: 132-017-013; 132-010-014, and 132-010-062; Addresses: 6825, 6827, and 6813 Third Street, Riverbank, CA
Agency Negotiator: Sean Scully, City Manager
Property Negotiator: Dhirendra & Saroj Patel
Under Negotiation: Price, terms of payment, or both

14. RECONVENE – REPORT FROM CLOSED SESSION

15. ADJOURNMENT

- The next regular City Council meeting will be on Tuesday Sept. 28th , 2021 at 6 pm.

AFFIDAVIT OF POSTING
I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted at the meeting location, on the North City Hall public exterior bulletin board, the Riverbank Community Center, and the City's website 72 hours prior to the meeting in accordance to the California Ralph M. Brown Act. **Posted this Thursday, September 9, 2021** **/s/ *Annabelle H. Aguilar, CMC, City Clerk 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.

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

CHANGES TO THIS NOTICE OF PROCEDURES

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

PUBLIC "LIVE" VIEWING

- Charter Government Channel – 2
- AT&T U-VERSE Government Channel – 99
- YouTube Live https://www.youtube.com/channel/UCq2x8QChEcknBq7uuJLcZow
- Via ZOOM Platform (See instructions below)

SUBMITTING PUBLIC COMMENTS

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

Via Email to cityclerk@riverbank.org:

- Written comments must be received **by 4:00 p.m.** on the day of the meeting; and
- 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/83902407595
- Join by accessing website: https://zoom.us/join
  - **Webinar ID: 839 0240 7595**
- Join by telephone: **1 669 900 9128 or 1 346 248 7799, plus Web ID**

HOW DO I COMMENT? The Mayor will announce when public comment may be made for the agenda item being considered, at which time you will:

- Using a computer – click on the "raise hand" feature in the webinar controls. This will let us know you wish to speak.
  - Once you confirm that you want to be unmuted, your 3 minutes will begin for you to make your comments.

- Using a Phone – press ***9** to "raise the hand".
  - Once you confirm that you want to be unmuted, your 3 minutes will begin for you to make your comments.

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

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 8.1

SECTION 8: PRESENTATIONS

Meeting Date:	September 14, 2021
Subject:	Proclamation – Historical Museum- 100th Year Anniversary
From:	Sean Scully, City Manager
Submitted by:	Gaby Hernandez, Administrative Assistant Confidential

RECOMMENDATION

It is recommended that the City Council read the Proclamation for the 100th Year Anniversary of the Historical Museum; and present to Kristin Platts, President of the Historical Society.

SUMMARY

This year marks the centennial anniversary of the building that houses our downtown museum. Before becoming the Riverbank Historical Museum in 1994, the building was a Carnegie Library. It was built in 1921 with money raised by local citizens and the Carnegie Foundation. The Riverbank Historical Museum is celebrating the 100th year anniversary; the building is listed on the National Register of Historic places. It is owned and maintained by the City of Riverbank, staffed by volunteer members of the Riverbank Historical Society. The Riverbank Historical Society provides educational programs about local historical persons and places, stores and displays artifacts and photographs in the remodeled Carnegie Library, which now serves as the Historical Museum. During this celebration, we recognize the valuable contributions made by all the volunteers and acknowledge the significance of this historic building in our City.

FINANCIAL IMPACT

None

ATTACHMENT

1. Proclamation

CITY OF RIVERBANK

PROCLAMATION

Historical Museum- 100th Year Anniversary

WHEREAS, in 1921 Andrew Carnegie and with matching funds from citizens of Riverbank funded the construction of a library at 3237 Santa Fe Street.

WHEREAS, to this day the building remains one of the few remaining Andrew Carnegie funded buildings regionally and is the sole building within Riverbank currently listed on the National Registry of Historic Places;

WHEREAS, the library continued in operation until approximately 1975, after that time the building was gifted to the City of Riverbank;

WHEREAS, the building began operation as a Museum in 1994, since then it has been continuously operated and curated by the Riverbank Historical Society;

WHEREAS, the Museum serves as a key asset to the City and provides a critically important service to the Riverbank community;

WHEREAS, the City of Riverbank appreciates the tireless efforts of the many volunteers and citizens who have dedicated their time to making the Museum a source of Riverbank's history for the community;

NOW, **THEREFORE, LET IT BE RESOLVED** that the City Council of the City of Riverbank does hereby unanimously proclaim it's appreciation and congratulations to the Riverbank Museum on it's 100th Year Anniversary. _

September 14, 2021

____
Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 8.2

SECTION 8: PRESENTATIONS

Meeting Date:	September 14, 2021
Subject:	2021 Cheese & Wine Festival Update
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council hear the update on the 2021 Cheese & Wine Festival.

SUMMARY

Simply Devine Events, Inc. were awarded the contract for the 2021 Cheese & Wine Festival. Tamra Spade, will present to City Council an update on the street boundaries for the festival and highlights that can be expected this year. City staff is looking forward to working with this group to bring an exciting event to the downtown.

BACKGROUND

The 2021 Cheese & Wine Festival will be the 44th annual festival that has been held in the City of Riverbank. The festival was run by the chamber of commerce for many years until it was passed on to the Riverbank Rotary Club. The City of Riverbank contracted with Chris Ricci Presents, Inc. for 6 years for the operations of the festival. Last year, due to COVID precautions, the event was not held. This year the City of Riverbank has contracted with Simply Devine Events, Inc. to administer the event on Saturday, October 9th and Sunday October 10th.

STRATEGIC PLAN

This event supports the strategic plan's vision by 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

The goal is for this event to be self-sustaining which it has been over the past 6 years.

ATTACHMENT

There are no attachments to this report.

RIVERBANK CITY COUNCIL / LRA AGENDA ITEM NO. 9.1

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 14, 2021
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. 9.2

SECTION 8: PRESENTATIONS

Meeting Date:	September 14, 2021
Subject:	A **Resolution** Authorizing the Approval of a Subrecipient Agreement between the City of Riverbank and the County of Stanislaus for the Community Development Block Grant Program for FY 2021-2022
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager/Admin. Services Dir.

RECOMMENDATION

It is recommended that the City Council authorize the approval of a Subrecipient Agreement between the City of Riverbank and the County of Stanislaus for the Community Development Block Grant Program for FY 2021-2022.

SUMMARY

In June 2019, the City became part of the Stanislaus County Urban County ("Urban County") Consortium for a direct allocation of Community Development Block Grant (CDBG) funding from the federal Department of Housing and Urban Development (HUD). The County requires an annual approval of the Subrecipient Agreement which sets forth the stipulations on the allocation, administration, reporting, and use of the funds and designates the City of Riverbank as a subrecipient of said funds.

BACKGROUND

Upon joining the Stanislaus County Urban County, the City of Riverbank became an entitlement City for a direct allocation of Community Development Block Grant (CDBG) funding from the Department of Housing & Urban Development. Stanislaus County administers the funding and has developed a Subrecipient Agreement which designates the City of Riverbank as a subrecipient of these funds and sets forth all of the necessary regulations to ensure the proper expending of these funds.

Allocations to the member cities are based on a poverty and population formula developed by the Department of Housing & Urban Development. Based on this formula, for the 2021-2022 Fiscal Year, the City is entitled to receive $156,916 in program funds with an additional $16,842 available for city administration of this funding.

As approved at the May 11, 2021 City Council meeting, the Annual Action Plan sets forth the projects for this upcoming fiscal year and includes the rehabilitation of the Castleberg Park Trail and a water infrastructure upgrade project on Riverside Dr. slated to be completed in FY 2022-23.

STRATEGIC PLAN

This report is in conformance with the City of Riverbank's Strategic Plan goal to "Maintain a High Quality of Life".

FINANCIAL IMPACT

For Fiscal Year 2021-22, the City will receive $156,916 in program funds with an additional $16,842 available for city administration of this funding.

ATTACHMENT

1. Resolution
2. Stanislaus Urban County Community Development Block Grant (CDBG) Subrecipient Agreement

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE APPROVAL OF A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF RIVERBANK AND THE COUNTY OF STANISLAUS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR FY 2021-2022

WHEREAS, On May 28, 2019 the Riverbank City Council adopted a Resolution authorizing the City to participate in the CDBG Stanislaus County Urban County and HOME Consortium; and

WHEREAS, The City's participation entitles Riverbank to a direct allocation of funds from the Department of Housing & Urban Development CDBG Program; and

WHEREAS, The County of Stanislaus desires to enter into an agreement designating the City of Riverbank as a Subrecipient of these funds; and

WHEREAS, The City agrees to abide by all stipulations set forth in the agreement for the administration, reporting, and use of the funds.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank approves the Subrecipient Agreement between the City of Riverbank and the County of Stanislaus for Fiscal Year 2021-2022.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of September, 2021; 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: Stanislaus Urban County Community Development Block Grant (CDBG) Subrecipient Agreement

STANISLAUS URBAN COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT AGREEMENT

This Subrecipient Agreement ("Agreement") is made by and between the County of Stanislaus (the "County") and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank and Waterford (the "City" individually or "Cities" collectively) on June 30, 2021.

WITNESSETH

WHEREAS, County of Stanislaus applied for and is qualified to receive an entitlement grant under the Community Development Block Grant ("CDBG") program for Fiscal Year 2021-2022 (July 1, 2021 to June 30, 2022) in the amount $2,469,380 as an "Urban County" as set forth under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, County has received a Community Development Block Grant ("CDBG") from the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301 et seq.; the "Act"); and

WHEREAS, pursuant to such grant and to the Board of Supervisors Board Resolution No. **2021-0198** County is undertaking certain programs and services necessary for the planning, implementation, or execution of such a Community Development Block Grant Program; and

WHEREAS, County and Cities desire to enter into this Subrecipient Agreement for the purpose of designating the City as a CDBG subrecipient; and

WHEREAS, the parties desire that CDBG entitlement funds received by the County as an "Urban County" be shared proportionally, as determined by poverty and population formula, among the parties;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. FUNDING PROVISIONS

1.1. The County and each City shall receive an allocation based upon a population and poverty calculation as set forth below:

Jurisdiction	Activity Funding
Stanislaus County	$ 396,305
Ceres	$ 233,828
Hughson	$ 175,673
Newman	$ 161,766
Oakdale	$ 181,750
Patterson	$ 195,157
Riverbank	$ 156,916
Waterford	$ 237,929
TOTAL	**$ 1,739,324**

1.2. The County and each City shall also receive an amount not to exceed twenty percent of the total Fiscal Year 2021-2022 CDBG entitlement funds for eligible general administrative services as defined in 24 CFR Part 570.206, which amount shall be set aside prior to any allocation of funds to the County and Cities under Section 1 of this Agreement.

(1) An amount not to exceed $461,704 of the available administrative funds shall allocated to the County and each City as follows:

Jurisdiction	Administration Funding
Stanislaus County	$ 343,810
Ceres	$ 16,842
Hughson	$ 16,842
Newman	$ 16,842
Oakdale	$ 16,842
Patterson	$ 16,842
Riverbank	$ 16,842
Waterford	$ 16,842
TOTAL	**$ 461,704**

(2) An amount not to exceed $25,000 of the available administrative funding shall be allocated for Urban County Fair Housing activities, as defined in 24 CFR Part 570.206 (c).

1.3. An amount not to exceed ten percent of the total Fiscal Year 2021-2022 CDBG entitlement funds, $243,352, shall be allocated for eligible public services, as defined in 24 CFR Part 570.201, and related projects under the Urban County CDBG Public Service Grant Program.

1.4. Upon notification of a City's intent to apply for grants available to Urban Counties under applicable law, the County, as lead agency, shall apply for such grants on behalf of that City.

1.5. Activities proposed by the Cities insofar as they are consistent with applicable statutes and regulations, shall be processed for inclusion by County in the Consolidated Plan and Annual Action Plan.

1.6. Each party has the responsibility to ensure its activities comply with the HUD Certified Fiscal Year 2021-2022 Stanislaus Urban County Annual Action Plan.

1.7. Each party agrees to comply with reporting requirements set forth in 2 CFR 200.500 et seq. (formerly OMB A-133) regarding standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments expending Federal awards.

1.8. Each party shall be strictly accountable for all CDBG entitlement funds allocated to that party.

1.9. If the Cities have any unspent CDBG administration funds by June 30, 2022 those funds will be made available to the corresponding City for approved project activities (not including administration) in the next Fiscal Year.

2. SCOPE OF WORK

2.1. **General Scope.** City shall utilize CDBG funds to deliver its activities as described in the Fiscal Year 2021-2022 Stanislaus Urban County Annual Action Plan, as certified by HUD.

2.2. **Term.** This Agreement shall be in effect until June 30, 2022, or until all Fiscal Year 2021-2022 CDBG funds are disbursed to City. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which City remains in control of CDBG funds or other CDBG assets, including program income.

3. COMPENSATION

3.1. **Allocation Amount.** City shall be paid the total compensation amount as indicated in sections 1.1 and 1.2 above for CDBG activities and administrative activities respectively.

3.2. **Quarterly Draws.** All requests for grant fund draws shall be drawn at least once per quarter as follows: (1) City must request a first draw by October 1, 2021; (2) A second draw by January 14, 2022; (3) A third draw by April 15, 2022; and (4) A fourth and final draw by July 6, 2022. Additional draws may be required and shall be provided as requested by the County.

3.3. **Certification of Expenses.** In every case, draws will be dispersed to City subject to receipt of a Request for Funds "RFF" specifying and certifying that such expenses are in conformance with this Agreement, and that City is entitled to receive the amount requisitioned under the terms of this Agreement. With each RFF an official authorized to bind Organization shall certify that "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

Grant fund draw requests will be dispersed upon request provided: (1) The RFF is returned with original authorized signatures; (2) That all requests are accompanied with back-up documentation verifying all requested expenses are specific to carrying out the grant activity scope.

3.4. **Authorized Personnel.** Person executing this agreement on behalf of City shall notify County in writing of all authorized personnel who shall be empowered to file requests for funds pursuant to this Agreement.

3.5. **Salaries.** The salaries paid under this Agreement shall be in accordance with the following provision of 2 CFR 200.430 (formerly OMB Circular A-87) and 24 CFR 570.206 Program Administrative Costs. City shall submit time sheets to document expenses for staff. Time sheets shall list the grant specifically and hours spent on the grant noted. Only hours spent on the grant will be paid, based on the hourly rate. If the employee is on salary, salary will be calculated based on the hours worked. If the total number of hours worked is not listed, then hourly rate will be based on an average 40-hour work week.

Fringe benefits, which includes taxes and insurance costs paid by the City on behalf of the staff person working on the grant, but does not include overhead costs, are limited to 20% of total salary costs. Paid Time-off (PTO), paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, and the like, are NOT eligible expenses. Such costs are considered basic costs, not related to specific grant activity, and shall be covered by the City. Overtime or bonuses are not allowable expenses. Expenses related to travel are ineligible, except where gas costs have been incurred directly related to implementation of program activities.

4. <u>USE OF FUNDS</u>

4.1. **General Use of Funds.** Use of funds received pursuant to this Agreement shall be in accordance with the requirements of the Housing and Community Development Act of 1974 (as amended), 24 CFR Part 570, and other regulations governing the Community Development Block Grant Program, and any amendments or policy revisions thereto which shall become effective during the term of this Agreement. Further, any funded activity must be designed or so located as to principally benefit low/moderate income persons, aid in the prevention or elimination of slums or blight, or meet urgent community development needs, as defined in the program regulations.

4.2. **Compliance with Local Code.** City agrees to implement all activities supported with CDBG grant funds in compliance with all local codes and ordinances, including obtaining all necessary permits for such activities.

4.3. **Ineligible Uses of Funds.** In the event that City is found to have expended grant funds for ineligible activities, pursuant to 24 CFR 570.207 and 2 CFR 200.420-200.475 (formerly OMB Circular No. A-87 "Cost Principles for State, Local, and Indian Tribal Governments"), such funds shall be returned to the County.

4.4. **Program Income.** Program income shall be handled in accordance with Section 24 CFR 570.504(c). City shall report to County any income generated by the expenditure of CDBG funds. Such program income may be retained by City to be used for CDBG eligible activities and must be accounted for and kept separately from other funds in compliance with CDBG regulations. County has the responsibility for monitoring and reporting to HUD on the use of program income, thereby requiring appropriate record keeping and reporting by City as may be needed for this purpose.

4.5. **Termination of Contract.** Pursuant to 2 CFR 200.339, suspension or termination of this Agreement may occur if City materially fails to comply with any term of the grant agreement, or for convenience, as set forth in section 14 below.

(1) City may not terminate an Assignment of Proceeds and Grant of Lien without written consent of County. All reports or accounting provided for herein shall be rendered whether or not falling due within the Agreement period.

4.6. **Reversion of Assets.** Upon grant expiration, termination, or upon City becoming insolvent, City shall transfer to County any grant funds on hand at the time of expiration and any accounts receivable attributable to the use of said grant funds. Any real property under City's control that was acquired or improved in whole or in part with grant funds (including grant funds provided to City in the form of a loan) shall be utilized in accordance with Section 3.1 General Use of Funds, of this Agreement, as long as needed for that purpose. When such property is no longer needed for the originally authorized purpose set forth in Section 4.1. of this Agreement, County shall obtain disposition instructions from HUD which shall provide for one of the disposition alternatives set forth in 2 CFR 200.311. All returned grant funds or payments, if any, shall be treated by County as program income.

5. PROGRAM ACTIVITY ELIGIBILITY

5.1. **General Eligibility.** Eligibility of program activities shall be evaluated and documented by City prior to identifying in Annual Action Plan to determine if activities meet the eligibility criteria established under 24 CFR 570.208. Eligibility of program activities, including an evaluation for consistency with an Urban County approved and HUD certified Annual Action Plan, shall be conducted prior to any release of funds by the County.

5.2. **Income Standards.** City agrees to use the standards, in effect at the time of assistance to determine income eligibility and the verification requirements for entry into the CDBG Program. The method of income eligibility must be determined based on the National Objective being met and scope of CDBG activity to be carried out.

5.3. **Eligible Urban County Areas.** Program beneficiaries must reside within the income eligible Urban County areas as defined by HUD and Stanislaus County. These areas include the CDBG eligible Census Block Groups within the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Waterford, and the unincorporated areas of Stanislaus County.

5.4. **Environmental Review Record.** (See Section 13.4.)

6. DATA COLLECTION, REPORTING AND MAINTENANCE OF RECORDS

6.1. **Documentation.** Implementation of program activities, including determinations of eligibility, evidence of eligible activity costs, fiscal management, and CDBG contract and subcontract records shall be documented.

6.2. **Quarterly/Closeout Reports.** City agrees to submit quarterly program status reports to County, in conformance with the requirements of CDBG and 2 CFR 200.301, including an estimate of the number of jobs created and/or retained by CDBG funds as well as any other information that is requested on the date of their monitoring appointment or by the deadline indicated within their monitoring letter. In addition, Organization shall submit, no later than 30 days after the expiration of this Agreement, any required close-out report, in conformance with the requirements of 2 CFR 200.343.

6.3. **HUD Sponsored Research.** Upon request, City shall participate in HUD-sponsored research and evaluation of CDBG during or after the completion of the program.

6.4. **DUNS Number Requirement.** City shall maintain an updated and valid DUNS number, which requires registering with Dun and Bradstreet and completing and annually renewing their registration in the Central Contractor Registration (CCR).

6.5. **Data Required.** City shall maintain activity beneficiary data such as area demographics, number of housing units, and number of people who will benefit from activities funded with grant funds. City also agrees to report the number of jobs created with CDBG funds, if applicable, in the quarterly report to be provided to County.

6.6. **General Records.** City shall keep and maintain all project records, books, papers and documents for a period of not less than five (5) years after the project terminates and grants County the option of retention of the project records, books, papers and documents. City agrees to keep all necessary books and records, including property, personnel and financial records, in connection with the operations and services performed under this Agreement, and shall document all transactions so that all expenditures may be properly audited. County, HUD, and any authorized representatives shall have access to and the right to examine all records, books, papers or documents related to the project for the purposes of making audit, evaluation, examination, excerpts and transcripts during normal business hours and during the period such records are to be maintained by City. Further, County and HUD shall have the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

6.7. **Privacy Procedures.** City shall develop and implement reasonable procedures to ensure: (1) The confidentiality of records pertaining to all program participants; and (2) That program participant's addresses will not be made public, except to the extent that this prohibition contradicts a preexisting privacy policy of the City.

6.8. **Audit Provision.** City agrees to provide to County, at City's cost, a certified audit performed by an accredited certified public accountant, of all funds received or utilized by City, including the distribution of any CDBG Grant Funds for Fiscal Year 2021-2022 and previous fiscal years. City agrees to provide additional audits upon request.

7. UNIFORM ADMINISTRATIVE REQUIREMENTS

7.1. **General Uniform Administrative Requirements.** City shall comply with 24 CFR 570.502-Applicability of Uniform Administrative Requirements and the requirements and standards of 2 CFR 200.420-200.475 – Considerations for Selected Items of Cost (formerly OMB Circular No. A–87, "Cost State, Local, and Indian Tribal Governments").

7.2. **Reasonable Grant Costs.** The County reserves the right to determine whether or not a request for CDBG grant fund reimbursement is reasonable. A cost is considered to be reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. In determining the reasonableness of a given cost, consideration shall be given to: (1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the City or the performance of the award; (2) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, federal and state laws and regulations, and terms and conditions of the award; (3) Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the City, its members, employees, and clients, the public at large, and the Federal Government; and (4) Significant deviations from the established practices of the City which may unjustifiably increase the award costs.

7.3. **Allocable Grant Costs.** The County reserves the right to determine whether or not a request for CDBG grant fund reimbursement is allocable, consistent with applicable federal regulations. A cost is considered to be allocable if it: (1) Is incurred specifically for the award; (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received; or (3) Is necessary to the overall operation of the City, although a direct relationship to any particular cost objective cannot be shown.

8. HOLD HARMLESS AND INDEMNITY AGREEMENT

8.1. **General Indemnification.** City shall hold the County, its agents, officers, employees, and volunteers, harmless from and save, defend, and indemnify them against any and all claims, losses, liabilities and damages from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney's fees, and all costs and expenses, arising directly or indirectly out of any act or omission of City, whether or not the act or omission arises from the sole negligence or other liability of City, or its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement.

8.2. **Liability and Fees.** County shall not be responsible or liable for any debts, actions, obligations, negligence, or liabilities committed or incurred by City, its staff or program participants, and City hereby agrees to defend, hold harmless and indemnify County from and against any and all liabilities for debts, obligations, and negligence. No draw, however, final or otherwise, shall operate to release City from any obligations under this Agreement. Should either party be required to bring a legal action to enforce the provisions of this Agreement, the prevailing party shall be reimbursed for all court costs and all reasonable attorney's fees incurred in the prosecution or defense of said action.

9. NON-DISCRIMINATION AND EQUAL OPPORTUNITY

9.1. **Compliance with Fair Housing and Civil Rights Laws.** During the performance of this Agreement, City and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religious creed, color, national origin, ancestry, physical or mental disability including perception of disability, medical condition, genetic information, pregnancy related condition, marital status, gender/sex, sexual orientation, gender identity, gender expression, age (over 40), political affiliation or belief, or military and veteran status. City shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement. City shall provide a system by which recipients of service shall have the opportunity to express and have considered their views, grievances, and complaints regarding the City's delivery of services. (1) City agrees to comply with all applicable fair housing, non-discrimination and civil rights requirements including all applicable federal, state and local laws and regulations related to non-discrimination and equal opportunity, including without limitation; (a) the County's nondiscrimination policy; (b) the California Fair Employment and Housing Act (California Government Code sections 12900 et seq.); (c) Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended; (d) California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; (e) Section 504 of the Rehabilitation Act of 1973; (f) Section B of Title I of the Housing and Community Development Act of 1974; (g) Title II of the Americans with Disabilities Act of 1990; (h) Section 24 CFR 5.105 of the Code of Federal Regulations 24 CFR 5.105; (i) all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations. (2) City agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. (3) City will, in all solicitations or advertisements for employees placed by or on behalf of City, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, sexual orientation, ancestry, national origin, familial status, or any other basis prohibited by applicable law. (4) If the procedures that the grantee intends to use to make known the availability of services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such services, then City must establish additional procedures that will ensure that such persons are made aware of the services.

9.2. **Equal Participation of Religious Organizations.** Under CDBG, religious Organizations retain their independence from federal, state, and local governments, and may continue to carry out their mission, including the definition, practice, and expression of their religious beliefs, provided that they do not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. If CDBG funds are to be used to acquire, construct, rehabilitate or renovate a structure which will be used for both grant eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities. In addition, a CDBG-funded religious City retains its authority over its internal governance, and it may retain religious terms in its City's name, select its board members on a religious basis, and include religious references in its City's mission statements and other governing documents. An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

9.3. **HUD Section 3 Compliance.** City agrees to comply with the rules and regulations set forth under Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the HUD regulations issued pursuant thereto under 24 CFR Part 135. This act requires that, to the greatest extent feasible, opportunities for training and employment be directed to low and very-low income persons, particularly those recipients of government assistance for housing, and to business concerns that provide economic opportunities to low and very-low income persons.

9.4. **Americans with Disabilities Act (ADA) of 1990 and Architectural Barriers Act of 1968.** City shall comply with the Architectural Barriers Act of 1968 (42 U.S.C. § 4151, et seq.), which ensures that all federally funded facilities be designed, constructed, or altered to ensure accessibility and use by disabled persons, and the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101, et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines.

9.5. **Labor Standards and Davis-Bacon and Related Act Requirements.** City shall comply with all applicable federal labor standards, as set forth in section 110(a) of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301, et seq.) and Davis Bacon and Related

Acts contained in 29 CFR Parts 1, 3, and 5.

9.6. **Displacement, Relocation, Acquisition and Replacement of Housing.** Consistent with 24 CFR 570.606 and the Stanislaus Urban County's Anti-Displacement and Relocation Policy Plan, City shall take all reasonable steps to minimize the displacement of all persons as a result of project activities.

9.7. **Eligibility Restrictions.** City agrees to comply with applicable eligibility restrictions for certain resident aliens, as set forth in 24 CFR 570.613 and 24 CFR Part 49.

10. CONSTRUCTION CONTRACTS

10.1. **Contract Provisions**. City and the County agree to include the following contract provisions in any construction contracts utilizing funds received pursuant to this Agreement: (1) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all construction contracts shall include the equal opportunity clause provided under 41 CFR 60-1.4(b). (2) Davis-Bacon Act. All prime construction contracts in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148). Contractors shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. City or County shall include a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. City or County shall report all suspected or reported violations to HUD. (3) Copeland "Anti-Kickback" Act. All construction contracts shall include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3), prohibiting the contractor from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. City shall report all suspected or reported violations to HUD. (4) Contract Work Hours and Safety Standards. Any construction contract in excess of $100,000 that involves the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5), which require each contractor to compute the wages of mechanics and laborers on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for hours worked in excess of the standard 40-hour work week. In addition, no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous. (5) Byrd Anti-Lobbying Amendment. Any construction contract in excess of $100,000 shall require the contractor to file the required Byrd Anti-Lobbying certification, certifying that the contractor will not and has not used federal funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a federal contract, grant, or award, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

10.2. **Debarment and Suspension.** No contract may be awarded to parties listed on the government-wide exclusions in the System for Award Management, in accordance with the OMB guidelines at 2 CFR 180.

11. CONFLICTS OF INTEREST

11.1. **Hatch Act Incorporated.** Neither City program nor the funds provided therefore, nor the personnel employed in the administration of the program shall be in any way or to any extent engaged in the conduct of political activities in contravention of the Hatch Act (Chapter 15 of Title 5, United States Code).

11.2. **Conflict of Interest.** City shall comply with 2 CFR 200.112 (formerly 24 CFR 84.42) and all applicable federal standards of ethical conduct, which prohibit any employee, officer, or agent of City from participating in the selection, award, or administration of a federally funded contract if a real or apparent conflict of interest would be involved. With respect to all other decisions involving the use of CDBG funds, the following restriction shall apply: No person who is an employee, agent, consultant, officer, or elected or appointed official of the City and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

11.3. **Lobbying and Disclosure Requirements.** City certifies that no state or federal appropriated funds have been paid, or will be paid for lobbying activities, in contravention of 2 CFR 200.450 or the Byrd Amendment (31 U.S.C. 1352) and its implementing regulations at 24 CFR part 87. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence this Agreement, City shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

11.4. **Campaign Contribution Disclosure.** City certifies that it has complied with the campaign contribution disclosure provisions of the California Levine Act (Government Code § 84308) and has provided the appropriate disclosures to County.

12. DRUG-FREE WORKPLACE

12.1. **Drug-free Workplace.** City will maintain a drug free workplace and will comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations at 24 CFR part 21.

13. ENVIRONMENTAL LAW COMPLIANCE

13.1. **Lead Poisoning Prevention Act.** City agrees to uphold the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.) and implementing regulations at 24 CFR part 35, subparts A, B, M, and R.

13.2. **Clean Air Act and Federal Water Pollution Control Act.** Organization agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended. (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

13.3 **National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) Compliance.** Organization shall comply with all applicable standards, orders or regulations issued pursuant to NEPA (42 U.S.C. 4321 et seq.) and/or CEQA (Cal. Pub. Res. Code § 21000 et seq.).

13.4 **Environmental Review Record.** City is responsible for preparing the environmental review record for any project assisted through this Agreement in compliance with the California Environmental Quality Act, the National Environmental Protection Act, and 24 CFR 58. A copy of any such review shall be sent to the County for County's review, approval, and formal signature as the Responsible Entity, prior to City entering into a commitment of CDBG funds for the subject activity. The environmental review record shall include, but not be limited to, all documents which have been prepared, circulated, posted, or published to reflect an environmental determination made by the City. The City's CDBG administration funds may be used to cover costs associated with environmental review compliance by the County, if outside consulting services are required to be used by the County. An estimate of costs associated with environmental review compliance shall be provided by the City to the County for review and approval prior to any expenditure. (1) Any CDBG funding used to cover costs associated with the environmental review record shall be an administrative cost. No activity funds shall be utilized or encumbered until County approval of the environmental record has occurred.

14. TERMINATION OF SERVICES AND REVERSION OF ASSETS

14.1. **Termination of Contract and Reversion of Assets.** It is expressly understood and agreed that either party shall have the right to terminate this Agreement upon fifteen (15) days written notice to the other party. Such notice shall include the reasons for termination. (1) City may not terminate an Assignment of Proceeds and Grant of Lien without written consent of County. All reports or accounting provided for herein shall be rendered whether or not falling due within the Agreement period. (2) County reserves the right to terminate this Agreement or to reduce the Agreement compensation amount for cause, or if City fails to comply with the terms and conditions of an award, including: (a) failure of City to file required reports; (b) failure of City to meet project dates; (c) expenditure of funds under this Agreement for ineligible activities, services or items; (d) failure to comply with written notice from County of substandard performance in scope of services under the terms of this Agreement. (3) Should County choose to terminate this Agreement the following steps shall be followed: (a) written warning to City by County including steps to bring project into compliance with time frame; (b) notification by County that said project has been determined deficient and that continued support of the project is not providing an adequate level of services to low/moderate income people; (c) written notification from County that said Agreement is to be terminated and program funds curtailed, withdrawn, or otherwise restricted. (4) Upon expiration or termination of this Agreement, City shall transfer to the County any CDBG funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG funds.

14.2. **Insolvency.** If the City becomes insolvent, all unused CDBG funds shall be returned to the County for disposition.

15. GENERAL TERMS AND CONDITIONS

15.1. **Other program requirements.** City agrees to carry out each activity in compliance with all federal laws and regulations described in subpart K of 24 CFR 570, except that City does not assume County responsibility for initiating the process of reviewing federal financial assistance programs under the provisions of 24 CFR 52.

15.2. **Assignment.** Without written consent of County, this Agreement is not assignable by City, either in whole or in part.

15.3. **Amendment.** No amendment to, alteration of or variation in the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

15.4. **Provisions Required by Law Deemed Inserted**. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement shall forthwith be physically amended to make such insertion or correction.

15.5. **Construction.** Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

15.6. **Integration**. This Agreement represents the entire understanding of County and City as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with section 15.3. or 15.4.

15.7. **Notice.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which City or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus
Department of Planning and Community Development
Attention: Deputy Director of Finance and Operations
1010 Tenth Street, Suite 3400
Modesto, CA 95354

To City: See Attachment 1 – Stanislaus Urban County Notice Information

15.8. **Governing Law and Venue.** This Agreement shall be deemed to be made under and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

15.9. **Authorization.** City has authorized the undersigned person signing as officers on behalf of City, to enter into this Agreement on behalf of said City and to bind the same to this Agreement, and, further that said City has authority to enter into this Agreement and that there are no restrictions or prohibitions contained in any article of incorporation or bylaws against entering into this Agreement.

15.10. **Counterparts**. This Agreement may be signed in counterparts and shall bind each signatory to the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

[Signatures begin on the following page.]

COUNTY OF STANISLAUS:

By Jody Hayes (Jul 6, 2021 14:58 PDT) Jul 6, 2021

Jody Hayes Dated

Chief Executive Officer

APPROVED AS TO CONTENT:
Angela Freitas, Director
Planning and Community Development Department

By Angela Freitas
Angela Freitas (Jul 2, 2021 17:12 PDT)

Angela Freitas
Director

APPROVED AS TO FORM:
Thomas E. Boze
County Counsel

By

G. Michael Ziman
Deputy County Counsel

CITY OF CERES:

By ______________________________ ___________________________
Javier Lopez Dated
Mayor

ATTEST:

By ______________________________
Diane Nayares-Perez
City Clerk

APPROVED AS TO CONTENT:

By ______________________________
Tom Westbrook
City Manager

APPROVED AS TO FORM:

By ______________________________
Tom Hallinan
City Attorney

CITY OF HUGHSON:

By ______________________________ ______________________________
George Carr
Mayor
Dated

ATTEST:

By ______________________________
Ashton Gose
Deputy City Clerk

APPROVED AS TO CONTENT:

By ______________________________
Merry Mayhew
City Manager

APPROVED AS TO FORM:

By ______________________________
Daniel J. Schroeder
City Attorney

CITY OF NEWMAN:

By ______________________________ ___________________________

Casey Graham — Dated

Mayor

ATTEST:

By ______________________________

Mike Maier

City Clerk

APPROVED AS TO CONTENT:

By ______________________________

Michael E. Holland

City Manager

APPROVED AS TO FORM:

By ______________________________

Nubia Goldstein

City Attorney

CITY OF OAKDALE:

By ______________________________ ___________________________
Cherilyn Bairos Dated
Mayor

ATTEST:

By ______________________________
Rouze Roberts
City Clerk

APPROVED AS TO CONTENT:

By ______________________________
Bryan Whitemyer
City Manager

APPROVED AS TO FORM:

By ______________________________
Tom Hallinan
City Attorney

CITY OF PATTERSON:

By ______________________________ ______________________________
Dennis McCord Dated
Mayor

ATTEST:

By ______________________________
Maricela L. Vela
City Clerk

APPROVED AS TO CONTENT:

By ______________________________
Ken Irwin
City Manager

APPROVED AS TO FORM:

By ______________________________
Nubia Goldstein
City Attorney

CITY OF RIVERBANK:

By ______________________________ ___________________________
Richard D. O'Brien Dated
Mayor

ATTEST:

By ______________________________
Annabelle Aguilar
City Clerk

APPROVED AS TO CONTENT:

By ______________________________
Sean Scully
City Manager

APPROVED AS TO FORM:

By ______________________________
Tom Hallinan
City Attorney

CITY OF WATERFORD:

By ______________________________ ___________________________
Jose Aldaco Dated
Mayor

ATTEST:

By ______________________________
Patricia Krause
City Clerk

APPROVED AS TO CONTENT:

By ______________________________
Michael G. Pitcock
City Manager

APPROVED AS TO FORM:

By ______________________________
Corbett Browning
City Attorney

Attachment 1
Stanislaus Urban County Notice Information

City of Ceres
Department of Planning and Building
2720 Second Street
Ceres, CA 95307

City of Hughson
Department of Community Development
P.O. Box 9
Hughson, CA 95326

City of Newman
Department of Community Development
P.O. Box 787
Newman, CA 95360

City of Oakdale
Department of Community Development
455 S. Fifth Street
Oakdale, CA 95361

City of Patterson
Department of Community Development
P.O. Box 667
Patterson, CA 95363

City of Riverbank
Department of Economic Development and Housing
6707 3rd Street
Riverbank, CA 95367

City of Waterford
City Manager's Office
P.O. Box 199
Waterford, CA 95386

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 9.3

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 14, 2021
Subject/ Title:	Award Bid for the Patterson Road at First Street Project to Dirt Synasty, 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, Dirt Dynasty, Inc.; and
2. Authorize the City Manager to execute Change Orders within total project budget.

SUMMARY

The bid opening was held on Tuesday, September 7, 2021 to consider the bids for the Patterson Road at First Street Project. The following bids were received:

Dirt Dynasty, Inc.	$116,570.00
George Reed, Inc. Inc.	$124,840.00
FBD Vanguard Construction, Inc.	$141,964.50
United Pavement Maintenance, Inc.	$177,569.84

Work on the project includes, but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary for Asphalt Paving, Curb, Gutter, Sidewalk, Striping, Storm Drainage Systems, Traffic Control and all other work included on the plans for the above mentioned project.

Bids have been reviewed and Dirt Dynasty, Inc. has been identified as the lowest responsible bidder for the project.

This project is being funded by two separate funds, CMAQ and Measure L. Bids came in within budget.

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

FINANCIAL IMPACT

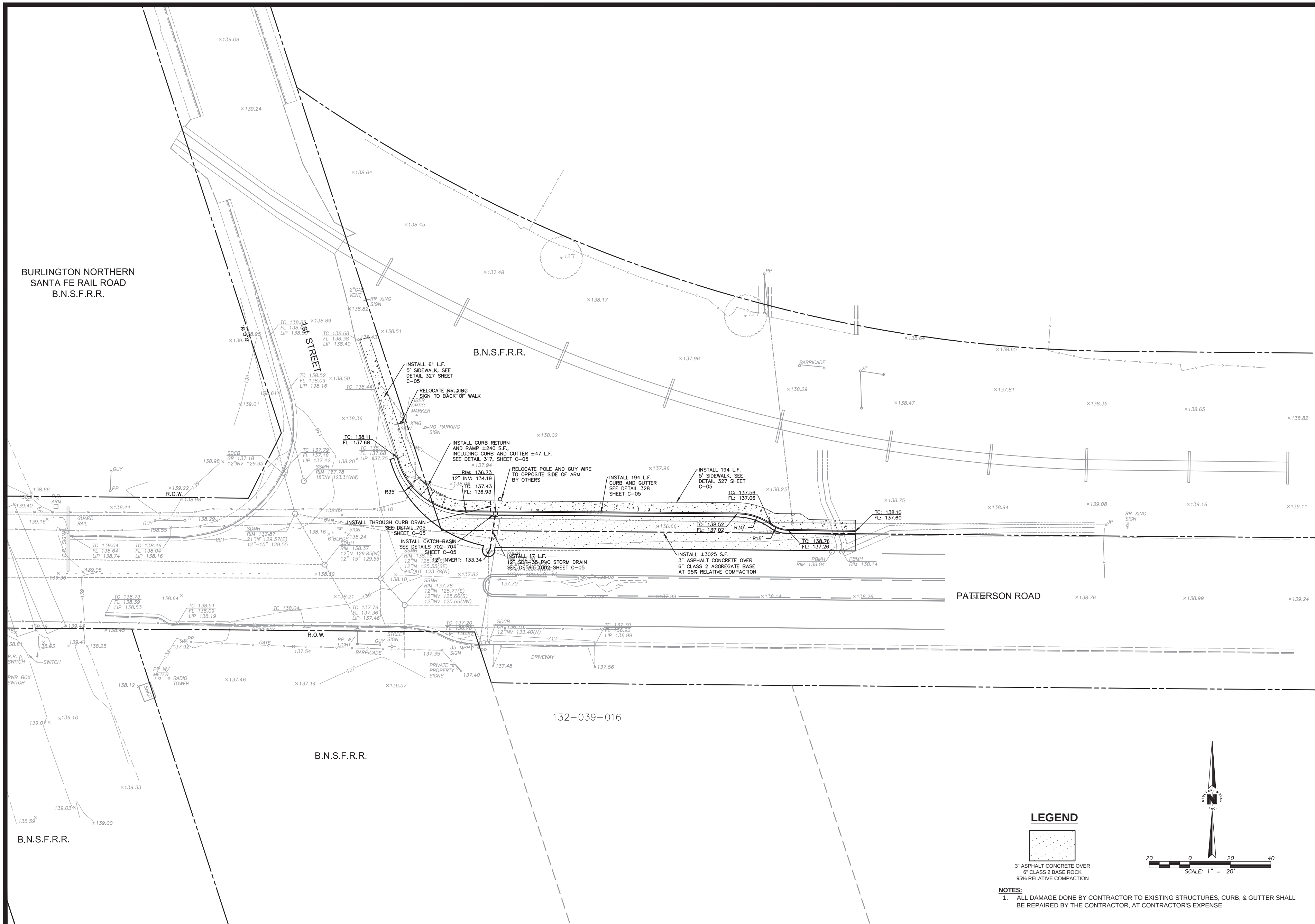
Two funding sources have been programmed for this project, they are:

- CMAQ - $250,250.00
- Measure L - $50,000.00

ATTACHMENT

1) Site Map

Site Map



LEGEND

3" ASPHALT CONCRETE OVER 6" CLASS 2 BASE ROCK 95% RELATIVE COMPACTION

NOTES:

1. ALL DAMAGE DONE BY CONTRACTOR TO EXISTING STRUCTURES, CURB, & GUTTER SHALL BE REPAIRED BY THE CONTRACTOR, AT CONTRACTOR'S EXPENSE

DIGALERT
1-800-227-2600
CALL 2 FULL WORKING DAYS IN ADVANCE

REVISIONS

REV #	DESCRIPTION	DATE	APPROVED

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SITE PLAN
INTERSECTION IMPROVEMENTS
PATTERSON ROAD AND 1ST STREET
CITY OF RIVERBANK
STANISLAUS COUNTY, CALIFORNIA

SCALE	1" = 20'
DRAWN BY	JAH
DESIGNED BY	JAH
CHECKED BY	WFK
DATE	1/10/20

SHEET
C-03
OF 6
JOB NO.
19117

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RIVERBANK CITY COUNCIL AGENDA ITEM NO. 9.4

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 14, 2021
Subject:	A **Resolution** Providing the City Manager, or Their Designee, Signature Authority for the Submittal of an Application for Funding to the State Water Board Community Water System COVID Relief Program
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager/Administrative Services Director

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution providing the City Manager, or his designee, with signature authority to submit an application for funding to the State Water Board Community Water System COVID Relief Program.

SUMMARY

The State Water Board has enacted a Community Water System COVID Relief Funds under the Water and Waste Water System Payments of the American Rescue Plan Act of 2021. It is required that the Community Water System (the City) designate signature authority to a City Official in order to submit an application for funding from this program.

BACKGROUND

As a community water system, the City may be eligible to receive funding through the Community Water System COVID Relief Program (Program) being implemented by the State Water Resources Control Board (State Water Board). The State Water Board anticipates providing federal funds through its Program as direct assistance to community water systems to forgive customer water debt accrued during the COVID-19 Pandemic. This Program is currently in development, and the full Program requirements and eligibilities have not yet been determined. However, in order to expedite funding to eligible water systems, we are requesting the completion and submittal of required forms while details of the program are still being developed.

In order to begin this process, the City must designate signature authority to a City official, in this case the City Manager, in order to submit the requested forms for the program.

STRATEGIC PLAN

On August 10, 2021, the City Council established a Strategic Plan Goal to "Ensure the City's Continued Financial Stability". This report addresses this matter.

FINANCIAL IMPACT

There is no financial impact associated with the designation of signature authority to the City Manager, or their designee. There is the potential that grant funding may be received by the City.

ATTACHMENT

1. Resolution

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, PROVIDING THE CITY MANAGER, OR THEIR DESIGNEE, SIGNATURE AUTHORITY FOR THE SUBMITTAL OF AN APPLICATION FOR FUNDING TO THE STATE WATER BOARD COMMUNITY WATER SYSTEM COVID RELIEF PROGRAM

WHEREAS, the State Water Board has enacted a Community Water System COVID Relief Program; and

WHEREAS, the State Water Board anticipates providing federal funds through its program as direct assistance to community water systems to forgive customer water debt accrued during the COVID-19 Pandemic; and

WHEREAS, as a community water system, the City of Riverbank may be eligible to receive funding through this program; and

WHEREAS, the City Council hereby designates the City Manager, or their designee, as signature authority on any documents or forms required as part of this program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby provides signature authority for any forms related to the Community Water System COVID Relief Program to the City Manager or their designee.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of September, 2021; 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**

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 9.5

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 14, 2021
Subject/ Title:	A **Resolution** Authorizing the Allocation of Funds to Update the Parks & Recreation Component of the City's System Development Fees and Authorize the City Manager to Enter into an Agreement for Professional Services between Willdan Financial Services and the City of Riverbank to Conduct the Study
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager/Administrative Services Director

RECOMMENDATION:

It is recommended that the City Council authorize the allocation of funds to update the Parks & Recreation component of the City's system development fees and authorize the City Manager to enter into an Agreement for Professional Services between Willdan Financial Services and the City of Riverbank to conduct this Study.

BACKGROUND:

On October 8, 2012, the City Council authorized the City to contract with AeCom to conduct a Development Impact Fee Nexus Study. The study was completed by AeCom on January 29, 2015 and approved by the City Council on March 24, 2015. Since the City has exceeded the 5-year mark of the study and due to the approval of the Crossroads West project and other potential new development, City staff started a review of the Parks & Recreation component of the Study. During this review staff found a number of projects listed in the current Nexus Fee Study, which can be eliminated or another source of funding can be used to complete these projects in the future. Also, with the completion of the Parks Master Plan, it is staff's desire to ensure that we incorporate projects highlighted in the study.

STAFF SUMMARY:

The City of Riverbank reached out to consulting firms with expertise in developing and updating fee programs and received a proposal from Willdan Financial Services. The City has previously worked on Impact Fee Study updates with Willdan, including the most recently completed Traffic Impact Fee Study. Staff reviewed the proposal and Willdan Financial Services proposal met the City's proposed scope of work for a fee of $17,000.

The Scope of Work within the proposal is divided into six tasks with the following objectives:

Task 1 – Identify and resolve policy issues raised by the study.

Task 2 – Identify estimates of existing levels of development; and identify a projection of future growth consistent with current planning policy.

Task 3 – Update standards to identify facilities required to accommodate growth.

Task 4 – Identify the type, amount and cost of facilities required to accommodate growth and correct deficiencies, if any.

Task 5 – Determine the extent of alternative (non-fee) funding available for new facilities.

Task 6 – Provide technically defensible fee report that comprehensively documents project assumptions, methodologies, and results.

FINANCIAL IMPACT:

The cost of services to update the Parks & Recreation component of the city's system development fees is $17,000. The City is requesting an allocation of $17,000 from the System Development Fee Administration Fund 211 to allow Willdan Financial Services to complete this update.

ATTACHMENTS:

1. Resolution
2. Willdan Financial Services Proposal

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE ALLOCATION OF FUNDS TO UPDATE THE PARKS & RECREATION COMPONENT OF THE CITY'S SYSTEM DEVELOPMENT FEES AND AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH WILLDAN FINANCIAL SERVICES

WHEREAS, the City of Riverbank recognizes that an update to the Parks & Recreation component of the system development fees is warranted due to new projects identified with new development, projects that can be eliminated or another source of funding can be used to complete these projects in the future; and

WHEREAS, this update shall focus on identifying and resolving policy issues, identifying existing development and future growth, updating facility standards, determining facilities needs and costs, identifying funding and financing alternatives, and calculating fees and preparing reports; and

WHEREAS, at the City Council authorizes the allocation of $17,000 from the System Development Fee Administration Fund 211 to fund this update.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank authorizes the City Manager to execute an agreement between the City of Riverbank and Willdan Financial Services to update the Parks & Recreation component of the City's system development fees, and authorizes the allocation of $17,000 from the System Development Fee Administration Fund.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14TH day of September, 2021; motioned by Councilmember , seconded by Councilmember , and upon roll call was carried by the following City Council vote of :

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:

____

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

____

Richard D. O'Brien
Mayor

Attachment:

City of Riverbank, CA

Park Impact Fee Nexus Study

WILLDAN

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August 31, 2021

Ms. Kathleen Cleek
Development Services Administration Manager
City of Riverbank
6707 3rd Street
Riverbank, CA 95367

Re: Proposal to Prepare a Park Impact Fee Nexus Study for the City of Riverbank

Dear Ms. Cleek;

Willdan Financial Services ("Willdan") is pleased to present this proposal to the City of Riverbank ("City") to prepare a Park Impact Fee Nexus Study. Given Willdan's unmatched impact fee experience, we are particularly well positioned to serve the City and help achieve the established long-term goals. Our project approach helps to ensure the preparation of a park impact fee study that will withstand technical challenges and public scrutiny. Outlined below are the advantages and benefits that Willdan will provide to the City of Riverbank.

Unmatched experience defending and implementing fee programs – Willdan's impact fee staff has assisted more than 100 California government agencies with the development and/or update of all fee types and is fortunate to be in a position that will provide a tremendous benefit to the City. Each project has required defensible documentation and thorough coordination of fee program changes for different agency departments and stakeholders within the business community. In some cases, Willdan has been required to negotiate fees with stakeholders and, on occasion, defend them in meetings and public forums.

We are particularly strong in advising our clients on crafting a park impact fee program to leverage the benefits of both the Mitigation Fee Act and the Quimby Act, depending on the type of development. A "blended" park fee program will allow the City to ensure that new development provides for the expansion of parkland and facilities, regardless of whether the development project occurs in a subdivision or is infill in an existing neighborhood.

Best-in-class project team that can work immediately to prepare an impact fee program – The Willdan team begins a project by evaluating the agency's existing fee program, if available, and current capital planning policies and funding programs. Not all capital projects are amenable to funding from impact fee programs, and we identify sources that complement fee revenues to fully fund the capital improvement program. The team's Principal-in-Charge James Edison and Project Manager Carlos Villarreal are well respected by our clients for their skill in proactively organizing a clear, consensus-based project approach.

Successful project completion – As indicated within our submission, ***Willdan has successfully completed many impact fee studies, including most recently in the Cities of Riverbank, Pismo Beach, Carpinteria, Garden Grove, Hollister, Murrieta, Rialto and Santa Clara.*** These fee programs were approved by their respective City Councils.

Due to statewide restrictions in place for COVID, in person meetings have been replaced by online, virtual meetings. We have utilized virtual meetings for years to facilitate quick, on-demand meetings with clients. Should these restrictions loosen sufficiently to allow for in-person meetings, and at the City's request, we can change them to in-person meetings.

We are excited about this opportunity to use our skills and expertise to continue to serve the City of Riverbank. To discuss any aspect of this submittal, please contact Managing Principal James Edison directly at (510) 912-4687, or via email at JEdison@Willdan.com.

Sincerely,
WILLDAN FINANCIAL SERVICES

Chris Fisher
Vice President - Director

Scope of Services

This section outlines Willdan's understanding of the situation surrounding the City's desire to update the City's Park Impact Fees. This section identifies the project objectives and discusses the background regarding public facilities financing in California; describes Willdan's standard impact fee project approach; and concludes with the proposed scope of services.

Project Objectives

The City seeks the services of an outside consultant to update their park impact fee program to ensure a fair and reasonable fee structure, while meeting the requirements of the California *Mitigation Fee Act* (*California Government Code 66000 to 66025*) and the *Quimby Act*. The resulting fees will fund new development's share of planned facilities, while not overburdening existing development with unnecessary costs.

The objective of this project is to update the requested impact fee categories pursuant to State law, which requires an update every five years. To accomplish this objective, this study will:

- Develop a technically defensible fee justification, based on the reasonable relationship and deferential review standards;
- Review and update facility standards, capital facilities plans and costs, and development and growth assumptions;
- Provide a schedule of maximum-justified fees by land use category; and
- Provide comprehensive documentation of assumptions, methodologies, and results, including findings required by the *Mitigation Fee Act*.

Public Facilities Financing in California

The changing fiscal landscape in California during the past 30 years has steadily undercut the financial capacity of local governments to fund infrastructure. Four dominant trends stand out:

1. The passage of a string of tax limitation measures starting with Proposition 13 in 1978 and continuing through the passage of Proposition 218 in 1996;
2. Declining popular support for bond measures to finance infrastructure for the next generation of residents and businesses;
3. Steep reductions in Federal and State assistance; and
4. Permanent shifting by the State of local tax resources to the State General Fund to offset deficit spending brought on by recessions.

Faced with these trends, many cities and counties have had to adopt a policy of "growth pays its own way." This policy shifts the burden of funding infrastructure expansion from existing rate and taxpayers onto new development. This funding shift has been accomplished primarily through the imposition of assessments, special taxes, and development impact fees, also known as public facilities fees. Assessments and special taxes require approval of property owners or registered voters and are appropriate when the funded facilities are directly related to the developing property. Development fees, on the other hand, are an appropriate funding source for facilities that benefit development jurisdiction-wide. Development fees need only a majority vote of the legislative body for adoption.

Summary of Approach

Willdan's methodology for calculating public facilities fees is both simple and flexible. Simplicity is important so that the development community and the public can easily understand the justification for the fee program. At the same time, we use our expertise to reasonably ensure that the program is technically defensible.

Flexibility is important, so we can tailor our approach to the available data, and the agency's policy objectives. Our understanding of the technical standards established by statutes and case law suggests that a range of approaches are technically defensible. Consequently, we can address policy objectives related to the fee program, such as economic development and affordable housing. Flexibility also enables us to avoid excessive engineering costs associated with detailed facility planning. We calculate the maximum justifiable impact fee and provide flexibility for the agency to adopt fees up to that amount.

Development impact fees are calculated to fund the cost of facilities required to accommodate growth. The four steps followed in an impact fee study include:

- **Estimate existing development and future growth:** Identify a base year for existing development and a growth forecast that reflects increased demand for public facilities;
- **Identify facility standards:** Determine the facility standards used to plan for new and expanded facilities;
- **Determine facilities required to serve new development and their costs:** Estimate the total amount and cost of planned facilities, and identify the share required to accommodate new development; and
- **Calculate fee schedule:** Allocate facilities costs per unit of new development to calculate the public facilities fee schedule.

We discuss key aspects of our approach to each of these steps in the subsections that follow.

Growth Projections

In most cases, we recommend use of long-range market-based projections of new development. By “long-range” we suggest 20 to 30 years to: capture the total demand often associated with major public facility investments; and support analysis of debt financing, if needed. In contrast to build out projections, market-based projections provide a more realistic estimate of development across all land uses. Build out projections typically overestimate commercial and industrial development because of the oversupply of these land uses relative to residential development.

Facility Standards

The key public policy issue in development impact fee studies is the identification of facility standards (step #2, above). Facility standards document a reasonable relationship between new development and the need for new facilities. Standards ensure that new development does not fund deficiencies associated with existing development.

Our approach recognizes three separate components of facility standards:

1. **Demand standards** determine the amount of facilities required to accommodate growth. Examples include park acres per thousand residents, square feet of library space per capita, or gallons of water per day. Demand standards may also reflect a level of service such as the vehicles-to-capacity (V/C) ratio used in traffic planning;
2. **Design standards** determine how a facility should be designed to meet expected demand, for example park improvement requirements and technology infrastructure for office space. Design standards are typically not explicitly evaluated as part of an impact fee analysis but can have a significant impact on the cost of facilities. Our approach incorporates current facility design standards into the fee program to reflect the increasing construction cost of public facilities; and
3. **Cost standards** are an alternate method for determining the amount of facilities required to accommodate growth based on facility costs per unit of demand. Cost standards are useful when demand standards were not explicitly developed for the facility planning process. Cost standards also enable different types of facilities to be analyzed based on a single measure (cost or value), useful when disparate facilities are funded by a single fee program. Examples include facility costs per capita, per vehicle trip, or cost per gallon of water per day.

Identifying New Development Facility Needs and Costs

We can take several different approaches to identify facility needs and costs to serve new development. Typically, this is a two-step process: 1) identify total facility needs; and 2) allocate to new development its fair share of those needs. Total facility needs are often identified through a master facility planning process that typically takes place concurrent with or prior to conducting the fee study. Engineered facility plans are particularly important in the areas of traffic, water, sewer, and storm drain due to the specialized technical analysis required to identify facility needs.

There are three common methods for determining new development’s fair share of planned facilities costs: 1) the existing inventory method; 2) the planned facilities method; and 3) the system plan method. Often the method selected depends on the degree to which the community has engaged in comprehensive facility master planning to identify facility needs.

The formula used by each approach and the advantages and disadvantages of each method is summarized on the page that follows:

Existing Inventory Method

The existing inventory method allocates costs based on the ratio of existing facilities to demand from existing development as follows:

$$\frac{\text{Current Value of Existing Facilities}}{\text{Existing Development Demand}} = \text{\$/unit of demand}$$

Under this method new development funds the expansion of facilities at the same standard currently serving existing development. By definition, the existing inventory method results in no facility deficiencies attributable to existing development. This method is often used when a long-range plan for new facilities is not available. Only the initial facilities to be funded with fees are identified in the fee study. Future facilities to serve growth are identified through an annual Capital Improvement Plan (CIP) and budget process, possibly after completion of a new facility master plan.

Planned Facilities Method

The planned facilities method allocates costs based on the ratio of planned facility costs to demand from new development as follows:

$$\frac{\text{Cost of Planned Facilities}}{\text{New Development Demand}} = \text{\$/unit of demand}$$

This method is appropriate when specific planned facilities can be identified that only benefit new development. Examples include street improvements to avoid deficient levels of service or a sewer trunk line extension to a previously undeveloped area. This method is appropriate when planned facilities would not serve existing development. Under this method new development funds the expansion of facilities at the standards used for the master facility plan.

System Plan Method

This method calculates the fee based on the ratio of the value of existing facilities plus the cost of planned facilities divided by demand from existing plus new development:

$$\frac{\text{Value of Existing Facilities + Cost of Planned Facilities}}{\text{Existing + New Development Demand}} = \text{\$/unit of demand}$$

This method is useful when planned facilities need to be analyzed as part of a system that benefits both existing and new development. It is difficult, for example, to allocate a new fire station solely to new development when that station will operate as part of an integrated system of fire stations that work together to achieve the desired level of service. Police substations, civic centers, and regional parks are examples of similar facilities.

The system plan method ensures that new development does not pay for existing deficiencies. Often, facility standards based on policies such as those found in General Plans are higher than existing facility standards. This method enables the calculation of the existing deficiency required to bring existing development up to the policy-based standard. The local agency must secure non-fee funding for that portion of planned facilities, required to correct the deficiency, to ensure that new development receives the level of service funded by the impact fee.

Calculating the Fee Schedule

The fee schedule uses the cost per unit of demand discussed in the last subsection to generate the fee schedule. This unit cost is multiplied by the demand associated with a new development project to calculate the fee for that project. The fee schedule uses different demand measures by land use category to provide a reasonable relationship between the type of development and the amount of the fee. We are familiar with a wide range of methods for identifying appropriate land use categories and demand measures depending on the particular study.

Related Approach Issues

Funding and Financing Strategies

In our experience, one of the most common problems with impact fee programs and with many CIPs is that the program or plan is not financially constrained to anticipated revenues. The result is a “wish list” of projects that generate community expectations that often cannot be fulfilled. Our approach is to integrate the impact fee program into the local agency’s existing CIPs while encouraging those plans to be financially constrained to available resources. We clearly state the cost of correcting existing deficiencies, if any, to document the relationship between the fee program and the need for additional non-fee funding.

We can also address one of the most significant drawbacks of an impact fee program – the inability to support conventional public debt financing, so projects can be built before all fee revenues have been received. In collaboration with financial advisors and underwriters, we have developed specific underwriting criteria so that fees can be used to pay back borrowing if another source of credit exists. Typically, this approach involves the use of Certificates of Participation or revenue bonds that are calibrated so that they can be fully repaid using impact fee revenues.

Economic Development Concerns

The development community often is concerned that fees and other exactions will become too high for development to be financially feasible under current market conditions. Local agencies have a number of strategies to address this concern, including:

- Conducting an analysis of the total burden placed on development, by exactions, to see if feasibility may be compromised by the proposed fees;
- Gathering similar data on the total fee burden imposed by neighboring or competing jurisdictions;
- Developing a plan for phasing in the fees over several years to enable the real estate market to adjust;
- Providing options for developers to finance impact fees through assessment and other types of financing districts; and
- Imposing less than the maximum justified fee.

If less than the maximum justified fee is imposed, we will work with staff to identify alternative revenues sources for the CIP. The CIP should remain financially feasible to maintain realistic expectations among developers, policy-makers, and the public.

At the City's request, we can include an analysis of the impact fees imposed by neighboring and comparable jurisdictions for an additional fee.

Stakeholder Participation

Stakeholder participation throughout the study supports a successful adoption process. Our approach is to create consensus first, around the need for facilities based on agreed upon facility standards. Second, we seek consensus around a feasible funding strategy for these needs, leading to an appropriate role for impact fees.

Gaining consensus among various groups requires a balanced discussion of both economic development and community service objectives. Often, our approach includes formation of an advisory committee to promote outreach to and input from the development community and other stakeholders. We have extensive experience facilitating meetings to explain the program and gain input.

Program Implementation

Fee programs require a certain level of administrative support for successful implementation. Our final report will include recommendations for appropriate procedures, such as:

- Regularly updating development forecasts;
- Regularly updating fees for capital project cost inflation;
- Regularly updating capital facility needs based on changing demands;
- Developing procedures for developer credits and reimbursements; and
- Including an administrative charge in the fee program.

Work Plan

We want to ensure that our scope of services is responsive to the City's needs and specific local circumstances. We will work with the City to revise the proposed scope based on input prior to approval of a contract, and as needed during the course of the study.

Task 1: Identify and Resolve Policy Issues

Objective: Identify and resolve policy issues raised by the study and request and review related documentation.

Description: To initiate this task, we will review documentation related to adoption of the City's current park fees and dedication requirements. We will deliver information requests as appropriate. We will explain policy issues to City staff and seek guidance prior to proceeding. Policy issues include:

- Review of ordinances, nexus reports, policies, and plans supporting the imposition of park fees;
- City's Park Master Plan;
- Review of facilities and land acquisition cost estimates;
- Quimby Act Fee Program;
- Mitigation Fee Act Fee Program; and
- Other reports and studies related to funding programs for park and recreational facilities.

Furthermore, we will meet with City staff to develop a complete understanding of the project plan and objectives, and to finalize the project timeline and implementation approach/strategy.

Task 2: Identify Existing Development and Future Growth

Objective: Identify estimates of existing levels of residential development and identify a projection of future growth consistent with current planning policy.

Description: Existing levels of development provides a basis for calculating existing facility standards, the basis for most development impact fees. Future growth to a defined planning horizon, such as 2040, provides a basis for calculating the amount of new facilities needed.

We will work with staff to identify the appropriate planning horizon development numbers over which the costs will be apportioned.

We will also analyze the most current federal Census population estimates due to the statutory requirement of Quimby in-lieu fees. Although growth projections are unlikely to impact the fee amounts, they will drive projections of future fee revenue.

Task 3: Calculate Facility Standards

Note: Tasks 3, 4, and 5 are conducted in an iterative approach because of the influence of facility standards, facility needs and alternative funding on each other, the funding plan, and the maximum justifiable impact fee.

Objective: Determine standards to identify facilities required to accommodate growth.

Description: Facility (park improvements) and parkland acreage standards provide a critical link in documenting the nexus between growth, the facilities required to accommodate it, and a defensible impact fee. We anticipate using the City's existing park standard as the basis of the nexus analyses. If there is a deficiency, we will quantify the amount that should be funded by non-fee revenue sources.

The existing standard may vary based on the treatment of existing school recreation facilities, open space facilities or unimproved parkland.

To complete this task, we will need updated lists of existing facilities. To establish the Quimby in-lieu fee we will use facility data as of the most recent federal Census. The Quimby Act requires that public agencies use the most recent Census data available when calculating the corresponding fee.

We will allocate new development's responsibility for new facilities by land use type using population and employment density factors, if appropriate. We will estimate population density factors using Census data specific to the City.

Task 4:	Determine Potential Facility Needs and Costs
Objective:	Identify the type, amount and cost of park and recreation facilities required to accommodate growth and correct deficiencies, if any.
Description:	The facility standards developed in Task 3 will also be integral to estimating facility and acreage needs. The costs of future park and recreation facilities and land will be derived by applying the park standards defined in Task 3 to current unit costs for park land and improvements. We will use the most recently available data as the basis of the facilities and land acquisition cost assumptions. Using the estimate park needs and recent cost assumptions, we will estimate the total cost of park and recreation facilities improvements necessary to serve new development.

Task 5:	Identify Funding and Financing Alternatives
Objective:	Determine the extent of alternative (non-fee) funding available for new parkland, open space, and related facilities.
Description:	If impact fees are going to only partially fund a capital project, the *Mitigation Fee Act* requires that the agency report on the anticipated source and timing of the additional funding every five years. There are two types of alternative funding sources that we will identify: 1. Funding from non-impact fee sources to correct existing deficiencies; and 2. Funding from new development other than impact fees that must be credited against new development's impact fee contributions, possibly including taxes paid to finance facilities. For those initial projects in the City's most recent Capital Improvement Program that may by partially funded by park fees (see Task 4) we will identify anticipated alternative funding based on information from City staff, or note that funds are still to be identified. In the case of the latter, we will note probable funding alternatives.

Task 6:	Prepare Nexus Study
Objective:	Provide technically defensible fee report that comprehensively documents project assumptions, methodologies, and results.
Description:	Based on the results of prior tasks we will first prepare a package of draft report tables for City staff to review for each of the three fees being updated in this project. The tables will document each step of the analysis. The tables will culminate in three fee schedules indicating the maximum justified fee amount by residential land use category. Following one round of comments from City staff on the quantitative analysis and fee schedule, we will prepare a public review draft report. The report will contain all required documentation and findings needed for adoption of impact fees under the *Mitigation Fee Act*. The report will also document land dedication and in-lieu fees under the *Quimby Act*, as discussed in Task 1. We will prepare a final report, if necessary, based on one round of comments received on the public draft report.
Deliverables:	Nexus study draft tables, public review draft nexus study, and final nexus study.

	Meetings
Objective:	The project manager, or other necessary Willdan staff, will attend project meetings.
Description:	A member of the project team will attend up to three meetings throughout the Park Impact Fee Nexus Study, which includes: a kickoff meeting; one meeting with staff and/or stakeholders and one Council Meeting. In light of ongoing statewide public health mandates associated with COVID-19, we will discuss with the City whether these meetings need to be conducted via WebEx or Zoom. We have been using these tools during the course of the shutdowns and they have proven effective and successful.

City Staff Support

To efficiently and effectively complete the tasks identified herein, we will need the cooperation of City staff. We suggest that the City assign a key individual to represent the City as the project manager who can function as our primary contact. We anticipate that the City's project manager will:

- Coordinate responses to requests for information;
- Coordinate review of work products; and
- Help resolve policy issues.

Willdan will endeavor to minimize the impact on City staff in the completion of this project. We will ask for responses to initial information requests in a timely manner. If there are delays on the part of the City, we will contact the City's project manager to steer the project back on track. We will keep the City's project manager informed of data or feedback we need to keep the project on schedule.

Willdan will rely on the validity and accuracy of the City's data and documentation to complete the analysis. Willdan will rely on the data as being accurate without performing an independent verification of the accuracy and will not be responsible for any errors that result from inaccurate data provided by the client or a third party. City shall reimburse Willdan for any costs Willdan incurs, including without limitation, copying costs, digitizing costs, travel expenses, employee time and attorneys' fees, to respond to the legal process of any governmental agency relating to City or relating to the project. Reimbursement shall be at Willdan 's rates in effect at the time of such response.

Project Schedule

Willdan anticipates time is of the essence for the City to begin this engagement. Typically, a park impact fee update requires between four and six months from notice to proceed to adoption. The proposed schedule can only be met with the cooperation of City staff. Delays in responding to our requests for data and review will result in corresponding delays to the project schedule. If that is the case, we will notify the City immediately of the possible impact on the schedule.

City of Riverbank

Park Impact Fee Nexus Study

Project Schedule

Scope of Services	September				October				November					December			
	6	13	20	27	4	11	18	25	1	8	15	22	29	6	13	20	27
Task 1: Identify & Resolve Policy Issues		⌘1	1														
Task 2: Identify Existing Development & Future Growth				⌘2													
Task 3: Calculate Facility Standards								⌘3									
Task 4: Determine Potential Facilities Needs & Costs											⌘4	2					
Task 5: Identify Funding & Financing Alternatives												⌘5					
Task 6: Prepare Nexus Study															⌘6	3	

Deliverables:

⌘1: Information Request, Meeting Agenda, Revised Schedule, Summary of Policy Decisions

⌘2: Development Growth Projections (table format)

⌘3: Project List

⌘4: Cost Estimates for Identified Facilities

⌘5: Draft Fee Tables & Text

⌘6: Administrative/Public Draft Report(s), Final Nexus Report & Slide Presentation

Meetings:

1. Project Kick-off Meeting
2. Review & Discuss Draft
3. Public Hearing to Present Final Report

Project Budget

Based upon the scope of work identified herein, Willdan proposes a ***fixed fee of $16,860*** for the City's Park Impact Fee Nexus Study engagement.

The table below provides a breakdown of this fee by task and project team member.

City of Riverbank Park Impact Fee Nexus Study Fee Proposal		J. Edison Principal-in-Charge	C. Villarreal Project Manager	Total Hours	Total Cost
		$ 240	$ 165		
Scope of Services					
Task 1:	Identify and Resolve Policy Issues	2.0	4.0	6.0	$ 1,140
Task 2:	Identify Existing Development and Future Growth	2.0	12.0	14.0	2,460
Task 3:	Calculate Facility Standards	2.0	12.0	14.0	2,460
Task 4:	Determine Potential Facilities Needs and Costs	2.0	14.0	16.0	2,790
Task 5:	Identify Funding and Financing Alternatives	2.0	10.0	12.0	2,130
Task 6:	Prepare Nexus Study	2.0	12.0	14.0	2,460
	Meetings	6.0	12.0	18.0	3,420
Total – Park Impact Fee Nexus Study		**18.0**	**76.0**	**94.0**	**$ 16,860**

Notes

- The fee denoted above includes attendance at up to three in-person meetings with City staff, stakeholders, and City Council, which include:
  - One project kick-off meeting;
  - One meeting to discuss and review results with City staff and/or stakeholders; and
  - One City Council meeting, to present the final report and fees for adoption.
- Attendance at more than three meetings will be billed at the per meeting fee. Attendance at additional on-site meetings or presentations will be $2,000 per meeting; attendance at additional remote meetings or presentations will be billed at our hourly rate.
- The fee denoted above includes the development/update of impact fees for the categories specified in this proposal.
- Comprehensive written responses to resolve conflicts or preparation of more than one set of major revisions to the draft report, will be classified as Additional Services, and may require additional billing at hourly rates stated in the hourly rate schedule listed below. These additional fees shall only take effect once the fixed fee stated above has been exceeded.
- Our fixed fee includes all direct expenses associated with the project.
- Willdan does not anticipate hourly rate increases to occur during the term of the project.
- We will invoice the City monthly based on percentage of project completed.
- Additional services may be authorized by the City and will be billed at our then-current hourly overhead consulting rates.

Hourly Fee Schedule

Provided below is Willdan's hourly rate table identifying current hourly rates.

Willdan Financial Services Hourly Rate Schedule	
Position	**Hourly Rate**
Group Director	$250
Managing Principal	$240
Principal Consultant	$210
Senior Project Manager	$185
Project Manager	$165
Senior Project Analyst	$135
Senior Analyst	$125
Analyst II	$110
Analyst I	$100

Experience and Qualifications

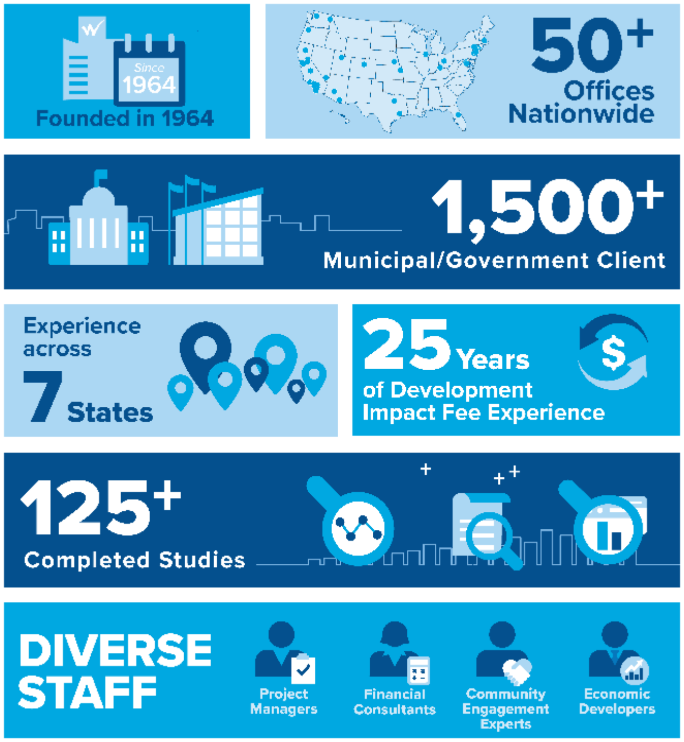
Firm Profile

Willdan Financial Services, a California Corporation, is an operating division within Willdan Group, Inc. (WGI), which was founded in 1964 as an engineering firm working with local governments. Today, WGI is a publicly traded company (WLDN). WGI, through its divisions, provides professional technical and consulting services that ensure the quality, value and security of our nation's infrastructure, systems, facilities, and environment. The firm has pursued two primary service objectives since its inception—ensuring the success of its clients and enhancing its surrounding communities.

A financially stable company, Willdan has over 1,400 employees working in over 25 states across the U.S. Our employees include a number of nationally recognized Subject Matter Experts for all areas related to the broadest definition of connected communities — including ***a team who will be committed to contribute their expertise throughout the duration of the City of Riverbank's Park Impact Nexus Fee engagement.***

Willdan has solved economic, engineering and energy challenges for local communities and delivered industry-leading solutions that have transformed government and commerce. Today, we are leading our clients into a future accelerated by change in resources, infrastructure, technology, regulations, and industry trends.

In the past five years Willdan has conducted over 125 Impact Fee Studies



Willdan Financial Services

Established on June 24, 1988, Willdan Financial Services, is a national firm and is one of the largest public sector economic and financial analysis consulting firms in the United States. Since that time, we have helped over 1,500 public agencies successfully address a broad range of infrastructure challenges.

Our staff of nearly 80 full-time employees supports our clients by conducting year-round workshops and on-site training to assist them in keeping current with the latest developments in our areas of expertise. Willdan assists local public agencies by providing the following services:

Willdan Financial Services

Services

- User fee studies;
- Cost allocation studies;
- Utility rate and cost of service studies;
- Real estate economic analysis;
- Feasibility studies;
- Municipal Advisory;
- Arbitrage and Continuing Disclosure Services;
- Economic development strategic plans;
- Development impact fee establishment and analysis;
- District administration services;
- Property tax audits;
- Tax increment finance district formation and amendment;
- Housing development and implementation strategies;
- Debt issuance support; and
- Long-term financial plans and cash flow modeling.

Project Team

Our management and supervision philosophy for the project team is very simple: staff every position in sufficient numbers with experienced personnel to deliver a superior product and convey results to decision makers in meetings, on time and on budget. With that philosophy in mind, we have selected experienced professionals for the City's engagement. We are confident that our team possesses the depth of experience that will successfully fulfill the desired work performance.

Key Team Member	Project Role	Responsibility to the Riverbank Engagement
James Edison, JD, MPP **Managing Principal**	Principal-in-Charge	▪ Ensure client satisfaction, flow of communication, and management of the project; ▪ Technical guidance; ▪ Project oversight; ▪ Quality assurance & control; and ▪ Meeting and presentation attendance.
Carlos Villarreal, MPP **Project Manager**	Project Manager	▪ Collect, interpret, and disseminate key data; ▪ Day to day contact; ▪ Production of key elements of the analysis; ▪ Model development; ▪ Report preparation; and ▪ Meeting and presentation attendance.

Staff Continuity

Mr. Edison has been assigned to serve as the City's representative; he has been selected for this role due to his extensive experience, which includes the preparation and supervision of numerous fee studies, as well as his experience presenting to governing bodies, stakeholders, and industry groups.

Project Dedication

Willdan's Financial Consulting Services group is composed of a team of over 20 senior-level professional consultants. While each member of the project team currently has work in progress with other clients, the workload is at a manageable level with sufficient capacity to meet the needs of the City specific to the schedule and budget for this engagement.

Resumes

Provided on the pages that follow are resumes for the project team.

James Edison, JD, MPP

Principal-in-Charge

Education

Juris Doctorate, School of Law, University of California, Berkeley

Master of Public Policy, School of Public Policy, University of California, Berkeley

Bachelor of Arts, magna cum laude, Harvard University

Professional Registrations

Member of State Bar, California

Licensed Real Estate Broker, California

Affiliations

Council of Development Finance Agencies

CFA Society of San Francisco

Congress for the New Urbanism

Urban Land Institute

Seaside Institute

International Economic Development Council

25 Years' Experience

Mr. James Edison specializes in the nexus between public and private, with expertise in public-private partnerships, and the benefits of economic development to municipalities and state, provincial, regional, and national governments. He possesses deep expertise in land use economics, with a specialty in finance and implementation, including fiscal impact and the public and private financing of infrastructure and development projects, both in the U.S. and internationally. Mr. Edison's public-sector experience includes local and regional economic impact studies; fiscal impact evaluations; new government formation strategies; and the creation of impact fees, assessments, and special taxes to fund infrastructure and public facilities. He has conducted numerous evaluations of the economic and fiscal impact of specific plans and consulted on a wide variety of land use planning topics related to community revitalization and the economic and fiscal impacts of development.

As a former bond attorney, Mr. Edison understands the legal underpinnings and technical requirements of public financing instruments and has advised both public and private clients on the use of individual instruments, and the interaction between those instruments and the needs of developers and project finance.

Related Experience

City of Morgan Hill, CA – Development Impact Fee Update: Mr. Edison was the principal-in-charge of the update of the City's existing nexus study, which included general government, fire, police, parks and recreation, library, and storm drain fee categories. The project scope included stakeholder outreach. The City has once again engaged Willdan to update their impact fees.

City of Alameda, CA – Comprehensive Impact Fee Update: Mr. Edison led the Willdan team updating the impact fee programs of the City of Alameda and creating a separate impact fee program for Alameda Point, the former Alameda Naval Air Station.

City of Santa Clara, CA – Parks Fee Update: Mr. Edison served as principal-in-charge of the City's park impact fee update. This project included a demographic analysis and estimation of the cost of acquiring and improving public park land.

County of Tulare, CA – Countywide Impact Fees: Mr. Edison served as project manager for a study that involved the creation of an impact fee program for the County. The study includes a range of facilities including public protection, library, and parks, as well as a transportation facilities impact fee, with different fees calculated for two zones in the County.

City of Fremont, CA – Comprehensive Impact Fee Update: Mr. Edison led the Willdan team in the successful update of the impact fee programs for the City of Fremont. The effort included an update of the City's transportation impact fee program and capital improvement program.

City of Manteca, CA – Fire Impact Fee Update: Mr. Edison served in the capacity of project manager for the update of the City's fire services impact fee program.

City of Pacifica, CA – Park Fee Update: Mr. Edison served as the City's project manager to update their park fee to include new costs and to impose fees for home expansion/remodels, in addition to new development.

City of Murrieta, CA – Master Facilities Plan and Development Impact Fee Calculation Report Update: Mr. Edison served as the principal-in-charge of the City's study to update their Master Facilities Plan and Development Impact Fee Calculation Report, to ensure that new development pays the capital costs associated with growth.

County of Riverside, CA – Comprehensive Impact Fee Update: Mr. Edison led the effort to establish a comprehensive fee program for the County, including facilities fees for fire, police, parks, criminal justice, libraries, and traffic. He prepared the technical and analytical documents necessary to calculate the fee and establish the necessary nexus to collect it, as well as presented the fees during public hearings to the County Board of Supervisors.

J. Edison
Resume Continued

Stanislaus County Council of Governments, CA – Regional Transportation Fee Update: Mr. Edison worked on an update of the County's transportation impact fee program. Key tasks included a revised capital improvement program and fee model, along with a public participation process that ensures buy in from the communities of Stanislaus County and the County government itself.

County of Imperial, CA – Solar Farm Fiscal and Economic Analysis: Mr. Edison was engaged by the County of Imperial to evaluate the fiscal and economic impacts of a series of proposed solar-voltaic facilities (or "solar farms") on land near the Town of Calipatria, which is within the County. For each, Mr. Edison calculated the tax revenues and service expenditures accruing to the County from development of the project. He also estimated the economic impacts of the project using IMPLAN, including the impact of the construction and ongoing operation of the solar farm, along with the negative impact of the removal of the project site from agricultural production.

City of Foster City, CA – Gilead, Chess Drive, and Mirabella Fiscal Impact Studies: The City of Foster City hired Mr. Edison to provide an evaluation of the fiscal impact of three specific plans in the City. He evaluated the impact on services of each plan, the anticipated new revenues and expenditures, and the necessity for new public facilities to serve the projects.

City of Vallejo, CA – Costco Expansion Urban Decay, Economic and Fiscal Impact Analysis: In response to the City of Vallejo's request, Mr. Edison examined the economic impact of a proposed expansion of an existing Costco. The analysis included projections of the impact on sales tax, employment, property tax and the net impact to the City's budget. Based on the analysis, the City Planning Commission approved the Costco expansion.

City of Vallejo, CA – Service Island Annexation Fiscal Impact Analysis: The City of Vallejo engaged Mr. Edison to provide an analysis of the fiscal impact of the annexation of three unincorporated areas within the boundaries of the City of Vallejo, areas commonly called "service islands." Solano County LAFCO requested the City examine the impact of annexation as part of a larger annexation proposal by the City. He provided an examination of the fiscal implications of the annexation of each area, including population, business activity, and the likely revenues and costs associated with adding each area to the City.

County of Placer, CA – Bohemia Lumber Site, Fiscal Impact and Urban Decay Analysis: The County of Placer engaged Mr. Edison to examine the fiscal impact and potential urban decay effects from the development of the former Bohemia Lumber site into a retail center. Mr. Edison prepared the analysis and presented the results to the County Board of Supervisors.

City of Redding, CA – Oasis Towne Centre Financing and Fiscal/Economic Impact Analysis: Hired by the Levenson Development Company (LDC) to assist with an economic/fiscal impact study and a financing plan for the Oasis Towne Center, a retail development of approximately one million square feet in Redding, California. Mr. Edison advised LDC on how to structure the financing of the development to provide public benefits for the project and minimize the need for public resources. He prepared an economic and fiscal analysis and negotiated a series of service plans and fiscal mitigation measures with the City of Redding. Mr. Edison also prepared a financing plan for infrastructure needed not only for the immediate project but also for development within the entire Oasis Road Specific Plan area.

Carlos Villarreal, MPP

Project Manager

Education

Master of Public Policy, School of Public Policy, University of California, Berkeley

Bachelor of Arts, Geography, University of California, Los Angeles; Minor in Public Policy and Urban Planning

Areas of Expertise

Fiscal Impact Analyses

Development Impact Fees

Public Facilities Financing Plans

GIS Analysis

15 Years' Experience

Mr. Carlos Villarreal is proposed to serve in the role of project manager due to his experience documenting nexus findings for development impact fees, preparing capital improvement plans, facilitating stakeholder involvement, and analyzing the economic impacts of fee programs. He has supported adoption of fee programs funding a variety of facility types, including, but not limited to transportation, parks, library, fire, law enforcement and utilities.

Related Experience

City of Riverbank, CA – Transportation Impact Mitigation Fee Program Update: Mr. Villarreal assisted the City with an update to its Transportation Impact Mitigation Fee Program Update. The study incorporated updated land use assumptions and project costs to ensure that the fees adequately funded the necessary transportation improvements without overburdening new development.

City of Long Beach, CA – Park Impact Fee Update: Willdan assisted with an update to the City's existing park impact fees, with Mr. Villarreal serving in the role of project manager. The project included updating demographic data and facility planning to properly update park facility standards. He used this information to then calculate impact fees for single family and multi-family residential dwelling units and prepare a nexus study documenting the revised fees and the required legal findings under the Mitigation Fee Act.

City of Alameda, CA – Development Impact Fee Update: Mr. Villarreal served as the lead project analyst for this engagement to update the City's impact fee program. He coordinated with the City to gather the pertinent data for the project, and was instrumental in preparing the nexus study, in addition to participating in the presentation to stakeholders and the City Council

City of Oroville – Impact Fee Study Update: Mr. Villarreal served as project manager for a study updating the City's development impact fee program, including parks, law enforcement, general government, fire suppression, and traffic facilities. The fee program was adopted by the City Council in 2015. Currently, the City has engaged Willdan to update the 2015 study, and Mr. Villarreal is again serving as the project manager.

County of Stanislaus, CA – Impact Fee Study Update: Mr. Villarreal served in the role of project manager for a study updating the County's existing impact fee program. The program includes a range of facilities, like public protection, library, and parks. The study also included a transportation facilities impact fee, with different fees calculated for two zones in the County. Considerable stakeholder outreach was an integral component of this project.

County of San Benito, CA – Comprehensive Impact Fee Study: In the role of project manager, Mr. Villarreal assisted the County of San Benito with the preparation of an updated and expanded impact fee program. The fee programs included: 1) Capital Improvements Impact Fee; 2) Road Equipment Impact Fee; 3) Fire Mitigation Impact Fee; and 4) Park and Recreation Impact Fee.

City of Soledad, CA – Development Impact Fee Study Update: Mr. Villarreal managed the update of the City's impact fee program, specifically changes in demographics, growth projections, project costs, and facility standards. In particular, the City had to revise its capital facilities needs to accommodate a much lower amount of growth than what was projected before 2007. The resulting fees funded new development's share of planned facilities, while not overburdening development with unnecessary costs.

City of Morgan Hill, CA – Development Impact Fee Update: Mr. Villarreal served as project manager for a study to update the City's existing nexus study, including general government, fire, police, parks and recreation, library, and storm drain fee categories. The project scope included stakeholder outreach. The City has once again engaged Willdan and Mr. Villarreal is serving as the project manager on the project.

C. Villarreal
Resume Continued

County of Riverside, CA – Comprehensive Impact Fee Update: Mr. Villarreal served as the lead analyst in the effort to establish a comprehensive fee program for the County, including facilities fees for fire, police, parks, criminal justice, libraries, and traffic. He assisted in the preparation of the technical and analytical documents necessary to calculate the fee and establish the necessary nexus. Mr. Villarreal is once again serving on the project team to update the County's impact fees.

City of Upland, CA – Impact Fee Study Update: Conducted a study to update the City's impact fee program, including general government, regional transportation, water, sewer, storm drain and park fees. Traffic fees were established within the San Bernardino Associated Governments' (SANBAG) guidelines to provide a local funding source for improvements of regional significance.

County of Los Angeles/City of Santa Clarita, CA – Law Enforcement Facilities Fee Study: Mr. Villarreal assisted with the development of an impact fee program to fund law enforcement facilities serving the City of Santa Clarita, and other Antelope Valley jurisdictions within the County of Los Angeles. The analysis involved the comparison of law enforcement facilities serving incorporated and unincorporated areas.

Kern Council of Governments, CA – Regional Alternative Funding Program: Mr. Villarreal served in the role of project manager for the establishment of this program, which consisted of a deficiency analysis and nexus study to fund transportation projects in Kern County.

Rodeo-Hercules Fire Protection District, CA – Fire Impact Fee Update: Mr. Villarreal served as project manager for the District's fire impact fees update. The fee will be charged in two jurisdictions, the City of Hercules, and the unincorporated community of Rodeo. The fees were adopted by the City Council in September 2009 and were presented to the Board of Supervisors in December 2009. At present, Mr. Villarreal is assisting the District with an update to their fire impact fee.

City of Sierra Madre, CA – Public Facilities Fee Study: Willdan was retained to prepare impact fee documentation for the City of Sierra Madre. The impact fee documentation included several fee categories, including a park facilities fee and a Quimby In-Lieu Fee for parkland dedication. The analysis documented two separate park-related fees; one based on the Quimby Act and the other based on the Mitigation Fee Act. The City would collect the fee based on a standard of 3.0 acres per 1,000 residents if the development was subject to the Quimby Act land dedication requirement. For all other development, the City would collect based on the existing standard through the Mitigation Fee Act. The City would only collect one of the two fees depending on which fee was appropriate.

References

Provided below are client references for projects completed by Willdan and the project team members proposed herein, which demonstrates our ability to provide park impact fee services. We are proud of our reputation for customer service and encourage you to contact our past clients regarding our commitment to excellence.

City of Laguna Hills, CA

Park Development Impact Fee Study

Willdan assisted the City of Laguna Hills with the revision and updating of its park impact fee. The City had two primary goals specific to this engagement. First, the overall program had to be updated to reflect current demographics and park facility costs. Second, the City up to that point had relied exclusively on fees under the Quimby Act, which did not apply to projects subject to the Subdivision Map Act. The City had received proposals for several large apartment complexes that would be exempt from Quimby, and therefore asked Willdan to provide a fee program based on the Mitigation Fee Act.

Willdan updated the City's demographic data and facility planning in order to properly update the Quimby fee and implement an MFA impact fee. The project team then calculated the applicable impact fees for single family and multi-family dwelling units and prepared a nexus study that documented the fees and the necessary legal findings under both applicable Acts.

Client Contact: Mr. David Chantarangsu, AICP, Community Development Director
24035 El Toro Road, Laguna Hills, CA 92653
Tel #: (949) 707-2670 | Email: dchantarangsu@lagunahillsca.gov

City of Santa Clara, CA

Parks & Recreation Development Impact Fee Study

Willdan was contracted to update the City's existing park impact fee. The City faced a unique challenge as their park fee dated back many years and was not aligned with the City's newly adopted General Plan. Willdan utilized the information specific to parks contained within the City's current Capital Improvement Plan, as well as demographic information within the City's General Plan. Willdan prepared a nexus study establishing the fee that could be charged to new development, which was adopted by the City Council, and is currently in effect.

Willdan was recently retained by the City in August of 2018 to prepare a nexus study to update the In-lieu Parkland Dedication Fee under the Quimby Act, and the Park and Recreation Facilities Fee under the Mitigation Fee Act.

Client Contact: Mr. Jim Teixeira, Director of Parks and Recreation
1500 Warburton Avenue, Santa Clara, CA 95050
Tel #: (408) 615-2260 | Email: jteixeira@santaclaraca.gov

City of Pismo Beach, CA

Development Impact Fee Study

Willdan assisted the City of Pismo Beach with an update to their impact fee program. The program included the following facilities: police, fire protection, park and recreation improvements, water system improvements, wastewater, traffic, and general government/administrative facilities. This project was warranted due to the amount of time that had elapsed since the prior update, coupled with the adoption of new and revised public facility master plans that complemented the updated impact fees.

Prior to fee program adoption, Willdan held a stakeholder meeting to inform the public about the project, and to solicit feedback from the development community.

Client Contact: Ms. Nadia Feeser, Administrative Services Director
760 Mattie Road, Pismo Beach, CA 93449
Tel #: (805) 773-7010 | Email: nfeeser@pismobeach.org

City of Morgan Hill, CA
Development Impact Fee Study

Willdan was initially retained by the City of Morgan Hill in 2010 to conduct a development impact fee and nexus study, which included general government, fire, police, parks and recreation, library and storm drain fee categories. This project included stakeholder outreach.

The City once again engaged Willdan to update their impact fees in October 2017, which was completed in July 2019. Facilities included in the recent project were traffic (roads and bikeways), water, sewer, drainage, police, fire, parks, library, and public facilities.

Client Contact: Mr. Dat Nguyen, Finance Director
17575 Peak Avenue, Morgan Hill, CA 95037
Tel #: (408) 779-7237 | Email: dat.nguyen@morgan-hill.ca.gov

City of Garden Grove, CA
Development Impact Fee Study

Willdan completed the City of Garden Grove's development impact fee study, which involved an update to the existing transportation and park and recreation facilities, and the creation of a storm drain fee. The park and recreation facilities fee included a Quimby Fee Act component charged to development occurring within subdivisions.

The analysis accounted for a moderate amount of growth within the City through the study's 2030 planning horizon, with much of the projected growth occurring as infill development. The project also included responses to concerns raised by the development community.

Client Contact: Ms. Ana Vegara-Neal, Senior Administrative Analyst
11222 Acacia Parkway, Garden Grove, CA 92842
Tel #: (714) 741-5176 | Email: anar@ci.garden-grove.ca.us

County of Riverside, CA
Comprehensive Impact Fee Study

Willdan assisted the County of Riverside with an update of its comprehensive impact fee program. The fee categories were broad and diverse including countywide facilities such as jail detention facilities and county parks and trails; unincorporated only facilities such as fire stations and libraries; and County planning area specific facilities including storm drain and traffic improvements. Other facilities needed to be differentiated between the Eastern and Western portions of the County due to separation by distance, as well as varying level of facilities by region.

The process was lengthy, involving significant efforts to inform staff of methodological differences between the Willdan methodology and the methodology of the previous consultant.

Willdan has recently, through competitive bid, been selected to update the Development Impact Fees.

Client Contact: Ms. Serena Chow, Administrative Services Manager
3403 10th Street, Suite 400, Riverside, CA 92501
Tel #: (951) 955-6619 | Email: schow@rivcoeda.org

Similar Projects

Mr. James A. Edison and his team have worked with public agencies on many community development projects, including the full range of analysis related to feasibility, economic and fiscal impacts, infrastructure finance, and negotiations with private developers. Willdan has been preparing impact fee nexus studies since the passage of the *Mitigation Fee Act* and is thoroughly familiar with both the Act and with the technical and policy issues surrounding impact fees.

The following identifies a partial listing of our development impact fee clients. Agencies listed in bold type face, within the following table**,** denote impact fee projects completed by proposed team members Managing Principal James Edison and/or Project Manager Carlos Villarreal.

Willdan Financial Services Development Impact Fee Experience Partial Client List	
City of Alameda, CA	**City of Rialto, CA**
City of Antioch, CA	**City of Richmond, CA**
City of Arcadia, CA	**City of Rio Rancho, NM**
City of Artesia, CA	City of Rio Vista, CA
City of Banning, CA	City of Rocklin, CA
City of Bellflower, CA	City of Rolling Hills Estates, CA
City of Beverly Hills, CA	**City of Rosemead, CA**
City of Brea, CA	City of Roseville, CA
City of Burlingame, CA	City of San Carlos, CA
City of Calimesa, CA	**City of San Fernando, CA**
City of Carpinteria, CA	**City of San Jacinto, CA**
City of Clovis, CA	**City of San Ramon, CA**
City of Coachella, CA	**City of Santa Clara, CA**
City of Commerce, CA	**City of Santa Clarita, CA**
City of Compton, CA	City of Sebastopol, CA
City of Corona, CA	**City of Sierra Madre, CA**
City of Covina, CA	**City of Soledad, CA**
City of Daly City, CA	City of South Gate, CA
City of Dixon, CA	**City of South San Francisco, CA**
City of Dublin, CA	**City of St. Helena, CA**
City of El Monte, CA	**City of Tehachapi, CA**
City of El Segundo, CA	**City of Thousand Oaks, CA**
City of Emeryville, CA	City of Tracy, CA
City of Fillmore, CA	**City of Upland, CA**
City of Fremont, CA	City of Visalia, CA
City of Fresno, CA	Coachella Valley Association of Governments, CA
City of Garden Grove, CA	**Contra Costa Fire Protection District, CA**
City of Gilroy, CA	**County of Butte, CA**
City of Goose Creek, SC	County of El Dorado, CA
City of Grass Valley, CA	**County of Kern, CA**
City of Greenfield, CA	County of Kings, CA
City of Gustine, CA	**County of Los Angeles, CA**
City of Hawthorne, CA	**County of Madera, CA**

Willdan Financial Services Development Impact Fee Experience Partial Client List	
City of Hercules, CA	County of Merced, CA
City of Hollister, CA	**County of Placer, CA**
City of Huntington Beach, CA	**County of Riverside, CA**
City of Huntington Park, CA	**County of Sacramento, CA**
City of Indian Wells, CA	**County of San Benito, CA**
City of Irwindale, CA	**County of San Diego, CA**
City of Kingsburg, CA	**County of San Joaquin, CA**
City of Riverbank, CA	County of San Luis Obispo, CA
City of La Verne, CA	**County of Shasta, CA**
City of Laguna Hills, CA	County of Solano, CA
City of Lake Elsinore, CA	**County of Sonoma, CA**
City of Lancaster, CA	**County of Stanislaus, CA**
City of Livermore, CA	**County of Tulare, CA**
City of Long Beach, CA	County of Yolo, CA
City of Madera, CA	Dixon Public Library District, CA
City of Manteca, CA	East Contra Costa Fire Protection District, CA
City of Menifee, CA	**Kern Council of Governments, CA**
Town of Mead, CO	**March Joint Powers Authority, CA**
City of Montebello, CA	Milpitas Unified School District, CA
City of Monterey, CA	Mountain View Fire Protection District, CA
City of Moreno Valley, CA	North Tahoe Fire Protection District, CA
City of Morgan Hill, CA	Oakdale Rural Fire Protection District, CA
City of Murrieta, CA	**Rodeo-Hercules Fire Protection District, CA**
City of Oceanside, CA	Salida Fire Protection District, CA
City of Oroville, CA	San Gorgonio Memorial Healthcare District, CA
City of Pacifica, CA	San Joaquin Area Flood Control Agency, CA
City of Parkland, FL	San Miguel Fire Protection District, CA
City of Petaluma, CA	Shasta County Regional Transportation Agency, CA
City of Pismo Beach, CA	**Stanislaus Council of Governments, CA**
City of Pittsburg, CA	Stanislaus County Fire Protection District, CA
City of Placer Hills, CA	Stockton-San Joaquin Library District, CA
City of Pleasant Hill, CA	Suisun Fire Protection District, CA
City of Porterville, CA	Tehachapi Valley Rec. & Park District, CA
City of Rancho Mirage, CA	Tehama County Regional Transportation Agency, CA
City of Redding, CA	Town of Windsor, CA
City of Redlands, CA	**Tulare County Association of Governments, CA**
City of Redwood City, CA	**Village of Taos Ski Valley, NM**

WILLDAN

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www.willdan.com

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 9.6

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 14, 2021
Subject:	A **Resolution** to Award a Contract for the Solid Waste Rate Study to Bartle Wells Associates, Authorize the City Manager to Execute the Contract, and Authorize a Budget Appropriation in the amount of $15,000 from the General Fund Reserves for Said Contract
From:	Sean Scully, City Manager
Submitted by:	Marisela H. Garcia, Assistant City Manager/Administrative Services Director

RECOMMENDATION

It is recommended that the City Council award the contract for the Solid Waste Rate Study to Bartle Wells Associates, authorize the City Manager to execute a contract with said firm, and authorize a budget appropriation of $15,000 from the General Fund Reserves for said contract.

SUMMARY

At the August 24, 2021 meeting, the City Council provided feedback to staff indicating its desire to initiate the Proposition 218 process to analyze and consider the proposed, and future, rate increases for solid waste services. Tonight's request is to proceed with awarding the contract to Bartle Wells Associates for the preparation of the Solid Waste Rate Study.

BACKGROUND

Over the past number of years, the California legislature has passed a variety of new laws that have had significant impact on the way that solid waste and recycling is managed in California. The most recent and significant new legislation SB1383 (Short Lived Climate Pollutants: Organic Waste Reduction) will place new requirements on each jurisdiction with regard to solid waste services. Gilton's January 21st letter to the City Council notes that "SB 1383 will further support California's efforts to achieve the statewide 75% recycling goal established in AB 341 and strengthen the implementation of mandatory commercial organics recycling established in AB 1826. SB 1383 was finalized on November 10, 2020, and is required to be implemented on January 1, 2022. There are several actions that each jurisdiction in the state will be required to do in order to meet SB 1383 mandates".

SB 1383 is intended to reduce methane emissions at landfills through a process of reducing the disposal of organic waste by 75% below 2014 levels. Organic waste is defined as green materials, wood waste, fiber materials, food scraps, food soiled paper, and landscaping and pruning waste. In order to meet these mandates, changes will be needed to Riverbank's current waste disposal system.

In March of this year the City Council received a presentation from Gilton regarding options being developed to comply with SB 1383. The options for complying with the legislation result in two basic options. The first options is to add a 3rd can (recycling can) and onboard appropriate staff as code compliance officers to ensure that residents are appropriately following the guidelines for dividing various refuse into the appropriate cans. This option comes with significant costs in terms of additional service infrastructure and staff from Gilton (additional cans, additional trucks, and Gilton staff to provide the service).

Alternatively, Gilton has proposed to its current client municipalities a high diversion Material Recovery Facility (MRF) system. Having this system would negate the need for a third can as the waste streams would be sorted by the MRF system ensuring that organic and materials appropriate to be recycled were diverted from the overall waste stream that could otherwise end up in the landfill. Gilton provided a general explanation of this equipment and system at the March 9th City Council meeting.

After completing their analysis and Gilton presented to Council the strategy and preliminary associated costs. Gilton estimates that the base increase for the average residential utility account will increase by approximately $11.57 monthly (approximately a 33% increase). Current garbage and refuse service is $23.40 monthly for a single-family residence, the increase would make the total monthly garbage charge approximately $34.97. Gilton is currently in the process of developing a full estimated rate sheet to include all types of utility accounts (residential, commercial etc.). Additionally, Gilton has requested that the City Council consider extending their contract for services with the City of Riverbank, this is critically important to Gilton as a long-term commitment by the City of Riverbank to move forward with this strategy is key to acquiring financing needed to fund and operate a high diversion MRF system.

At the August 24, 2021 meeting, the City Council provided feedback to staff indicating its desire to move forward with the proposed MRF system and authorized staff to initiate the Proposition 218 process to analyze and consider this, and future, rate increases for solid waste services.

In anticipation of this feedback, staff issued a Request for Proposals for a Solid Waste Rate Study consultant in order to initiate the Prop. 218 process. The City received a response from Bartle Wells Associates who worked with the City on the last Solid Waste Rate Study that was performed. Bartle Wells is familiar with the City's contract with Gilton Solid Waste, the city's current rates, and the overall makeup of the city's customer base. In addition, Bartle Wells has the capability to complete the rate study based on the City's timeline to ensure the possibility of adopting rates prior to January 1, 2022.

Therefore, it is recommended that the City Council consider awarding the Solid Waste Rate Study contract to Bartle Wells Associates and authorize the City Manager to execute a contract with this firm. Approximate cost to complete the Rate Study is $15,000.

STRATEGIC PLAN

On August 10, 2021, the City Council established a Strategic Plan Goal to "Ensure the City's Continued Financial Stability". This report addresses this matter.

FINANCIAL IMPACT

Project cost of $15,000 to be appropriated from the City's General Fund Reserve.

ATTACHMENT

1. Resolution
2. Bartle Wells Associates Solid Waste Rate Study Proposal
3. Bartle Wells Associates Consultant Agreement - DRAFT

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO AWARD A CONTRACT FOR THE SOLID WASTE RATE STUDY TO BARTLE WELLS ASSOCIATES, AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT WITH SAID FIRM, AND AUTHORIZE A BUDGET APPROPRIATION OF $15,000 FROM THE GENERAL FUND RESERVES FOR SAID CONTRACT

WHEREAS, the California legislature adopted SB 1383 which requires the City to reduce disposal of organic waste by 75% below the 2014 effective January 1, 2022; and

WHEREAS, the City Council received feedback from Gilton Solid Waste on options that have been evaluated to allow the City to comply with SB 1383 and has provided feedback on their preferred option; and

WHEREAS, In order to implement the City Council's preferred option Gilton Solid Waste has proposed a rate increase; and

WHEREAS, the City will need to undertake the Proposition 218 process with regards to said rate increase; and

WHEREAS, in order to initiate this process the City will undertake the preparation of a Solid Waste Rate Study to be performed by an independent consultant; and

WHEREAS, after issuance of a Request for Proposals, it is the City Council's desire to award the contract for the Solid Waste Rate to Bartle Wells Associates at an approximate cost of $15,000 to be allocated from the General Fund Reserve to account 101-403.000-702.032.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby awards the Solid Waste Rate Study contract to Bartle Wells Associates, authorizes the City Manager to execute this contract, and appropriates $15,000 from the General Fund Reserves.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of September, 2021; 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: Consultant Agreement

Proposal for a Solid Waste Rate Study

August 31st, 2021

BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS

BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS

2625 Alcatraz Ave, #602
Berkeley, CA 94705
Tel 510 653 3399
www.bartlewells.com

August 31, 2021

City of Riverbank
6707 3rd Street
Riverbank, CA 95367

Attn: Marisela H. Garcia, Director of Finance

Re: Proposal for a Water and Sewer Rate Study

Bartle Wells Associates (BWA) is pleased to submit a proposal to develop a solid waste rate study for the City of Riverbank. Since 1964, our firm has specialized in providing independent financial and utility rate consulting services to California utilities. We offer an unmatched level of financial planning expertise and are the only firm in California to provide both financial advisory services for project financing as well as utility rate consulting services.

We have served over 600 public agencies throughout California and the western United States. Recent solid waste experience includes developing solid waste rates for the City of Patterson and Big Bear City CSD as well as working with the Upper Valley Waste Management Agency to renegotiate the financial portion the contract with a solid waste collection company.

We have helped many similar agencies develop strategic financial plans to address escalating costs related to operating and long-term infrastructure needs. We have also assisted many agencies in modifying their existing rate structures to provide a better balance of revenue stability, customer equity, and compliance with the evolving interpretations of Proposition 218. Our rate studies are based on a comprehensive analysis of each agency's costs, customer base characteristics, and demands to ensure rate structure recommendations reflect local needs and objectives.

We are very interested in working with the City on this project and hope this submission provides a suitable basis for our selection. We are prepared to complete the project according to the City's scheduling needs and within eight months of a notice to proceed and appreciate your consideration. Please do not hesitate to contact us if you have any questions or would like additional information.

Sincerely,

Douglas R. Dove, PE, CIPMA
Principal/ President

Erik Helgeson, MBA
Assistant Vice President

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Bartle Wells Associates Contact Information

Bartle Wells Associates
2625 Alcatraz Ave #602
Berkeley, CA 94705
510.653.3399

BWA Contacts
Doug Dove, PE, CIPMA
Tel: 510.853.2336
E-mail: ddove@bartlewells.com

Erik Helgeson, MBA
Tel: 509.998.7602
E-mail: erik@bartlewells.com

Bartle Wells Associates was established in 1964 and is a California Corporation and certified State of California Small Business. Our Federal Tax ID number is 94-1664409

Executive Summary

Project Process & Objectives

BWA will develop a comprehensive, cost of service based solid waste rate study with the goal of helping the City implement a series of rates for upcoming years that a) fund the City's projected costs of providing service, b) maintain financial stability, and c) are fair to all customers. Our general rate study process is summarized in the following graphic:

Rate Study Process

Project Initiation	10-Year Financial Plan	Cost of Service Rate Design	Outreach & Adoption
Clarify Objectives Establish Process/Schedule Review Data & Assumptions	Financial Projections Financing Alternatives Evaluate Scenarios	Analyze Billing Data Evaluate Rate Alternatives Cost Allocation & Rate Design	Build Consensus Public Education Rate Adoption and Implementation

Key tasks of our study will include:

- **10-year Financial Plans:** Develop comprehensive 10-year financial plan. The plans will facilitate evaluation of a range of scenarios and assumptions, and serve as financial roadmaps for funding projected operating, maintenance and capital programs while maintaining long-term financial stability. The financial plan will include evaluation of financing alternatives for capital projects, recommendation of fund reserve targets, and development of a strategy for funding long-term repairs, replacements, and other capital needs.

- **Cost of Service Rate Analysis:** Develop an updated cost-of-service analysis to support proposed rates. The goal will be to recommend rates that a) reflect the underlying costs of providing service, b) are fair and equitable to all customers, c) are easy to understand and administer, d) provide a prudent balance of conservation incentive and revenue stability, and e) comply with the substantive legal requirements

  Build Consensus for Final Recommendations: BWA has a strong track record of building consensus and public acceptance for final recommendations. Rate and fee adjustments can be controversial. We have found that ratepayers are more accepting of rate increases when they both understand the need for the increases and believe they are being treated fairly. BWA will present a summary of recommendations at City Council meetings and can assist with public outreach efforts. Our goal will be to build consensus and public acceptance for final recommendations.

BARTLE WELLS ASSOCIATES

Leaders in Water, Wastewater & Solid Waste Rates and Finance Since 1964

Bartle Wells Associates (BWA) is an independent financial advisory firm with expertise in the areas of water, wastewater, and stormwater finance. BWA was established in 1964 and has over 50 years of experience advising cities, special districts, and other agencies on the complexities and challenges in public finance. We have advised over 600 public agency clients throughout California and the western United States. We have a diversity of abilities and experience to evaluate all types of financial issues faced by local governments and to recommend the best and most-practical solutions.

Bartle Wells Associates has a highly qualified professional team of five consultants. Our educational backgrounds include finance, civil engineering, business, public administration, public policy, and economics.

BWA Key Services
- ***Rate & Fee Studies***
- ***Financial Plans***
- ***Project Financing***

BWA specializes in three professional services: utility cost-of-service rate and fee studies, financial plans, and project financing. We are one of the few independent financial advisors providing *all three* of these interrelated services to public agencies.

RATE AND FEE STUDIES Our rate studies employ a cost-of-service approach and are designed to maintain the long-term financial health of a utility enterprise while being fair to all customers. We develop practical recommendations that are easy to implement and often phase in rate adjustments over time to minimize the impact on ratepayers. We also have extensive experience developing impact fees that equitably recover the costs of infrastructure required to serve new development. BWA has completed hundreds of utility rate and fee studies. We have helped communities implement a wide range of rate structures and are knowledgeable about the legal requirements governing rates and impact fees. We develop clear, effective presentations and have represented public agencies at hundreds of public hearings to build consensus for our recommendations.

FINANCIAL PLANS Our financial plans provide agencies with a flexible roadmap for funding long-term operating and capital needs. We evaluate the wide range of financing options available, develop a plan that recommends the best financing approach, and clearly identify the sources of revenue for funding projects and repaying any debt. We also help agencies develop prudent financial policies, such as fund reserve targets, to support sound financial management. BWA has developed over 2,000 utility enterprise financial plans to help public agencies fund their operating and capital programs, meet debt service requirements, and maintain long-term financial health.

PROJECT FINANCING Our project financing experience includes over 300 bond sales and numerous bank loans, lines of credit, and a range of state and federal grant and loan programs. We generally recommend issuing debt via a competitive sale process to achieve the lowest cost financing possible. To date, we have helped California agencies obtain over $5 billion of financing via bonds, bank loans/private placements, lines of credit, low-rate State Revolving Fund Loans, and other funding programs. We work only for public agencies; we are independent financial advisors and do not buy, trade, or resell bonds. Our work

NAMA
NATIONAL ASSOCIATION OF MUNICIPAL ADVISORS

is concentrated on providing independent advice that enables our clients to finance their projects on the most favorable terms—lowest interest rates, smallest issue size, and greatest flexibility.

Bartle Wells Associates is a charter member of the ***National Association of Municipal Advisors*** (NAMA), which establishes strict criteria for independent advisory firms. All of our lead consultants are *Certified Independent Professional Municipal Advisors* and are Registered Municipal Advisors.

BWA has served over 550 public agencies throughout California and the western United States.

Bartle Wells Associates is committed to providing value and the best advice to our clients. Our strength is *quality*—the quality of advice, service, and work we do for all our clients.

EXPERIENCE BWA has extensive experience developing long-term financial plans, utility rates, and capacity fees for public agencies from all areas of California and the western U.S. In recent years, we have completed assignments for many agencies including:

<u>Sample Districts</u>

- Big Bear City CSD
- Monterey One Water
- South San Luis Obispo County San District
- San Miguel Community Services District
- Rio Linda/ Elverta Community Water District
- Alameda County Water District
- Cambria Community Services District
- Sonoma County Water Agency
- Mid-Peninsula Water District
- Novato Sanitary District
- Silicon Valley Clean Water
- Ramona Municipal Water District
- East Bay Municipal Utility District
- Sausalito-Marin City Sanitary District
- Union Sanitary District
- Novato Sanitary District
- Montara Water & Sanitary District
- West Valley Sanitation District
- Joshua Basin Water District
- Napa Sanitation District

<u>Sample Cities</u>

- City of Riverbank
- City of Patterson
- City of Paso Robles
- City of Morro Bay
- City of Modesto
- City of San Mateo
- City of Guadalupe
- City of Fresno
- City of San Carlos
- City of Davis
- City of Santa Barbara
- City of Solvang
- City of Berkeley
- City of Monterey
- City of Sunnyvale
- City of Millbrae
- City of Vacaville
- City of Santa Clara
- City of Sunnyvale
- City of Mountain View

PROJECT TEAM

BWA uses a ***team approach*** for most projects, typically assigning two consultants to each assignment, including at least one principal consultant. Our general project approach is to work closely with staff and other members of the project team, identify objectives, set milestones, have frequent communication, and remain flexible to resolve unanticipated issues.

Bartle Wells Associates has a highly-qualified professional team. Our education and backgrounds include finance, civil engineering, business, public administration, public policy, and economics. Bartle Wells Associates has a long track record of completing projects on time and on or under budget.

Bartle Wells Associates will perform all work related to this assignment and does plan to use any subcontractors for this project. Our consulting staff has availability to assist on this project as needed to ensure all project work and deliverables are completed on schedule.

Project Manager
Doug Dove, PE, CIPMA

Project Consultant
Erik Helgeson, MBA

Analytical Support
Additional BWA Staff Available as Needed

Doug Dove (BWA), Principal Consultant

Doug Dove is President of BWA and one of BWA's principal consultants. He has more than 30 years of professional experience, specializing in all areas of public finance, including utility rate setting, capacity fee implementation, strategic financial planning and infrastructure financing. He has extensive experience developing strategic financial plans and utility rate studies and has consulted for more than 200 California agencies. Doug has substantial experience working with public agency staff and governing bodies to build understanding and consensus for recommendation. *Doug will serve as the Principal Consultant and ensure the project is performed on time and within the budget. He provides high level guidance and review.*

Erik Helgeson (BWA), Project Manager

Erik Helgeson is an Assistant Vice President of BWA and a senior consultant with 11 years of experience in municipal finance. He has substantial experience developing long-term financial models and utility rates based on a cost of service approach. His experience includes working as a senior finance analyst for Denver Water in the rates and charges group and as a utility finance consultant in Colorado and California. His prior experience working for a utility gives him a unique perspective on the internal challenges a utility faces when implementing a study's recommendations. He currently serves on American Water Works Association's Rates and Charges Committee. *Erik will serve as will serve as the primary contact person and manage the day-to-day project work. He will be involved in all aspects of the project from kickoff to implementation.*

RESUMES

DOUGLAS R. DOVE

Principal Consultant

Douglas R. Dove is President of Bartle Wells Associates and directs the operation of the firm while maintaining a principal consultant's role. With over 30 years of consulting experience, he specializes in utility rate analysis, strategic financial planning, and project financing. Mr. Dove has developed utility rate structures and financing plans for a wide variety of public infrastructure programs. He has managed the procurement of over $1 billion in municipal debt and over $300 million in state and federal grants and low-interest loans. Mr. Dove frequently shares his expertise and has given presentations at conferences including the Association of California Water Agencies (ACWA), the American Water Works Association (AWWA), the California Association of Sanitation Agencies (CASA), the California Municipal Rates Group (CMRG), the California Special District's Association (CSDA), the California Municipal Treasurers Association (CMTA), the California Water Environment Association (CWEA) and Water Reuse. By special request in July 2015, Mr. Dove made a presentation to the California Water Resources Control Board regarding water conservation pricing. Mr. Dove is also a published author of a water rate paper in the Journal of the American Water Works Association (Implementing Consumption-Based Fixed Rates in Davis, Calif.). Mr. Dove's expertise also includes assisting agencies in securing state and federal grants and loans and in issuing certificates of participation (COPs), revenue bonds, general obligation bonds, assessment district bonds, Marks-Roos revenue bonds, CFD (Mello-Roos) bonds, private placement loans and other types of debt. Mr. Dove recently finished his term on the board of directors of the National Association of Municipal Advisors (NAMA).

Education

M.S., Civil Engineering - University of California, Berkeley
B.S., Civil Engineering – Drexel University, Philadelphia, PA

Representative Projects

- **City of Modesto:** Provided rate expert litigation support in wastewater rate litigation. Developed water and wastewater cost-of-service and capacity fee studies.
- **Modesto Irrigation District:** Developed cost allocation methodology between the district's domestic water, irrigation, and electric enterprises.
- **City of Davis:** Comprehensive water rate study developed with a 15-member Water Advisory Committee. Completed a water capacity fee study for the City as well.
- **City of Placerville:** Wastewater rate study and capacity fees
- **Napa-Berryessa Resort Improvement District:** Developed financing plan for water and wastewater public-private partnership (P3). Prepared assessment engineers report. Formed an assessment district and secured $11.1 million in federal funding from US Department of Agriculture.
- **City of American Canyon:** Comprehensive, multi-year water and wastewater rate study.
- **Madera County, CA:** Rate studies for twenty-three of the county's water and sewer special service districts
- **City of Patterson:** Water and wastewater rate studies and five-year financing plans.

- **City of San Juan Bautista:** Water and Wastewater rate and capacity fee studies, DIF study, Revenue bonds for water and wastewater projects, continuing disclosure services.
- **Del Paso Manor Water District:** Comprehensive water financial plan and rate study.
- **Browns Valley ID:** Water rate study
- **Rio Linda/ Elverta Community Water District:** Comprehensive water financial plan, connection fee and rate study.
- **City of Imperial, CA:** Water and wastewater financial plans and rate studies.
- **East Bay Municipal Utility District:** Comprehensive water rate study and AB 1600 capacity fee review, Wastewater cost-of-service review and capacity fee review, various other financial studies
- **City of Santa Barbara:** Comprehensive water rate and capacity fee study.
- **Newhall County Water District:** Provided rate expert litigation support in water rate litigation.
- **City of Monterey:** Developed financing plan and rate study for $20 million wastewater pipeline rehabilitation project.
- **San Miguel Community Services District, CA: W**ater and wastewater financial plans and rate studies.
- **City of Santa Clara:** Wastewater rate and capacity fee study.
- **City of Gilroy:** Water and wastewater rate studies.
- **West Valley Sanitation District (Campbell, CA):** Wastewater rate study, financing plan and bond issuance.
- **City of Ontario/Ontario Redevelopment Agency:** financial advisor on $134.3 million in development refunding and new money issues (2), which included financing for the Ontario Convention Center.
- **El Dorado Irrigation District:** Water and wastewater rate studies.
- **Lake Arrowhead Community Services District**: Financial master plan, $28 million revenue bond refinancing and water and wastewater rate studies.
- **California Statewide Communities Development Authority:** Financial advisor for statewide pooled revenue bond program (over $250 million issued for over 32 borrowers).
- **South Bay Water Recycling Program, Phases 1 & 2:** Financial plan and rate study for $200+ million regional (San Jose area) wastewater recycling program.
- **City of Tulare:** Financial advisor to the city, sale of $63 million in bonds (3 issues), water and wastewater rate studies.
- **Big Bear Area Regional Wastewater Agency:** Regional wastewater rate study, sale of bonds (2 issues) and bank loans (2 loans).

Professional Memberships

- National Association of Municipal Advisors (former Board Member)
- League of California Cities
- American Water Works Association
- Association of California Water Agencies
- California Water Environment Association
- California Association of Sanitation Agencies
- California Special Districts Association
- Water Reuse Association

Certifications

Certified Independent Professional Municipal Advisor (CIPMA), Registered Professional Engineer (PE) in California (PE# 45642) and MSRB -Registered Municipal Advisor – Series 50

ERIK W. HELGESON

Senior Project Manager

Erik Helgeson an assistant vice president of Bartle Wells and Associates. His areas of expertise include the development of financial plans, ratemaking, and policy solutions for water, stormwater and wastewater utilities. He has ten years of utility finance experience- as a finance analyst at Denver Water and now as a utility rate consultant. Erik has extensive expertise in working with executive level staff and assisting in strategic decisions. He serves on the American Water Works Association (AWWA) Rates and Charges Committee and has presented at the Utility Management Conference.

Education

M.B.A. – University of Colorado, Denver CO
B.A., Business Administration – Gonzaga University, Spokane WA

Representative Projects

- **Big Bear City CSD, CA:** Water, sewer and solid waste cost-of-service rate studies
- **City of Patterson:** Water and wastewater rate studies and five-year financing plans.
- **San Miguel Community Services District, CA:** Lead consultant providing water and wastewater financial plans and rate studies. The District was nearing insolvency and large rate increases were needed to save the District.
- **King City, CA:** Wastewater financial plan and rate study
- **Paso Robles, CA:** Wastewater financial plan and rate study
- **Pico Water District, CA:** Lead consultant for a water financial plan and rate study. The study was designed to fund new water treatment facilities and revise the rate structure to align with the District's objectives.
- **Castle Pines North Metropolitan District, CO:** Lead consultant providing annual water and wastewater financial plans and rate study updates
- **City of Modesto, CA:** Analytical support for water and wastewater financial plans and rate studies
- **Modesto Irrigation District:** Designed an allocation methodology between the district's domestic water, irrigation, and electric enterprises.
- **Patterson Irrigation District, CA:** Analysis of financing alternatives
- **City of Placerville, CA:** Analytical support for water financial plans and rate studies.
- **City of Hemet, CA:** Water budget rate design and cost of service study
- **City of Vacaville, CA:** Water and wastewater capacity fee studies
- **Union Sanitary District, CA:** Wastewater capacity fee study
- **San Luis Water District, CA:** Prop. 218 Assessment Election
- **City of Imperial, CA:** Lead consultant providing water and wastewater financial plans and rate studies
- **Madera County, CA:** Lead consultant providing rate studies for twenty-three of the county's water and sewer special service districts
- **Alameda County, CA** Reviewed proposed wheeling charges on behalf of the local agency partners working on the Los Vaqueros Dam expansion project.

- **Las Gallinas Valley Sanitary District, CA:** Support for annual budget process
- **Arapahoe Parks and Recreation District, CO:** Reviewed water rates for fairness
- **Leland Meadows CSD, CA:** Project manager for water and sewer rate studies
- **City of Willits, CA:** Lead consultant providing water and wastewater financial plans and rate studies
- **The Cities of Pinole and Hercules, CA:** Assisted the cities with the co-financing of a wastewater project with SRF loans. This included the design of the payment and reimbursement process, the administration of the process, and navigating the State requirements.
- **Humboldt Bay Municipal Water District, CA:** Lead consultant providing 10-year financial plan update
- **Marin Municipal Water District, Marin, CA:** Analyst supporting the financial plan and rate study update in 2016.
- **Carlsbad, CA:** Played a key role in completing the 2016 water cost of service study. Created a supply-based cost allocation and supply layered, tiered, water rate design
- **Sacramento County Water Authority, Sacramento, CA:** Lead analyst supporting water financial plan and rate study

Public Utility Experience

Denver Water, Denver, CO:

Senior Finance Analyst- Assisted with the annual cost of service study and financial plan, provided regular revenue reports, and oversaw the gathering and reporting of metrics to support Denver Water's organizational improvement initiatives. As the lead analyst on the initiative to change the rate design he facilitated research (customer survey and affordability study), performed rate design analysis, and assisted with stakeholder outreach (municipalities, customers, business representatives, non-profits, and Denver Water executives and Board) which led to the adoption of new rate structures. He coordinated the implementation efforts between various business units to ensure a successful rollout of the new rates and rate structures.

Professional Memberships

American Water Works Association – Member of Rates and Charges Committee

Certifications

MSRB-Registered Municipal Advisor (Series 50)

Solid Waste Rate Study

This section presents a draft work plan and scope of services that we believe forms a sound basis for completing a comprehensive Solid Waste Rate Study. Bartle Wells Associates can work with the City to finalize a scope of services that meets the City's objectives.

Collaborative Project Approach & Process

BWA uses a collaborative project approach to ensure final recommendations reflect the policy preferences and objectives of the agencies we serve. Our general approach will be to work closely with the City's project team to identify objectives, evaluate alternatives and their impacts, gain ongoing input, and remain flexible to resolve unanticipated issues.

BWA will assist the City in all phases of the study, from project initiation through final adoption and implementation. Rate and fee increases can be controversial. BWA has extensive experience helping agencies build consensus for final recommendations and has assisted many agencies with public outreach efforts aimed at fostering understanding and acceptance for rate and fee increases. BWA also has substantial experience working with citizen advisory groups, community groups, and other stakeholders, and has a long track record of completing projects on time and on budget. We have helped many agencies successfully adopt rate increases in challenging political environments.

Task 1. Project Initiation & Data Collection

1. **Kickoff Session**

To initiate our work, hold a meeting with City staff, Council and others as appropriate, to accomplish the following:

- Present a high level explanation of cost-of-service rate studies
- Provide an overview of the project timeline
- Clarify City objectives

BWA recommends holding the kickoff meeting <u>after</u> we have reviewed preliminary information. This will enable the kickoff meeting to be more substantive and facilitate more in-depth discussion of key issues and preliminary observations and potential alternatives.

2. **Investigation and Data Collection**

Assemble the information necessary to understand the City's water and sewer systems, finances, customers and usage, rate and fee structures, capital improvement ne

eds and alternatives, and legal agreements. Assistance and cooperation of City staff will be needed to assemble the relevant background information. The objectives of investigation and data collection are to develop a complete understanding of the City's utilities and finances, and to reach an agreement on basic assumptions to be used in the study as well as key alternatives for evaluation.

Task 1 Deliverables Include:

- Project kickoff meeting
- Identification of project goals and objectives
- Identification of key issues impacting the study

Task 2. 10-Year Financial Plans

1. Develop Forecasts and Projections

Based on evaluation of the data assembled and input provided by the City, prepare forecasts and projections to be used in the development of financial models. Review projections and alternatives with City staff for agreements on assumptions, interpretation of data, and completeness of approach.

The 10-year financial plans will serve as financial roadmaps for funding future operating and capital programs while supporting long-term financial stability.

- **Capital Improvements Including Long-Term Repairs & Replacements:** Based on input from City staff, identify future capital improvement program costs or alternatives to include in the financial analysis and determine a reasonable amount to include for future, ongoing capital repairs and replacements. BWA often recommends that agencies phase in funding for long-term system rehabilitation.

- **Growth & New Development:** Work with the City to identify levels of growth to incorporate in the financial projections. Evaluate financial impacts under different levels of growth.

- **Cost Escalation Factors:** Review historical cost trends and work with project team to develop reasonable cost escalation factors for both operating and capital expenditures. Work with City staff to identify any anticipated changes in future staffing, benefits, and/or other operating costs.

2. Evaluate Financing Alternatives for Capital Improvements

Evaluate options for financing capital improvement projects. Our evaluation will:

- Allocate capital improvement costs to existing customers and new development based on the share of each project benefitting current vs. future customers.
- Estimate the amount and timing of any debt, if needed, to finance capital projects.
- Evaluate the alternative borrowing methods available including bonds, COPs, state and federal loan programs (including the State Revolving Fund Financing Program), bank loans and lines of credit, and other options.
- Recommend the appropriate type of debt, its term and structure.
- As needed, develop debt service estimates to incorporate in the financial projections.

3. Establish Prudent Minimum Fund Reserve Targets

Evaluate the adequacy of the City's current utility fund reserves. Establish prudent minimum fund reserve targets based on the City's operating and capital funding projections. Develop an implementation plan for achieving and maintaining the recommended reserve fund levels.

4. Develop 10-Year Financial Projections & Evaluate Scenarios

Develop 10-year cash flow projections showing the financial position of the water and sewer utilities over the next 10 years. The cash flows will project fund balances, revenues, expenses, and debt service coverage, and will incorporate the forecasts developed with staff input. After developing a base-case cash flow scenario, we can model alternatives for additional evaluation such as capital improvement alternatives, project financing alternatives, the impacts of various levels of water demand, etc. During this phase, BWA will work closely with the project team to evaluate financial and rate projections under alternative scenarios.

5. Evaluate Rate Increase Options

Based on the cash flow projections, determine future annual revenue requirements from rates and project the overall level of required rate increases. Evaluate rate adjustment alternatives, such as gradually phasing in required rate increases over a number of years. If appropriate, evaluate different levels of rate increases and their impacts on the City's ability to fund future operating and capital needs.

Task 2 Deliverables Include:

- Summary of 10-year capital improvement plans and/or key alternatives
- Evaluation of financing alternatives for capital improvements
- Minimum fund reserve target recommendations
- 10-year financial projections with supporting tables
- Evaluation of alternative scenarios as needed
- Evaluation of rate increase options

Task 3. Cost of Service Rate Analysis

1. Identify & Evaluate Water and Sewer Rate Structure Alternatives

Review the City's current water and sewer rate structures and discuss advantages and disadvantages compared to other rate approaches. Identify potential alternatives and modifications that could help improve rate equity, address City concerns, or help achieve other City objectives. Discuss pros and cons of different rate structure options and their general impacts on different types of customers. Rate structure options can be refined as the study progresses based on input from the project team.

Rates will be developed based on a cost-of-service approach designed to equitably recover the cost of providing service to all customers.

2. Conduct Survey of Regional Utility Rates

Review and summarize water and sewer rates of other regional agencies. Summarize results in easily understandable tables and/or charts.

3. Analyze Utility Billing Data

Analyze current and historical utility billing data to determine reasonable and conservative estimates to use in developing financial projections and rates. Ideally, we would prefer to analyze multiple years of utility billing data in order to determine slightly conservative demand projections.

4. Cost of Service Allocation

Cost allocation is the "meat" of the rate study that will provide the legal justification for the rates and charges of the City. BWA will allocate costs based on industry standard practice, guidance from recent court cases, and ease of implementation/practicality.

BWA will provide a detailed, functional cost allocation for operating, capital, debt service, fixed and variable costs. Determine the units of service and assign costs to each unit of service.

5. Develop Preliminary & Final Rate Recommendations with City Input

Based on evaluation of rate structure alternatives and the overall level of rate increases identified in the financial plans, develop draft rate recommendations for City input. The recommendations may include a multi-year phase in of both overall rate increases and proposed rate structure adjustments in order to help mitigate the annual impact on ratepayers. Revise recommendations based on input received. Final rate recommendations will be designed to:

a) fund each utility's long-term costs of providing service, including operating, capital, and debt service funding needs

b) be fair and equitable to all customers,

c) provide a prudent balance of conservation incentive and revenue stability,

d) be easy to understand and administer, and

6. Evaluate Use of Automatic Rate Pass-Throughs

Identify and evaluate the potential for implementing automatic pass-throughs for future wholesale rate increase and/or ongoing cost inflation. BWA has helped many agencies implement pass-through provisions to protect agencies against unanticipated wholesale cost increases and keep rates aligned with the cost of providing service.

7. Evaluate Customer Equity

Review the fairness of each rate and charge across all customer groups. Confirm that all customers are charged for service proportional to how they use the utility systems. If desired, review options to aid in affordability for disadvantaged customers. Compare typical/sample bills from each customer class to the bills of other local public utilities. As needed, seek input from vocal customers such as business groups and developers.

8. Evaluate Rate Impacts on a Range of City Customers

Calculate the rate impacts of each rate alternative on a range of utility customers (e.g. different customer classes, customers with different levels of use, seasonal impacts etc.). Work with the project team to identify customer and usage profiles to use for calculating the rate impacts. Discuss additional rate structure adjustments that may reduce the impact on certain customers if warranted and/or requested by the project team

Task 3 Deliverables Include:

- Evaluation of current utility rates and potential rate structure modifications
- Regional utility rate surveys
- Analysis of historical consumption and utility billing data
- Cost of service analysis to support equitable and legally-defensible rates
- Development of draft rate alternatives for District evaluation and input

Task 4. Reports, Presentations, Model and Rate Implementation

1. City Council Meetings/Rate Workshops (2 City Council Meetings)
Attend City Council Meetings (via video conference or in person) to present findings, recommendations and alternatives, and receive input. Incorporate input as warranted to ensure final recommendations reflect Council preferences. Present revised recommendations at a subsequent City Council Meeting with the goal of gaining Council approval to move forward with the process to adopt rate increases.

2. Prepare Draft & Final Reports
Develop a draft report summarizing study objectives, findings and draft recommendations. The report will provide an administrative record supporting the proposed utility rates. The report will be written for a non-technical audience and will clearly explain the rationale for recommendations and key alternatives when applicable. Submit a draft report for City review and feedback. Incorporate input into a revised report and ultimately provide the City with printed and electronic copies as needed. The report will be provided in PDF format and can also be provided in editable Word and Excel files.

3. Rate Adoption Meeting
Attend the meeting where the Council will vote to adopt rates. BWA remain available to present a summary of findings and recommendations and respond to Council and public comments. BWA has extensive experience presenting financial and rate recommendations to non-technical audiences, dealing with challenging questions, and building acceptance for final recommendations.

4. Public Education and Consensus-Building
Rate and fee adjustments are often controversial. BWA has helped many agencies with their public education and outreach efforts regarding rate and fee increases. We understand the importance of building consensus and public acceptance for our recommendations and can assist the City in any outreach and public education efforts.

Task 4 Deliverables Include:

- Council Meetings/Rate Workshops
- Draft and final reports summarizing key findings and recommendations and demonstrating compliance with legal requirements for rates

Project References

Big Bear City Community Services District, CA

Bartle Wells Associates first assisted the District in 1967. BWA developed the district's early financing and revenue programs to build sewers and finance wastewater improvements. BWA assisted the district with the authorization and sale of three series of general obligation bonds and supervised the sale of five assessment bond issues in the Sugarloaf and Pinewood areas.

In 1994, BWA prepared a water rate study under the close supervision of a Water Rate Study Committee made up of citizens and board members. The water rate study addressed issues of water rate equity with the mobile home park.

In 2015, BWA assisted the district in developing water, wastewater and solid waste 5-yr financing plans and rate studies.

Most recently, in 2019, BWA performed comprehensive water, wastewater and solid waste cost-of-service rate studies. BWA recommended a series of rate increases designed to meet each utility's operating and capital funding needs. BWA also reviewed the water and solid waste rate structures and customers classes and recommended modifications designed to equitably recover the costs of providing service, comply with Proposition 218, and achieve the District's objectives.

BWA assisted the District with the Proposition 218 noticing and the rate adoption process which ultimately resulted in Board's adoption of recommended rate increases and cost-of-service based rate structure modifications.

Contact:
Shari Strain
Finance Officer
909-585-6525
sstrain@bbccsd.org

City of Patterson, CA

The City of Patterson (the City) is a general law City located in western Stanislaus County with a population of approximately 21,000.

Water and Sewer
The City owns and operates its own water and wastewater systems. In October 2009, the City retained Bartle Wells Associates to develop a long-term financial plans and rate recommendations for the water and sewer enterprises. Bartle Wells was retained to perform another sewer rate study in 2015 and water rate study in 2017.

Financing
In 2013, BWA principal Douglas Dove provided on-call infrastructure financing and utility rate consulting services in connection with the City's review of funding alternatives for future infrastructure projects. Mr. Dove assisted city staff and consultant Pacific Municipal Consultants in presenting funding alternatives to the City Council in closed session meetings.

Capacity Fees
BWA performed a water, wastewater, and stormwater capacity fee study.

Solid Waste
BWA performed a study of Patterson's solid waste rates including garbage, recycling and green-waste collection services in 2014. BWA performed another solid waste rate study for Patterson in 2019.

Contact:
Mike Willet
Director of Public Works
(209) 895-8065
mwillet@ci.patterson.ca.us

City of Modesto, CA

In 2015, BWA was retained to work with the City and the Industrial customers to develop a new wastewater rate structure based on the 2014 Tolling Agreement. Working closely with an accountant hired by the City's large industrial customers, BWA developed a separate large industrial wastewater rate structure and capacity fee schedule for cannery customers. BWA also developed new rates reflecting the City's tertiary treatment stream and secondary treatment "scalping." We met with stakeholder groups, the wastewater master planning engineering team, Finance Committee, and City Council on many occasions to vet our recommendations and gain consensus. Our rate study was implemented by City Council April 2016.

In 2015, the City retained BWA to conduct a comprehensive water rate study. The City had not raised rates since 2013 and experienced reduced revenue due to drought conditions. BWA developed drought surcharges and analyzed individualized rate structures for each of the City's outlying service areas. A Proposition 218 hearing to adopt proposed rates was successfully completed in Fall 2016.

In 2021 BWA was retained again to perform water and sewer rate studies. BWA is in the process of completing these studies.

Contact:
William Wong, P.E., Sr. Engineer
(209) 571-5801
wwong@modestogov.com

MODESTO
CALIFORNIA

Madera County Special Districts, CA

Madera County is located in California's Central Valley. In 2016, the County retained Bartle Wells to perform comprehensive water and wastewater rate studies for its special service districts. Madera County has approximately forty-four water and sewer special service districts serving a population of about 60,000 people. The primary source of water for the districts is groundwater.

Prior to our work, many of the service districts had not implemented rate increases for over five years resulting in rates that had fallen behind the cost of service. Additionally, California water quality regulations were significantly impacting water treatment requirements in the Central Valley, resulting in the need for increased funding. These factors resulted in many of the districts operating with deficits that needed to be funded by the County's general fund. BWA developed rate recommendations designed to comply with Proposition 218 and enable individual districts to become financially self-sufficient, reimburse the County for prior loans, and ultimately build reserves to prudent levels.

A key concern was the potential for majority protests against the proposed rate increases, particularly in some of the County's smaller service districts. BWA assisted with community outreach efforts designed to help customers understand the need for and benefits of the rate increases, which ultimately helped facilitate public acceptance and substantially contribute to the success of the project.

Contact:
Andrea Saldate, Deputy Director
Madera County Public Works
(559) 675-7811
Andrea.Saldate@co.madera.ca.gov

Additional References are Available Upon Request

Study Schedule

Provided below is a draft timeframe for completion of the Project. BWA will work with the City to develop a final schedule designed to meet the City's objectives. BWA has the capacity to complete the projected on a compressed timeline if necessary.

PROJECT TASK	AUG/SEP				OCT/NOV				DEC/JAN			
Project Initiation & Data Collection												
10-Year Financial Plan												
Cost of Service Rate Analysis												
Project Team & Council Meetings												
Prop 218 Process & Public Hearing												

Cost Proposal

Provided below is a draft breakdown of our budget by task. We remain available to work with the City to refine the scope and budget to meet the City's objectives and expectations.

TASK	Estimated Hours	D. Dove @ $265/hr	E. Helgeson @ $225/hr	Total Cost
PROJECT INITIATION & DATA COLLECTION	**9**	3	6	**$2,115**
TASK 2. LONG-RANGE FINANCIAL PLAN	**16**	4	12	**$3,720**
TASK 3. COST OF SERVICE RATE ANALYSIS	**16**	4	12	**$3,720**
TASK 4. PRESENTATIONS, REPORT & 218	**19**	7	12	**$4,485**
SUBTOTAL HOURS	**60**	18	42	**$14,040**
ESTIMATED NOT-TO-EXCEED EXPENSES				**$500**
TOTAL PROJECT COSTS				**$14,540**

AVAILABILITY & FEES

1. Bartle Wells Associates is prepared to begin work upon authorization to proceed.

2. During the project development period, Bartle Wells Associates will be available at all reasonable times and on reasonable notice for meetings and for consultation with staff, attorneys, consulting engineers, and others as necessary.

3. Bartle Wells Associates will perform all work related to the assignment. Douglas Dove, a firm principal and president, will be assigned as principal consultant on this assignment. Doug will be assisted by Erik Helgeson, a senior consultant, who will serve as the lead contact person for BWA and will be involved with the project a day-to-day basis. This project team may be assisted by other BWA analysts as needed.

4. The fees for services outlined in this proposal will not exceed $14,540 for the Solid Waste Rate Study. The fee is based on the following assumptions:

    a. All necessary information will be provided by the client agency in a timely manner.

    b. Development of a draft, final draft, and final version of tables, presentations, and reports. Time and expenses involved in revising tables and assumptions or developing additional versions of documents may constitute additional services if not achievable within the budget.

    c. Up to two (2) trips to the City for meetings and/or presentations. Additional meetings or presentations may constitute additional services if not achievable within the budget.

5. Progress payments and direct expenses are payable on a time and materials basis as the work proceeds as provided in our Billing Rate Schedule 2021, which will remain in effect through the duration of this assignment.

6. Bartle Wells Associates will maintain in force, during the full term of the assignment, insurance as provided in the Certificate of Insurance attached.

7. If the project is terminated for any reason, Bartle Wells Associates is to be reimbursed for professional services and direct expenses incurred up to the time we receive notification of such termination.

8. This proposal may be withdrawn or amended if not accepted within 90 days of its date.

9. We will not require a formal contract of employment and will consider a letter or e-mail from an appropriate official as sufficient authority to proceed.

BARTLE WELLS ASSOCIATES
BILLING RATE SCHEDULE 2021
Rates Effective 1/1/2021

Professional Services

Financial Analyst I	$110 per hour
Financial Analyst II	$135 per hour
Consultant	$165 per hour
Project Consultant	$180 per hour
Senior Consultant	$195 per hour
Senior Project Manager	$225 per hour
Principal Consultant	$265 per hour

The hourly rates for professional services include all overhead and indirect expenses. Bartle Wells Associates does not charge for administrative support services. Expert witness, legal testimony, or other special limited assignments will be billed at one and one-half times the consultant's hourly rate.

The above rates will be in effect through December 31, 2021 at which time they will be subject to change.

Direct Expenses
LSA Advisors will be billed at the hourly rate of $225. Additional Subconsultants (if any) will be billed at cost plus ten percent. Other reimbursable direct expenses incurred on behalf of the agency will be billed at cost plus ten percent. These reimbursable costs include, but are not limited to:

- Travel, meals, lodging
- Printing and photocopying
- Special statistical analysis
- Outside computer services
- Bond ratings
- Automobile mileage
- Messenger services and mailing costs
- Graphic design and photography
- Special legal services
- Legal advertisements

Insurance
Bartle Wells Associates maintains insurance in the amounts and coverage as provided in the attached schedule of insurance. Additional or special insurance, licensing, or permit requirements beyond what is shown on the schedule of insurance are billed in addition to the contract amount.

Payment
Fees are typically billed monthly for the preceding month and will be payable within 30 days of the date of the invoice. A late charge of 1.0 percent per month may be applied to balances unpaid after 60 days.

MUNICIPAL ADVISOR DISCLOSURES

This section provides certain disclosures required by the Municipal Securities Rulemaking Board (MSRB) regarding our duties as a Municipal Advisor to the extent any such duties apply to this assignment.

* Bartle Wells Associates will provide advice and conduct activities with a "duty of care" and a "fiduciary duty" to the City. Our role and responsibilities during this engagement will continue through the completion of the project.

    * Bartle Wells Associates is a registered Municipal Advisor with the Securities and Exchange Commission (SEC Registration No. 867-00740) and the Municipal Securities Rulemaking Board (MSRB ID K0414).

    * Bartle Wells Associates has never been cited for any legal or disciplinary action regarding municipal advisory activities.

    * Bartle Wells Associates has not and will not receive any compensation from any third party seeking to provide services, municipal securities transactions, or municipal financial products related to this transaction. BWA or any of its employees will not engage in any activities that would produce a direct or indirect financial gain for the firm other than compensation for our services identified in this proposal.

    * Bartle Wells Associates is not aware of any conflicts of interest that would affect our ability to provide independent and objective advice and Municipal Advisory services in a manner consistent with the requirements of MSRB Rule G-42.

    * The website address for the Municipal Securities Rulemaking Board (MSRB) is www.MSRB.org. The MSRB's website provides a municipal advisory client brochure that describes the protections that may be provided by the MSRB rules and how to file a complaint with an appropriate regulatory authority. The municipal advisory client brochure is accessible via a link on www.MSRB.org or can be downloaded from http://www.msrb.org/~/media/Files/Resources/MSRB-MA-Clients-Brochure.

SCHEDULE OF INSURANCE

Insured: BARTLE WELLS ASSOCIATES

Bartle Wells Associates will maintain in force, during the full term of the assignment, insurance in the amounts and coverage as provided in this schedule. If additional insurance is required, and the insurer increases the premium as a result, then the amount of the increase will be added to the contract price.

TYPE OF INSURANCE	COMPANY POLICY NUMBER	COVERAGES AND LIMITS	EXP. DATE
Commercial General Liability	Hartford Insurance Company Policy #35-SBA PA6857	▪ $2,000,000 General Aggregate ▪ $2,000,000 Products Comp/Op Aggregate ▪ $2,000,000 Personal & Advertising Injury ▪ $1,000,000 Each Occurrence	6/1/22
Excess/Umbrella Liability	Hartford Insurance Company Policy #35-SBA PA6857	▪ $1,000,000 Aggregate ▪ $1,000,000 Each Occurrence	6/1/22
Automobile Liability	Hartford Insurance Company Policy #35-UEC VU2842	▪ $1,000,000 Combined Single Limit	6/1/22
Workers Compensation & Employers' Liability	Hartford Underwriters Insurance Company Policy #35-WEC FG7858	Workers' Compensation: Statutory Limits for the State of California. Employers' Liability: ▪ Bodily Injury by Accident - $1,000,000 each accident ▪ Bodily Injury by Disease - $1,000,000 each employee ▪ Bodily Injury by Disease - $1,000,000 policy limit	6/1/22
Professional Liability	Chubb & Son, Inc. BINDO94045	Solely in the performance of services as municipal financing consultants for others for a fee. Limit: $2,000,000 Per Occurrence & Aggregate (including defense costs, charges, and expenses)	6/1/22

CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT ("Agreement") is made and entered into this ____ day of ___________ 2021, (the "Effective Date") by and between the City of Riverbank, a California municipal corporation ("City"), and Bartle Wells Associates, a California Corporation, ("Consultant"). City and Consultant may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. City has issued a request for proposals ("RFP") for consultant services for the preparation of a Solid Waste Rate Study (the "Project").

B. Consultant has submitted a proposal to City that includes a scope of proposed consultant services, attached hereto and described more fully in **Exhibit A** ("Services").

C. Consultant represents that it is qualified, willing and able to provide the Services to City, and that it will perform Services related to the Project according to the rate schedule attached hereto and described more fully in **Exhibit B** (the "Rates").

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

AGREEMENT

1. Consulting Services. Consultant agrees, during the term of this Agreement, to perform the Services for City in connection with the Project. Any request for services in addition to the Services described in **Exhibit A** will be considered a request for additional consulting services and not compensated unless the Parties otherwise agree in writing. No subcontract shall be awarded or an outside consultant engaged by Consultant unless prior written approval is obtained from City.

2. Compensation. City shall pay Consultant according to the fee schedule set forth in the Rates, as full remuneration for the performance of the Services. Consultant agrees to maintain a log of time spent in connection with performing the Services. On a monthly basis, Consultant shall provide City, in reasonable and understandable detail, a description of the services rendered pursuant to the Services and in accordance with the Rates. If the work is satisfactorily completed, City shall pay such invoice within thirty (30) days of its receipt. If City disputes any portion of any invoice, City shall pay the undisputed portion within the time stated above, and at the same time advise Consultant in writing of the disputed portion.

3. Reimbursement. City shall pay Consultant for reimbursable expenses related to travel, lodging, conference calls, reproduction and other costs incurred related to Consultant's performance of the Services. Such reimbursable costs shall be invoiced and billed to the City on a monthly basis, provided that in no event shall reimbursable expenses exceed $14,540.

4. Confidential Information. Consultant understands and agrees that, in the performance of Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City ("Confidential Information").

Consultant shall not, either during or after the Term, disclose to any third party any Confidential Information without the prior written consent of City. If City gives Consultant written authorization to make any such disclosure, Consultant shall do so only within the limits and to the extent of that authorization. Such authorization does not guarantee that the City will grant any further disclosure of Confidential Information. Consultant may be directed or advised by the City Attorney on various matters relating to the performance of the Services on the Project or on other matters pertaining to the Project, and in such event, Consultant agrees that it will treat all communications between itself, its employees and its subcontractors as being communications which are within the attorney-client privilege.

5. Term. This Agreement shall become effective on the Effective Date and will continue in effect until the Services provided herein have been completed, unless terminated earlier as provided in Section 6 or 7 below (the "Term").

6. Termination. City may terminate this Agreement prior to the expiration of the Term ("Termination"), without cause or reason, by notifying Consultant in writing of City's desire to terminate this Agreement (the "Termination Notice"). Upon receipt of a Termination Notice, Consultant shall immediately cease performing the Services. Consultant will be entitled to compensation, as of the date Consultant receives the Termination Notice, only for Services actually performed.

7. Termination for Cause. Notwithstanding Section 6 above, this Agreement may be terminated by City for cause based on the loss or suspension of any licenses, permits or registrations required for the continued provision of the Services, or Consultant's malfeasance. Termination of the Agreement for cause as set forth in this Section shall relieve City from compensating Consultant.

8. Performance by Key Employee. Consultant has represented to City that Doug Dove, CIPMA and Erik Helgeson, MBA will be the individuals primarily responsible for the performance of the Services and all communications related to the Services. City has entered into this Agreement in reliance on that representation by Consultant.

9. Property of City. The following will be considered and will remain the property of City:

A. Documents. All reports, drawings, graphics, working papers and Confidential Information furnished by City in connection with the Services ("Documents"). Nothing herein shall be interpreted as prohibiting or limiting City's right to assign all or some of City's interests in the Documents.

B. Data. All data collected by Consultant and produced in connection with the Services including, but not limited to, drawings, plans, specifications, models, flow diagrams, visual aids, calculations, and other materials ("Data"). Nothing herein shall be interpreted as prohibiting or limiting City's right to assign all or some of City's interests in the Data.

C. Delivery of Documents and Data. Consultant agrees, at its expense and in a timely manner, to return to City all Documents and Data upon the conclusion of the Term or in the event of Termination.

10. Duties of City. In order to permit Consultant to render the services required hereunder, City shall, at its expense and in a timely manner:

A. Provide such information as Consultant may reasonably require to undertake or perform the Services;

B. Promptly review any and all documents and materials submitted to City by Consultant in order to avoid unreasonable delays in Consultant's performance of the Services; and

C. Promptly notify Consultant of any fault or defect in the performance of Consultant's services hereunder.

11. Representations of Consultant. City relies upon the following representations by Consultant in entering into this Agreement:

A. Qualifications. Consultant represents that it is qualified to perform the Services and that it possesses the necessary licenses, permits and registrations required to perform the Services or will obtain such licenses or permits prior to the time such licenses or permits are required. Consultant represents and warrants to City that Consultant shall, at Consultant's sole cost and expense, keep in effect or obtain at all times during the Term of this Agreement, any licenses, permits, and registrations that are legally required for Consultant to practice Consultant's profession at the time the Services are rendered.

B. Consultant Performance. Consultant represents and warrants that all Services under this Agreement shall be performed in a professional manner and shall conform to the customs and standards of practice observed on similar, successfully completed projects by specialists in the Services to be provided. Consultant shall adhere to accepted professional standards as set forth by relevant professional associations and shall perform all Services required under this Agreement in a manner consistent with generally accepted professional customs, procedures and standards for such Services. All work or products completed by Consultant shall be completed using the best practices available for the profession and shall be free from any defects. Consultant agrees that, if a Service is not so performed, in addition to all of its obligations under this Agreement and at law, Consultant shall re-perform or replace unsatisfactory Service at no additional expense to City.

12. Compliance with Laws and Standards. Consultant shall insure compliance with all applicable federal, state, and local laws, ordinances, regulations and permits, including but not limited to federal, state, and county safety and health regulations. Consultant shall perform all work according to generally accepted standards within the industry. Consultant shall comply with all ordinances, laws, orders, rules, and regulations, including the administrative policies and guidelines of Client pertaining to the work.

13. Independent Contractor; Subcontracting. Consultant will employ, at its own expense, all personnel reasonably necessary to perform the Services. All acts of Consultant, its agents, officers, employees and all others acting on behalf of Consultant relating to this Agreement will be performed as independent contractors. Consultant, its agents and employees will represent and conduct themselves as independent contractors and not as employees of City. Consultant has no authority to bind or incur any obligation on behalf of City. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever. Consultant is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is expressly approved by City in writing.

14. Insurance. Consultant and all of Consultant's contractors and subcontractors shall obtain and maintain insurance of the types and in the amounts described in this paragraph and its subparagraphs with carriers reasonably satisfactory to City.

A. General Liability Insurance. Consultant shall maintain occurrence version commercial general liability insurance or an equivalent form with a limit of not less than Two Million Dollars ($2,000,000) per claim and Two Million Dollars ($2,000,000) for each occurrence.

B. Workers' Compensation Insurance. Consultant shall carry workers' compensation insurance as required by the State of California under the Labor Code. Consultant shall also carry employer's liability insurance in the amount of One Million Dollars ($1,000,000.00) per accident, with a One Million Dollar ($1,000,000.00) policy limit for bodily injury by disease, and a One Million Dollar ($1,000,000.00) limit for each employee's bodily injury by disease.

C. Errors and Omissions Liability. Consultant shall carry errors and omissions liability insurance in the amount of no less than One Million Dollars ($1,000,000.00) per occurrence or greater if appropriate for the Consultant's profession. Architects and engineers coverage is to be endorsed to include contractual liability. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("City's Agents"); or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claims administration and defense expenses.

D. Other Insurance Requirements. Within five (5) days of the Effective Date, Consultant shall provide City with certificates of insurance for all of the policies required under this Agreement ("Certificates"), excluding the required worker's compensation insurance. Such Certificates shall be kept current for the Term of the Agreement and Consultant shall be responsible for providing updated copies and notifying City if a policy is cancelled, suspended, reduced, or voided. With the exception of the worker's compensation insurance, all of the insurance policies required in this Agreement shall: (a) provide that the policy will not be cancelled, allowed to expire, or materially reduced in coverage without at least thirty (30) days' prior written notice to City of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; (b) name City, and City's Agents as additional insureds with respect to liability arising out of Services, work or operations performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied, or used by the Consultant, or automobiles owned, leased, or hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City; (c) be primary with respect to any insurance or self-insurance programs covering City or City's Agents and any insurance or self-insurance maintained by City or City's Agents shall be in excess of Consultant's insurance and shall not contribute to it; (d) contain standard separation of insured provisions; and (e) state that any failure to comply with reporting or other provisions of the policy including breaches of warranties shall not affect the coverage provided to the City.

15. Indemnification. Consultant hereby agrees to indemnify and hold harmless City, its agents, officers, employees and volunteers, against all liability, obligations, claims, loss, and expense (a) caused or created by Consultant, its subcontractors, or the agents or employees of either, whether negligent or not, pertaining to or related to acts or omissions of Consultant in connection with the Services, or (b) arising out of injuries suffered or allegedly suffered by employees of Consultant or its subcontractors (i) in the course of their employment, (ii) in the performance of work hereunder, or (iii) upon premises owned or controlled by City. Consultant's obligation to defend, indemnify and hold City and its agents, officers, employees and volunteers harmless is not terminated by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

16. Consequential Damages. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

17. Litigation. In the event that either Party brings an action under this Agreement for the breach or enforcement hereof, or must incur any collection expenses for any amounts due hereunder the prevailing Party in such action shall be entitled to its costs including reasonable attorney's fees, whether or not such action is prosecuted to judgment.

18. Notices. Any notice or communication required hereunder between City or Consultant 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. Notices given by registered or certified mail 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, (b) on the date delivered as shown on a receipt issued by the courier, or (c) 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 the addresses in this paragraph set forth below:

If to City:	City of Riverbank 6707 Third Street Riverbank, CA 95367 Attn: City Clerk
With courtesy copies to:	City of Riverbank 6707 Third Street Riverbank, CA 95367 Attn: City Manager
And to:	White Brenner LLP 1414 K Street, 3rd Floor Sacramento, California 95814 Attention: Douglas L. White, Esq.
If to Consultant:	Bartle Wells Associates 2625 Alcatraz Ave., #602 Berkeley, CA 94705 Attention: Douglas Dove & Erik Helgeson

19. General Provisions.

A. Modification. No alteration, modification, or termination of this Agreement shall be valid unless made in writing and executed by all Parties.

B. Waiver. The waiver by any Party of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

C. Assignment. No Party shall assign, transfer, or otherwise dispose of this Agreement in whole or in part to any individual, firm, or corporation without the prior written consent of the other Party. Subject to the forgoing provisions, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the Parties.

D. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of California.

E. Venue. Venue for all legal proceedings shall be in the Superior Court of California for the County of Stanislaus.

F. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

G. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall be deemed a single agreement.

H. Severability. If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in effect.

I. Audit. City shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

J. Entire Agreement. This Agreement sets forth the entire understanding between the Parties as to the subject matter of this Agreement and merges all prior discussions, negotiations, proposal letters or other promises, whether oral or in writing.

K. Headings Not Controlling. Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

L. Time is of the Essence. Time is of the essence in this Agreement for each covenant and term of a condition herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last day and date below written.

CITY:

CITY OF RIVERBANK, a California municipal corporation

By: ______________________________
Sean Scully, City Manager

Date: ______________________________

Approved as to Form:

____
Tom Hallinan, City Attorney

CONSULTANT:

BARTLE WELLS ASSOCIATES,

a California Corporation

By: ______________________________

Name: ______________________________

Date: ______________________________

EXHIBIT A

Scope of Services

Solid Waste Rate Study

This section presents a draft work plan and scope of services that we believe forms a sound basis for completing a comprehensive Solid Waste Rate Study. Bartle Wells Associates can work with the City to finalize a scope of services that meets the City's objectives.

Collaborative Project Approach & Process

BWA uses a collaborative project approach to ensure final recommendations reflect the policy preferences and objectives of the agencies we serve. Our general approach will be to work closely with the City's project team to identify objectives, evaluate alternatives and their impacts, gain ongoing input, and remain flexible to resolve unanticipated issues.

BWA will assist the City in all phases of the study, from project initiation through final adoption and implementation. Rate and fee increases can be controversial. BWA has extensive experience helping agencies build consensus for final recommendations and has assisted many agencies with public outreach efforts aimed at fostering understanding and acceptance for rate and fee increases. BWA also has substantial experience working with citizen advisory groups, community groups, and other stakeholders, and has a long track record of completing projects on time and on budget. We have helped many agencies successfully adopt rate increases in challenging political environments.

Task 1. Project Initiation & Data Collection

1. **Kickoff Session**

To initiate our work, hold a meeting with City staff, Council and others as appropriate, to accomplish the following:

- Present a high level explanation of cost-of-service rate studies
- Provide an overview of the project timeline
- Clarify City objectives

BWA recommends holding the kickoff meeting <u>after</u> we have reviewed preliminary information. This will enable the kickoff meeting to be more substantive and facilitate more in-depth discussion of key issues and preliminary observations and potential alternatives.

2. **Investigation and Data Collection**

Assemble the information necessary to understand the City's water and sewer systems, finances, customers and usage, rate and fee structures, capital improvement ne
eds and alternatives, and legal agreements. Assistance and cooperation of City staff will be needed to assemble the relevant background information. The objectives of investigation and data collection are to develop a complete understanding of the City's utilities and finances, and to reach an agreement on basic assumptions to be used in the study as well as key alternatives for evaluation.

Task 1 Deliverables Include:

- Project kickoff meeting
- Identification of project goals and objectives
- Identification of key issues impacting the study

Task 2. 10-Year Financial Plans

1. Develop Forecasts and Projections

Based on evaluation of the data assembled and input provided by the City, prepare forecasts and projections to be used in the development of financial models. Review projections and alternatives with City staff for agreements on assumptions, interpretation of data, and completeness of approach.

The 10-year financial plans will serve as financial roadmaps for funding future operating and capital programs while supporting long-term financial stability.

- **Capital Improvements Including Long-Term Repairs & Replacements:** Based on input from City staff, identify future capital improvement program costs or alternatives to include in the financial analysis and determine a reasonable amount to include for future, ongoing capital repairs and replacements. BWA often recommends that agencies phase in funding for long-term system rehabilitation.

- **Growth & New Development:** Work with the City to identify levels of growth to incorporate in the financial projections. Evaluate financial impacts under different levels of growth.

- **Cost Escalation Factors:** Review historical cost trends and work with project team to develop reasonable cost escalation factors for both operating and capital expenditures. Work with City staff to identify any anticipated changes in future staffing, benefits, and/or other operating costs.

2. Evaluate Financing Alternatives for Capital Improvements

Evaluate options for financing capital improvement projects. Our evaluation will:

- Allocate capital improvement costs to existing customers and new development based on the share of each project benefitting current vs. future customers.
- Estimate the amount and timing of any debt, if needed, to finance capital projects.
- Evaluate the alternative borrowing methods available including bonds, COPs, state and federal loan programs (including the State Revolving Fund Financing Program), bank loans and lines of credit, and other options.
- Recommend the appropriate type of debt, its term and structure.
- As needed, develop debt service estimates to incorporate in the financial projections.

3. Establish Prudent Minimum Fund Reserve Targets

Evaluate the adequacy of the City's current utility fund reserves. Establish prudent minimum fund reserve targets based on the City's operating and capital funding projections. Develop an implementation plan for achieving and maintaining the recommended reserve fund levels.

4. Develop 10-Year Financial Projections & Evaluate Scenarios

Develop 10-year cash flow projections showing the financial position of the water and sewer utilities over the next 10 years. The cash flows will project fund balances, revenues, expenses, and debt service coverage, and will incorporate the forecasts developed with staff input. After developing a base-case cash flow scenario, we can model alternatives for additional evaluation such as capital improvement alternatives, project financing alternatives, the impacts of various levels of water demand, etc. During this phase, BWA will work closely with the project team to evaluate financial and rate projections under alternative scenarios.

5. Evaluate Rate Increase Options

Based on the cash flow projections, determine future annual revenue requirements from rates and project the overall level of required rate increases. Evaluate rate adjustment alternatives, such as gradually phasing in required rate increases over a number of years. If appropriate, evaluate different levels of rate increases and their impacts on the City's ability to fund future operating and capital needs.

Task 2 Deliverables Include:

- Summary of 10-year capital improvement plans and/or key alternatives
- Evaluation of financing alternatives for capital improvements
- Minimum fund reserve target recommendations
- 10-year financial projections with supporting tables
- Evaluation of alternative scenarios as needed
- Evaluation of rate increase options

Task 3. Cost of Service Rate Analysis

1. Identify & Evaluate Water and Sewer Rate Structure Alternatives

Review the City's current water and sewer rate structures and discuss advantages and disadvantages compared to other rate approaches. Identify potential alternatives and modifications that could help improve rate equity, address City concerns, or help achieve other City objectives. Discuss pros and cons of different rate structure options and their general impacts on different types of customers. Rate structure options can be refined as the study progresses based on input from the project team.

Rates will be developed based on a cost-of-service approach designed to equitably recover the cost of providing service to all customers.

2. Conduct Survey of Regional Utility Rates

Review and summarize water and sewer rates of other regional agencies. Summarize results in easily understandable tables and/or charts.

3. Analyze Utility Billing Data

Analyze current and historical utility billing data to determine reasonable and conservative estimates to use in developing financial projections and rates. Ideally, we would prefer to analyze multiple years of utility billing data in order to determine slightly conservative demand projections.

4. Cost of Service Allocation

Cost allocation is the "meat" of the rate study that will provide the legal justification for the rates and charges of the City. BWA will allocate costs based on industry standard practice, guidance from recent court cases, and ease of implementation/practicality.

BWA will provide a detailed, functional cost allocation for operating, capital, debt service, fixed and variable costs. Determine the units of service and assign costs to each unit of service.

5. Develop Preliminary & Final Rate Recommendations with City Input

Based on evaluation of rate structure alternatives and the overall level of rate increases identified in the financial plans, develop draft rate recommendations for City input. The recommendations may include a multi-year phase in of both overall rate increases and proposed rate structure adjustments in order to help mitigate the annual impact on ratepayers. Revise recommendations based on input received. Final rate recommendations will be designed to:

a) fund each utility's long-term costs of providing service, including operating, capital, and debt service funding needs

b) be fair and equitable to all customers,

c) provide a prudent balance of conservation incentive and revenue stability,

d) be easy to understand and administer, and

6. Evaluate Use of Automatic Rate Pass-Throughs

Identify and evaluate the potential for implementing automatic pass-throughs for future wholesale rate increase and/or ongoing cost inflation. BWA has helped many agencies implement pass-through provisions to protect agencies against unanticipated wholesale cost increases and keep rates aligned with the cost of providing service.

7. Evaluate Customer Equity

Review the fairness of each rate and charge across all customer groups. Confirm that all customers are charged for service proportional to how they use the utility systems. If desired, review options to aid in affordability for disadvantaged customers. Compare typical/sample bills from each customer class to the bills of other local public utilities. As needed, seek input from vocal customers such as business groups and developers.

8. Evaluate Rate Impacts on a Range of City Customers

Calculate the rate impacts of each rate alternative on a range of utility customers (e.g. different customer classes, customers with different levels of use, seasonal impacts etc.). Work with the project team to identify customer and usage profiles to use for calculating the rate impacts. Discuss additional rate structure adjustments that may reduce the impact on certain customers if warranted and/or requested by the project team

Task 3 Deliverables Include:

- Evaluation of current utility rates and potential rate structure modifications
- Regional utility rate surveys
- Analysis of historical consumption and utility billing data
- Cost of service analysis to support equitable and legally-defensible rates
- Development of draft rate alternatives for District evaluation and input

Task 4. Reports, Presentations, Model and Rate Implementation

1. City Council Meetings/Rate Workshops (2 City Council Meetings)
Attend City Council Meetings (via video conference or in person) to present findings, recommendations and alternatives, and receive input. Incorporate input as warranted to ensure final recommendations reflect Council preferences. Present revised recommendations at a subsequent City Council Meeting with the goal of gaining Council approval to move forward with the process to adopt rate increases.

2. Prepare Draft & Final Reports
Develop a draft report summarizing study objectives, findings and draft recommendations. The report will provide an administrative record supporting the proposed utility rates. The report will be written for a non-technical audience and will clearly explain the rationale for recommendations and key alternatives when applicable. Submit a draft report for City review and feedback. Incorporate input into a revised report and ultimately provide the City with printed and electronic copies as needed. The report will be provided in PDF format and can also be provided in editable Word and Excel files.

3. Rate Adoption Meeting
Attend the meeting where the Council will vote to adopt rates. BWA remain available to present a summary of findings and recommendations and respond to Council and public comments. BWA has extensive experience presenting financial and rate recommendations to non-technical audiences, dealing with challenging questions, and building acceptance for final recommendations.

4. Public Education and Consensus-Building
Rate and fee adjustments are often controversial. BWA has helped many agencies with their public education and outreach efforts regarding rate and fee increases. We understand the importance of building consensus and public acceptance for our recommendations and can assist the City in any outreach and public education efforts.

Task 4 Deliverables Include:
- Council Meetings/Rate Workshops
- Draft and final reports summarizing key findings and recommendations and demonstrating compliance with legal requirements for rates

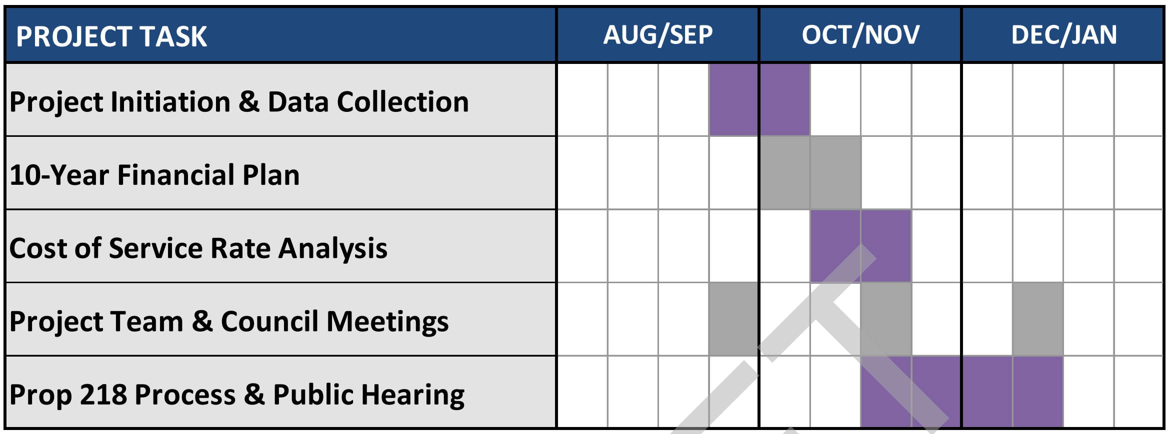
EXHIBIT B

Rate Schedule

EXHIBIT B - RATE SCHEDULE

Study Schedule

Provided below is a draft timeframe for completion of the Project. BWA will work with the City to develop a final schedule designed to meet the City's objectives. BWA has the capacity to complete the projected on a compressed timeline if necessary.



Cost Proposal

Provided below is a draft breakdown of our budget by task. We remain available to work with the City to refine the scope and budget to meet the City's objectives and expectations.

TASK	Estimated Hours	D. Dove @ $265/hr	E. Helgeson @ $225/hr	Total Cost
PROJECT INITIATION & DATA COLLECTION	9	3	6	$2,115
TASK 2. LONG-RANGE FINANCIAL PLAN	16	4	12	$3,720
TASK 3. COST OF SERVICE RATE ANALYSIS	16	4	12	$3,720
TASK 4. PRESENTATIONS, REPORT & 218	19	7	12	$4,485
SUBTOTAL HOURS	60	18	42	$14,040
ESTIMATED NOT-TO-EXCEED EXPENSES				$500
TOTAL PROJECT COSTS				$14,540

BARTLE WELLS ASSOCIATES
BILLING RATE SCHEDULE 2021
Rates Effective 1/1/2021

Professional Services

Financial Analyst I	$110 per hour
Financial Analyst II	$135 per hour
Consultant	$165 per hour
Project Consultant	$180 per hour
Senior Consultant	$195 per hour
Senior Project Manager	$225 per hour
Principal Consultant	$265 per hour

The hourly rates for professional services include all overhead and indirect expenses. Bartle Wells Associates does not charge for administrative support services. Expert witness, legal testimony, or other special limited assignments will be billed at one and one-half times the consultant's hourly rate.

The above rates will be in effect through December 31, 2021 at which time they will be subject to change.

Direct Expenses

LSA Advisors will be billed at the hourly rate of $225. Additional Subconsultants (if any) will be billed at cost plus ten percent. Other reimbursable direct expenses incurred on behalf of the agency will be billed at cost plus ten percent. These reimbursable costs include, but are not limited to:

- Travel, meals, lodging
- Printing and photocopying
- Special statistical analysis
- Outside computer services
- Bond ratings
- Automobile mileage
- Messenger services and mailing costs
- Graphic design and photography
- Special legal services
- Legal advertisements

Payment

Fees are typically billed monthly for the preceding month and will be payable within 30 days of the date of the invoice. A late charge of 1.0 percent per month may be applied to balances unpaid after 60 days.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 10.1

SECTION 10: PUBLIC HEARINGS

Meeting Date:	September 14, 2021
Subject/ Title:	Public Hearing to Adopt **Resolution** of the City Council of the City of Riverbank Annexing of Territory to a Community Facilities District, Authorizing the Levy of a Special Tax, and Submitting Levy of Tax to Qualified Electors, City of Riverbank Community Facilities District No. 2016-1(Public Services) Annexation No. 1; and **Resolution** of the City Council of the City of Riverbank Declaring Results of a Special Annexation Election, Determining Validity of Prior Proceedings, and Directing Recording of Amended Notice of Special Tax Lien, City of Riverbank Community Facilities District No. 2016-1(Public Services) Annexation No. 1.
From:	Sean Scully, City Manager
Submitted by:	Marisela Garcia, Assistant City Manager Kathleen Cleek, Development Services Administration Manager

RECOMMENDATION:

It is recommended that the City Council hold a public hearing and adopt resolutions annexing territory to a City of Riverbank Community Facilities District 2016-1 (Public Services) and to authorize the levy of a special tax therein to finance certain City services.

STRATEGIC GOAL:

The conditions of approval for the specific territory development require it to annex into Community Facilities District No. 2016-1 (Public Services) (“CFD 2016-1”) to provide financing for police services, street maintenance, parks, storm drainage, and landscaping. The adoption of these resolutions will fulfill that requirement and complete the annexation.

SUMMARY:

By Resolution No. 2016-028, the City Council established CFD 2016-1, a Mello-Roos Community Facilities District with the intention that future development within the City of Riverbank (the “City”) would annex into this district. The special taxes collected from the property owners within the district are to be used for the funding of police services, landscape maintenance, park maintenance, drainage maintenance, and street maintenance.

The parcels proposed for annexation are located west of Central Avenue and north of Kentucky Avenue as well as generally located west of Oakdale Road, east of Coffee Road, north of Claribel Road, and South of Crawford Road. The boundary of the annexation includes the area within assessor's parcel numbers 062-022-020-000, 074-006-016-000, 074-011-004-000, 074-011-012-000, 074-011-014-000, and 074-014-006-000 as depicted on Exhibit A. Development of these properties change the characteristics of undeveloped land. Once developed, this project will have intensified the use of the property, creating a need for more services under this CFD.

As part of the annexation process, the City contracts with Willdan Financial Services for the preparation of the necessary resolutions and balloting procedures for the annexation.

Resolution No. 2021-071 was adopted on July 27, 2021, and set the public hearing for September 14, 2021. The adoption of the attached resolutions annexes the territory into CFD 2016-1, submits the levy of the special tax to the qualified electors, and declares the results of the special election. This is the final step in the annexation process; and since the conditions of approval for the development require it to annex into CFD 2016-1, a majority protest of the annexation is not anticipated.

Once the annexation is complete, the property owners of the parcels will be required to pay annual special taxes for CFD 2016-1, beginning in Fiscal Year 2022/23 as itemized on their property tax bill in accordance with the rate set forth in the Rate and Method of Apportionment of Special Tax.

The CFD 2016-1 Rate and Method of Apportionment was established as part of the formation of the district and fixed Fiscal Year 2016-2017 as the base year for the annual special tax rate as shown in Exhibit B. Since the formation, assessments have increased based on a cost inflator allowed in the original formation documents. The current special tax rate for the district is as shown in Exhibit C.

FISCAL IMPACT:

The full fiscal impact will not be seen by the City until the subject properties are developed with Building Permits issued on the respective parcels affected.

ATTACHMENTS:

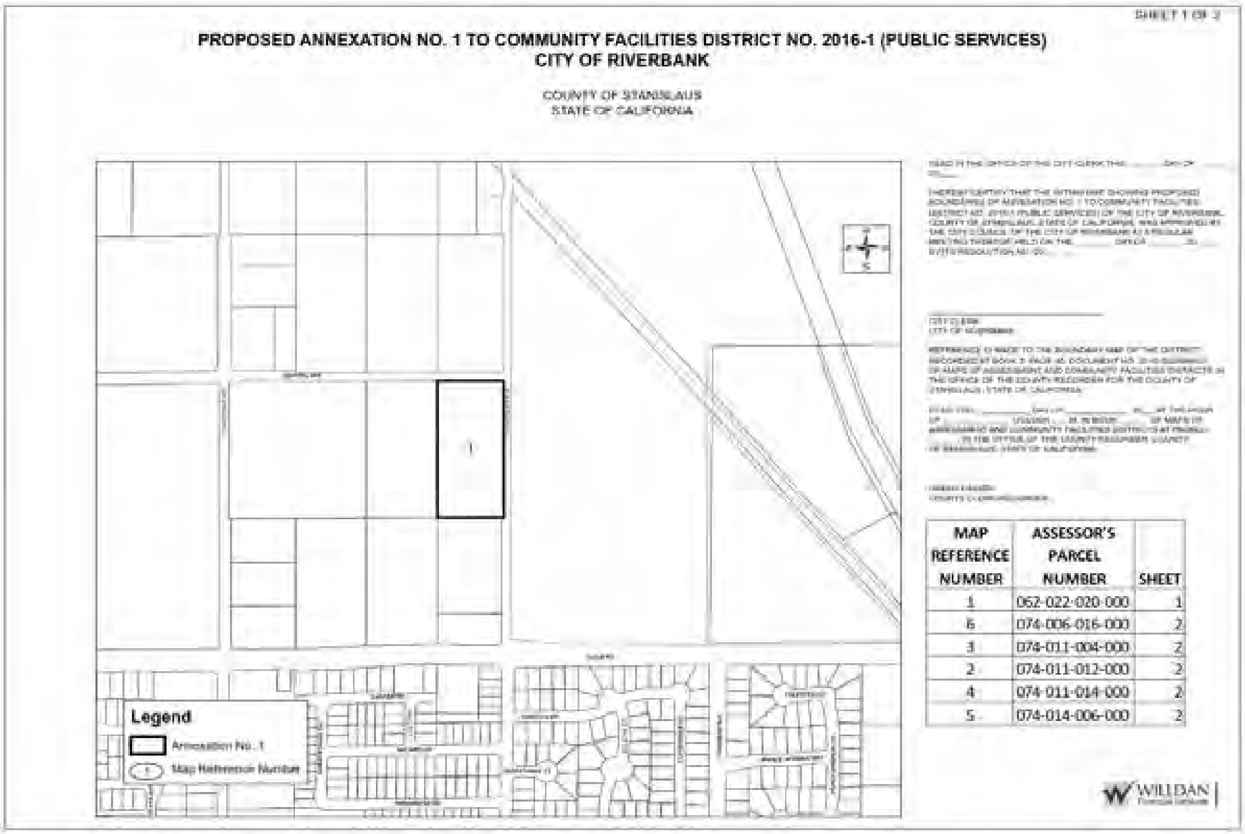
1) City of Riverbank Community Facilities District No. 2016-1 (Public Services) Boundary Map – Annexation No. 1

2) Resolution No. _____, "RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK ANNEXING OF TERRITORY TO A COMMUNITY FACILITIES DISTRICT, AUTHORIZING THE LEVY OF A SPECIAL TAX, AND SUBMITTING

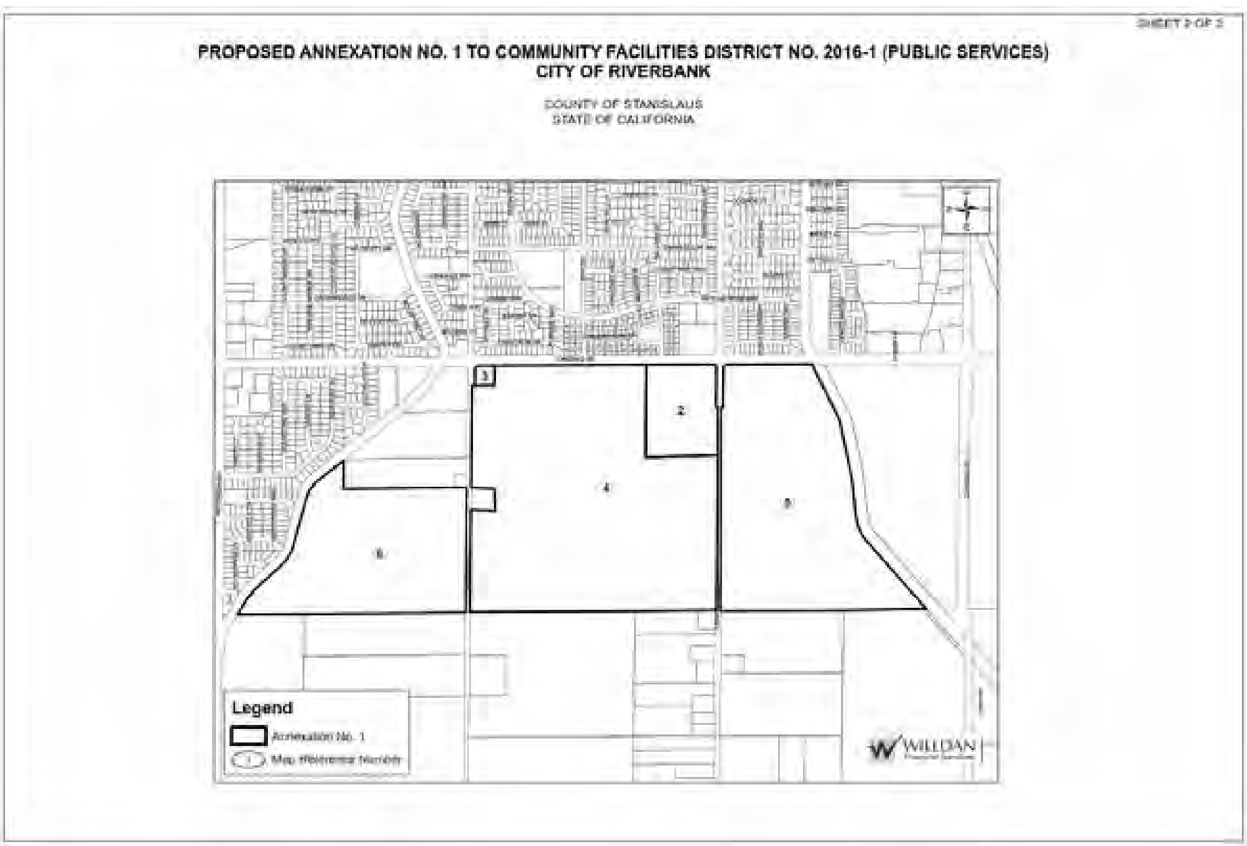
LEVY OF TAX TO QUALIFIED ELECTORS, CITY OF RIVERBANK COMMUNITY FACILITIES DISTRICT NO. 2016-1 (PUBLIC SERVICES) ANNEXATION NO. 1."

3) Resolution No. _____ "RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK DECLARING RESULTS OF A SPECIAL ANNEXATION ELECTION, DETERMINING VALIDITY OF PRIOR PROCEEDINGS, AND DIRECTING RECORDING OF AMENDED NOTICE OF SPECIAL TAX LIEN, CITY OF RIVERBANK COMMUNITY FACILITIES DISTRICT NO. 2016-1 (PUBLIC SERVICES) ANNEXATION NO. 1."

City of Riverbank Community Facilities District No. 2016-1
(Public Services)
Boundary Map-Annexation No. 1



MAP REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	SHEET
1	062-022-020-000	1
6	074-006-016-000	2
3	074-011-004-000	2
2	074-011-012-000	2
4	074-011-014-000	2
5	074-014-006-000	2



CITY OF RIVERBANK

RESOLUTION NO. 2021 - _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, ANNEXING OF TERRITORY TO A COMMUNITY FACILITIES DISTRICT, AUTHORIZING THE LEVY OF A SPECIAL TAX, AND SUBMITTING LEVY OF TAX TO QUALIFIED ELECTORS, CITY OF RIVERBANK COMMUNITY FACILITIES DISTRICT NO. 2016-1 (PUBLIC SERVICES) ANNEXATION NO. 1

WHEREAS, the CITY COUNCIL of the CITY OF RIVERBANK, CALIFORNIA (the "City Council") adopted Resolution No. 2021-071 (Resolution of Intention) stating its intention to annex the territory to the City's Community Facilities District No. 2016-1 (Public Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

WHEREAS, a copy of the Resolution of Intention, incorporating a description and map of the proposed boundaries of the territory to be annexed to the CFD and stating the facilities to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the services of the CFD, is on file with the City Clerk and the provisions thereof are fully incorporated herein by this reference as if fully set forth herein; and

WHEREAS, the Resolution of Intention set September 14, 2021, as the date of the public hearing; and

WHEREAS, on the 14th of September 2021, the City Council held a public hearing as required by the Act and the Resolution of Intention relative to the proposed annexation of territory to the CFD; and

WHEREAS, at said hearing, interested persons desiring to be heard on all matters pertaining to the annexation of territory to the CFD and the levy of said special taxes within the area proposed to be annexed were heard and a full and fair hearing was held; and

WHEREAS, prior to the time fixed for said hearing, written protests had not been filed against the proposed annexation of territory to the CFD by (i) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the existing CFD, or (ii) 50% or more of the registered voters, or six registered, whichever is more, residing in the territory proposed to be annexed to the CFD, or (iii) owners of one-half or more of the area of land in the existing CFD, or (iv) owners of one-half or more of the area of land in the territory proposed to be annexed to the CFD; and

WHEREAS, Annexation No. 1 Boundary Map to the CFD has been filed with the County Recorder of the County of Stanislaus, which map shows the territory to be annexed in these proceedings, and a copy thereof is on file with the City Clerk.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK, HEREBY RESOLVES:

<u>Section 1.</u> All prior proceedings taken by the City Council, with respect to the CFD and the proposed annexation of territory thereto, have been duly considered and are hereby determined to be valid and in conformity with the Act, and the CFD has been validly established pursuant to the Act. It has been determined that this project will intensify the use of the property creating a need for more services under this CFD.

<u>Section 2.</u> The description and map of the boundaries of the territory to be annexed to the CFD, as described in said Annexation No. 1 to the CFD on file with the City Clerk are hereby finally approved, are incorporated herein by reference, and shall be included within the boundaries of the CFD, and said territory is hereby ordered annexed to the CFD, subject to voter approval of the levy of the special taxes therein as hereinafter provided.

<u>Section 3.</u> The provisions of the Resolution of Intention has heretofore been adopted by the City Council and are by this reference incorporated herein, as if fully set forth herein.

<u>Section 4.</u> Pursuant to the provisions of the Act, the proposition of the levy of the special tax within the territory to be annexed to the CFD shall be submitted to the voters of the area to be annexed to the CFD at an election called therefore as hereinafter provided.

<u>Section 5.</u> The City Council hereby finds that fewer than 12 persons have been registered to vote within the territory proposed to be annexed to the CFD for each of the 90 days preceding the close of the public hearing heretofore conducted and concluded by this Council for the purposes of these annexation proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Council finds that for purposes of these proceedings the qualified electors are the landowners within the territory proposed to be annexed to the CFD and that the vote shall be by said landowners, each having one vote for each acre or each portion thereof such landowner owns in the territory proposed to be annexed to the CFD.

<u>Section 6.</u> Pursuant to Section 53326 of the Act, the election shall be conducted by mail ballot, in accordance with the applicable provisions of the California Elections Code governing mail ballot elections of cities, and in particular the provisions of Division 4 (commencing with Section 4000), of that Code, insofar as they have not been waived by the unanimous consent of all landowners of the territory to be annexed to the CFD.

<u>Section 7.</u> The City Council calls a special election to consider the measure described in the ballot referred to in paragraph 8 below, which election will be held on September 14, 2021, ("Election Day") in the office of the City Clerk, at City Hall, 6707 3rd Street Suite A, Riverbank, California.

Section 8. The City Clerk will be the election official to conduct the election and caused to be provided to each landowner in the territory to be annexed to the CFD, a ballot in the form of **Exhibit A** hereto, which is hereby approved.

Section 9. The City Clerk has accepted the ballots of the qualified electors received prior to 6:00 p.m. on Election Day, whether received by mail or by personal delivery.

Section 10. The City Council hereby further finds that the provisions of Section 53326 of the Act requiring a minimum of 90 days to elapse before said election is for the protection of voters, that the voters have waived such requirement and the date for the election hereinabove specified is established accordingly.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the ___ day of ______, 2021; motioned by Councilmember ___, seconded by Councilmember ___, and upon roll call was carried by the following City Council vote of __:

AYES:
NAYS: **None**
ABSENT: **None**
ABSTAINED: **None**

ATTEST:	APPROVED:
______________________________	______________________________
Annabelle H. Aguilar, CMC **City Clerk**	**Richard D. O'Brien** **Mayor**

Attachment: Exhibit A - Ballot

EXHIBIT A

City of Riverbank Community Facilities District No. 2016-1 (Public Services)

This ballot is for a special landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Riverbank no later than 6:00 p.m. on September 14, 2021, by mail or in person. The City Clerk's office is located at 6707 3rd Street, Riverbank, California 95367.

This ballot represents ____ votes.

To vote, mark in the voting square after the word "YES" or after the word "NO". For a list of acceptable marks, please refer to the back of this ballot.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Riverbank to obtain a replacement ballot.

MEASURE: Shall the City of Riverbank, by and for its Community Facilities District No. 2016-1 (Public Services) (the "CFD"), be authorized to levy special taxes within the territory annexed to the CFD pursuant to and as described by the Resolution of Intention of the City of Riverbank adopted by its Council on July 27, 2021?	Yes	☐
	No	☐

By executing in the space provided below, you also confirm your waiver of the time limit pertaining to the conduct of the election and any requirement for notice of election and analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Section 53326 (a) and 53327 (b) of the California Government Code.

Property Owner Name:

Property Owner/Authorized Representative Signature: ________________________

Property Owner/Authorized Representative Printed Name: ________________________

CITY OF RIVERBANK

RESOLUTION NO. 2021 - _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK DECLARING RESULTS OF A SPECIAL ANNEXATION ELECTION, DETERMINING VALIDITY OF PRIOR PROCEEDINGS, AND DIRECTING RECORDING OF AMENDED NOTICE OF SPECIAL TAX LIEN, CITY OF RIVERBANK COMMUNITY FACILITIES DISTRICT NO. 2016-1 (PUBLIC SERVICES) ANNEXATION NO. 1

WHEREAS, in proceedings heretofore conducted by the City Council pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (Act), this City Council has heretofore adopted a resolution calling a special election of the qualified landowner electors in the territory of land proposed to be annexed to Community Facilities District No. 2016-1 (Public Services) (CFD);

WHEREAS, pursuant to the terms of the Resolution Calling Election, which are by this reference incorporated herein, the Special Election was held on September 14, 2021, and the City Clerk has on file a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns (the "Certificate"), a copy of which is attached hereto as **Exhibit A** and by this reference incorporated herein; and

WHEREAS, this City Council has reviewed said Certificate and hereby approves it.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK HEREBY RESOLVES AS FOLLOWS:

1. <u>Recitals</u>. The above recitals are all true and correct.

2. <u>Ballot Measure</u>. The ballot measure (the "Ballot Measure") presented to the qualified electors is set forth in **Exhibit B** attached hereto and by this reference incorporated herein.

3. <u>Election Results</u>. The results of the Special Election are as set forth in the Certificate on file with the City's Elections Official and attached hereto as **Exhibit A.** Pursuant to the Certificate, the Ballot Measure presented at the Special Election was approved by the qualified electors of the District.

4. <u>Ballot Measure Authorized</u>. This City Council, acting in its capacity as legislative body of the District, is hereby authorized to levy on the land within the District the special tax described in the Ballot Measure for the purposes described therein and to take the necessary steps to levy the special tax authorized by the Ballot Measure.

5. Finding of Validity. It is hereby found that all prior proceeding and actions taken by this City Council with respect to the District were valid and in conformity with the Act.

6. Notice of Special Tax Lien. The City Clerk is hereby directed to record in the office of the County Recorder of the County of Stanislaus within fifteen days of the date hereof, an amendment to the Notice of Special Tax Lien as required by California Streets and Highways Code Section 3114.5.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the ___ day of ______, 2021; motioned by Councilmember ___, seconded by Councilmember ___, and upon roll call was carried by the following City Council vote of ___:

AYES:
NAYS: **None**
ABSENT: **None**
ABSTAINED: **None**

ATTEST:	**APPROVED:**
____________________________	____________________________
Annabelle H. Aguilar, CMC	**Richard D. O'Brien**
City Clerk	**Mayor**

Attachments: **Exhibit A – Certification of Special Annexation Election**
Exhibit B – Ballot Measure

EXHIBIT A

CERTIFICATE OF THE ELECTIONS OFFICIAL AND THE STATEMENT OF THE VOTES CAST FOR A CITY OF RIVERBANK SPECIAL ANNEXATION ELECTION

State of California
County of Stanislaus } ss:
City of Riverbank

I, Annabelle Aguilar, Elections Official of the City of Riverbank, **DO HEREBY CERTIFY** that pursuant to the provisions of Government Code Section 53326, and Division 4 commencing with Elections Code 4000 of the State of California, I canvassed the returns of the

CITY OF RIVERBANK
COMMUNITY FACILITIES DISTRICT NO. 2016-1
ANNEXATION NO. 1 (PUBLIC SERVICES)
SPECIAL ELECTION

held in the City of Riverbank City Council Chambers at 6707 Third Street, Suite B, Riverbank, California 95367 on September 14, 2021.

I **FURHTER CERTIFY** that the total number of ballots cast in said election and the total number of votes cast for and against the measure are full, true and correct:

Community Facilities District No. 2016-1 (Public Services) Special Annexation Election, September 14, 2021	Qualified Eligible Votes	Votes Cast	Yes	No
Ballot Measure				

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this __ day of _______________, 2021.

By:___________________________
Annabelle H. Aguilar, CMC
City Clerk/Elections Official
City of Riverbank

EXHIBIT B

Ballot Measure:

Shall the City of Riverbank, by and for its Community Facilities District No. 2016-1 (Public Services) (the “CFD”), be authorized to levy special taxes within the territory annexed to the CFD pursuant to and as described by the Resolution of Intention of the City of Riverbank adopted by its Council on July 27, 2021?

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 10.2

SECTION 10: PUBLIC HEARINGS

Meeting Date:	September 14, 2021
Subject/ Title:	First Reading by Title Only and Introduction of a Proposed **Ordinance** Approving the Rezone of 4.6± Acres to Planned Development Located at 4131 Kentucky Avenue (APN 062-022-020) – A Project Known as Countryside III; and A **Resolution** Approving Vesting Tentative Map 03-2020 For Mcroy Wilbur Communities, Located At 4131 Kentucky Avenue (APN 62-022-020) – A Project Known as Country Side III
From:	Sean Scully, City Manager
Submitted by:	Gabriel R. Salazar, Associate Planner

RECOMMENDATION

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval, which initiates the second reading at the September 28, 2021, regular City Council meeting or soon thereafter to consider its adoption, and by separate roll call vote, adopt the proposed resolution for the planned development project.

SUMMARY

The proposed project consists of Rezone 01-2020 (to Planned Development) and Vesting Tentative Map 3-2020 to subdivide a parcel of approximately 4.56 acres into twenty-two (22) single-family residential lots, three (3) remainder lots for a storm drain basin, and associated street improvements. The project site is 4131 Kentucky Avenue (APN: 062-022-020) which currently has a General Plan Land Use designation of Low Density Residential (LDR) and is currently zoned Single Family Residential (R-1). The applicant is applying for a rezone to Planned Development because the proposed lots are smaller than the minimum lot size standard for the R-1 Single-Family zoning district.

BACKGROUND

The total area of the site is approximately 4.56 acres with a proposed density of 5.48 units/net acre. The project site is situated on the east side of Riverbank and is bounded by Countryside II, a 40-lot residential subdivision under construction to the north; County pastures and ranchettes across Central Avenue to the east; undeveloped pasture lands, railroad tracks, and the Riverbank Industrial Complex across Kentucky Avenue to the south; and future Riverbank Enclave, an approved 18-lot residential subdivision to the west. The project site is vacant after an older farmhouse at 4131 Kentucky Avenue was demolished.

The Project is located within the Bruinville Public Facilities Master Plan ("Master Plan") area. The Master Plan called for the formation of a Public Safety Community Facilities District. The City formed Community Facilities District ("CFD") 2016-01, which includes public safety, parks and landscaping maintenance, storm drainage system maintenance, and street maintenance. Conditions of Approval require Countryside III to annex into CFD 2016-01. The annexation application has been received and is currently being processed.

On August 17, 2021, the Planning Commission adopted Resolution 2021-012 (Attachment 3) to recommend to the City Council the approval of a Rezone to Planned Development for the site and they adopted Resolution 2021-013 to recommend the approval of Vesting Tentative Map No. 03-2020. The Planning Commission then adopted Resolution 2021-014 to approve Architecture and Site Plan Review 05-2021 for Countryside III.

ANALYSIS

A. Rezone 01-2020

The developer is requesting relief from Single Family Residential (R-1) standards through rezoning the property as Planned Development ("PD"). A PD allows the developer flexibility in presenting a project where they may not meet all of the development standards of the existing zoning district and in lieu provide additional amenities for the subdivision.

The Table provides information comparing the existing low-density residential zoning development standards and the proposd PD standards. The project differs to the LDR standards in the following four areas: lot size, lot width, lot depth, and lot street width. These development standards with a lower minimum thant the minimum standards of the R-1 zone are denoted with a (*):

Type of Standard	LDR Zoning Standards	Proposed PD Standards
Lot Size	6,000 square feet minimum	4,992 square feet minimum *
Lot Width	60/65 feet minimum	50/55 feet minimum *
Lot Depth	100 feet minimum	88.5 feet minimum *
Density	8 units per net acre	5.48 units per net acre
Height	35 feet maximum	35 feet maximum
Front Setback	10 feet minimum	10 feet minimum
Garage Setback	20 feet minimum	20 feet minimum
Side Setback	5 feet minimum	5 feet minimum
Rear Setback	5 feet minimum	10 feet minimum
Lot Coverage	50% maximum	50% maximum
Accessory Height	15 feet maximum	15 feet maximum
Local Street Width	64 feet	56 feet minimum *

Sidewalks	Both sides of street	Both sides of internal streets
Onsite Parking	2 covered spaces	2 covered spaces
Street Parking	Both sides of street	Both sides of street

Pursuant to RMC section 153.162 (E)(3), staff has requested that the developer offer amenities to compensate the neighborhood for deviating from the minimum standards above. These amenities could include enhanced landscaping, a colored concrete or brick crosswalk, upgraded front doors and garage doors, decorative wrought iron fencing in the front, open space furniture, French doors instead of sliders, community art, etc. Other suggestions to staff would be considered. The developer proposes the following amenities for the PD: (1) upgraded garage doors, (2) decorative outdoor lighting, and (3) enhanced landscaping.

Per Riverbank Municipal Code section 153.161 (A), no combination of parcels less than one (1) acre in size may be rezoned PD. The parcel proposed for development in this project totals approximately 4.56 acres. Therefore, the project meets this requirement.

Rezone Findings

The City Council may approve, conditionally approve, or deny the rezone to PD. To approve, the project must meet the required findings of fact:

1. Each individual unit of the development if built in stages, as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development. *The development could be built in stages and exist as independent units capable of creating a good environment.*

2. The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect. *The site was mostly undeveloped land with an older house on the western edge of the property. A new subdivision will reduce any blighted conditions on the property as well as add to the diverse housing stock the City has to offer to potential new residents.*

3. Any deviation from the standard ordinance requirements is warranted by the unusual design and additional amenities incorporated in the development plan which offers certain redeeming features to compensate for any deviations that may be permitted. *Amenities proposed by the developer and staff for the deviations from R-1 include upgraded garage doors, decorative outdoor lighting, and enhanced landscaping.*

4. The principles incorporated in the proposed plans identify unique characteristics which could not otherwise be achieved under other zoning districts. *The combined size and shape of the property was inadequate to design standard size lots and*

accommodate streets. Smaller lots cannot be achieved under other zoning districts.

5. Where a PD rezone is initiated by the City, the previous findings are not required. *This PD was not initiated by the City.*

B. Vesting Tentative Map 03-2020

A rezone to Planned Development must be approved by the City Council before a vesting tentative map on that property can be approved. A “vesting” map is used in place of a Development Agreement and provides engineering information beyond what a normal tentative map shows (grading elevations, utility line sizes etc).

Vesting Tentative Map 03-2020 (Attachment 2 Exhibit A) is a proposed small lot single-family residential subdivision. The lot sizes are below the R-1 standard size of 6,000 square feet. Therefore, the applicant is applying for a rezone to PD which accommodates the proposed +/- 5,000 square foot lots.

The vesting tentative map shows three (3) out lots - all are proposed as an interim storm water basin. In the future, when the subdivision is connected to a regional stormwater basin, the interim basin could be filled to create three (3) buildable lots. There is no location proposed or time table for the development of a regional basin; therefore, the City Engineer has required the “interim” be removed from the map as a condition of map approval. The City developed LID guidelines due to storm water discharge standards implemented by the State of California through the MS4 permit process. The proposed project embraces the City’s and State’s LID guidelines. All project storm water will be collected and disposed of on-site through the use of a storm water detention basin. The project is in the process of annexing into Community Facilities District (CFD) 2016-01 for the future maintenance of the storm water system as well as the streets, waste water, and water systems.

The City is requiring the applicant to improve portions of Central Avenue and Kentucky Avenue, including the project’s frontage to be consistent with the City’s Circulation Element Street Design Standards. The streets are designed to accommodate low-impact design standards as well as to encourage Complete Streets for vehicles as well as pedestrians. Though streets appear narrow on paper, the Stanislaus Consolidated Fire District plan reviewer has determined the two cul-de-sacs will accommodate their required truck turning radius.

Before Final Map approval, proposed cul-de-sac names will be reviewed by staff and outside agencies such as Fire and 911 to see if they are currently in use. Per RMC section 152.026 (L) all street names shall be approved by City Council and this is done at Final Map. Duplication of existing names within the County will not be allowed unless the streets are obviously in alignment with existing streets and likely to sometime be a continuation of the other street.

Vesting Tentative Map Findings

Vesting Tentative Map 03-2020 may be approved or conditionally approved by the City Council if it makes all of the following findings:

1. The proposed map is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted.*

2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted as they relate to connectivity, sidewalks, and the provision of amenities.*

3. The site is physically suitable for the type of development. *The Countryside III site is suitable for a new subdivision of this type and is a continuation of adjacent Countryside I and Countryside II.*

4. The site is physically suitable for the proposed density of the development. *The site is physically suitable for a proposed density of 0-8 dwelling units per net acre.*

5. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitats. *The design of the subdivision should not injure fish, wildlife, or their habitats, none of which are present on the site.*

6. The design of the subdivision or the type of improvements is not likely to cause serious public health problems. *There is nothing in the design of the subdivision or proposed improvements that should 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. *The design of the subdivision should not conflict with any easements of record. The map was reviewed by the Oakdale Irrigation District.*

C. Architecture and Site Plan Review

At their regular meeting of August 17, 2021, the Planning Commission with a vote of 5-0 approved the Architecture and Site Plan Review of the housing product for the Project.

GENERAL PLAN CONSISTENCY

The project site's density is 5.48 dwelling units per net acre. Total project acreage minus the land needed for streets and public uses equals net acres. At this density, the Project is consistent with a General Plan designation of Low Density Residential (LDR, net density of 0-8 units per acre). Below is a discussion of General Plan Policies with which the proposed project is consistent:

1. **Policy DESIGN-2.4**

"The City will require construction of intersections with the minimum dimensions and turning radii necessary to maintain established levels of service." *Though streets appear narrow on paper, the Stanislaus Consolidated Fire District plan reviewer has determined the two cul-de-sacs will accommodate their truck turning radius requirements.*

2. **Policy DESIGN-2.5**

"The City will require visually attractive streetscapes with street trees and sidewalks on both sides of the streets, planting strips, attractive transit shelters, benches, and pedestrian-scale streetlights in appropriate locations." *The applicant is providing sidewalks, street trees, and planting strips on all sides of the two internal cul-de-sac streets, the west side of Central Avenue, and the north side of Kentucky Avenue.*

3. **Policy DESIGN-3.1**

"The City will limit block lengths and encourage continuity of streets among neighborhoods to facilitate access, increase connectivity, and support safe pedestrian, bicyclist, and vehicular movement in residential neighborhoods. Individual blocks in approved plans, projects, and subdivision requests shall be no more than 300-400 linear feet per block face or 1,000 to 1,300 linear feet total per block perimeter." *The project consists of two cul-de-sacs that are approximately 200 feet in length.*

4. **Policy DESIGN-3.2**

"Approved plans, projects, and subdivision requests shall provide residential site and building design that contributes to an attractive pedestrian friendly environment along neighborhood streets." *The developer has provided residential building designs with garage placements and setbacks that are varied to prevent monotonous streetscapes and a pedestrian friendly environment.*

5. **Policy DESIGN-3.5**

"The City will ensure that smaller residential lots, including those with widths of less than approximately fifty (50) feet, shall minimize driveway widths, set garages back from the home structure, and minimize garage widths. The City will encourage the use of alleyway access, in particular for smaller residential lots, in coordination with Fire District requirements." *Some of the lots at the rear of the cul-de-sacs are less than 50 feet in width. Garages are set back from the home structures and driveway and garage widths are at minimum.*

6. **Policy CONS-4.2**

"Approved projects, plans and subdivisions shall provide for collection, conveyance, treatment, detention, and other storm water management measures in a way that does not decrease water quality or alter hydrology in the Stanislaus River or associated groundwater recharge areas." *The Developer has provided a stormwater basin within the project to keep the water on-site for percolation. He will be working with the City Engineer to ensure it is an appropriate size for the project. The developer is annexing into Community Facilities District 01-2016 for future maintenance or replacement.*

7. CONS-8.6

"The City will encourage compact development to achieve more efficient use of resources and provision of public facilities and services." *The project, through the use of Planned Development zoning offers smaller lot sizes for a more compact development. State law requires all new houses to be equipped with solar.*

8. CONS-8.9

"Approved projects, plans, and subdivision requests shall include native, drought-tolerant landscaping." *Map Conditions of Approval include a requirement that landscape and irrigation plans conform to the state's MWELO requirements.*

9. SAFE-2.2

"The City will consult with fire protection service providers in reviewing development proposals. Development proposals will include City conditions that respond to concerns of fire prevention service providers." *The City routes all development projects to Stanislaus Consolidated Fire District or Stanislaus County Fire Prevention Bureau for review, comments, and recommended Conditions of Approval.*

PARK-IN-LIEU FEE

Pursuant to RMC Section 11-3-12(c), the Project has an obligation to dedicate park land or pay a Park-in-lieu Fee. The developer has set aside land for a storm water basin but there is no recreational equipment proposed for a park. The obligation for this project is 0.19 acres to be paid based on values of land at the time the Final Map is recorded. A recent appraisal by this developer shows an acre of residential/park land is valued at $130,000 per acre. Therefore, at this value, the developer would owe $28,600 in park in-lieu fees which equates to $1,131 per unit.

ENVIRONMENTAL DETERMINATION

The proposed Vesting Tentative Map is exempt from additional environmental analysis pursuant to CEQA Guidelines Section 21159.21 (a-j) Exemption for Qualified Housing Projects. The project is consistent with the (a) General Plan and its (b) EIR, (c) existing utility services are available to serve the project, (d) the project has no wetlands or value as wildlife habitat, (e) the project site is not on any environmental clean-up list, (f) the site and surrounding properties do not have the potential of exposure to future residents of hazardous substances, (g) the project will not have a significant effect on historical resources, (h) the site is not within an earthquake fault zone or subject to wildland fires, landslides or flooding, (i) the site is not within a developed open space area, and (j) the site is not located within the boundaries of a state conservancy. Therefore, the project qualifies for this exemption.

FISCAL IMPACT

The Project includes the development of a subdivision on existing undeveloped land with the exception of an older single-family home. The fiscal impacts associated with providing municipal services to new residential projects will be partially off-set by the funds generated through CFD 2016-1. Street lighting, road maintenance, storm drainage maintenance, common area landscaping, and police services will be funded through the implementation of CFD 2016-01. In light of the obligation to participate in the above mentioned Community Facilities Districts, the Project is unlikely to negatively impact the City's finances.

STRATEGIC GOALS

The City's Strategic Planning Session is a plan and set of goals that the City will work towards for the next three years. This project works toward the goals of "achieving and maintaining financial stability" and "maintain and improve the City infrastructure systems."

PUBLIC NOTICE

On August 30, 2021, public notices for the public hearing were mailed to interested parties and property owners within 300 feet of the project location. The notice was posted on the City's website and physically posted at City Hall North, South, the post office and sent to the library on August 30, 2021.

ATTACHMENTS

1. City Council Ordinance No. 2021-(TBD) Rezone
2. Resolution No. 2021-(TBD) VTM
   Exhibit A – VTM 03-2020
3. Planning Commission Resolutions 2021-012 /013 /014 without attachments

CITY OF RIVERBANK

ORDINANCE NO. 2021-(TBD)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK APPROVING THE REZONE OF 4.56± ACRES TO PLANNED DEVELOPMENT, LOCATED AT 4131 KENTUCKY AVENUE (APN 062-022-020), A PROJECT KNOWN AS COUNTRYSIDE III

WHEREAS, an application has been received by McRoy Wilbur Communities with a proposal to subdivide approximately 4.56± acres into twenty-two (22) single family residential lots which allows for a net density of zero to eight (0-8) dwelling units per acre; and

WHEREAS, the City of Riverbank Planning Commission conducted a Public Hearing on Tuesday, August 17, 2021 to consider the proposed Ordinance and with a vote of 5-0 recommended approval by the City Council; and

WHEREAS, the City Council for City of Riverbank has made the following findings to adopt the Rezone:

1. Each individual unit of the development if built in stages, as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development.
2. The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect.
3. Any deviation from the standard ordinance requirements is warranted by the unusual design and additional amenities incorporated in the development plan which offers certain redeeming features to compensate for any deviations that may be permitted.
4. The principles incorporated in the proposed plans identify unique characteristics which could not otherwise be achieved under other zoning districts.
5. Where a PD rezone is initiated by the City, the previous findings are not required.

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

Section 1: The City Council of the City of Riverbank approves Rezoning the Project site to Planned Development (APN 062-022-020).

Section 2: Constitutionality, severability. 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 Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution 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 3: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption (   ), provided it is published pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a regular meeting of the City Council of the City of Riverbank on September 14, 2021. Said ordinance was given a second reading by title only and adopted.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on the __ day of ___, 2021; motioned by Councilmember ____________, seconded by Councilmember _______________, moved said ordinance by a City Council roll call vote of ____:

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:

____

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

____

Richard D. O’Brien
Mayor

APPROVED AS TO FORM:

____

Tom P. Hallinan, City Attorney

CITY OF RIVERBANK

RESOLUTION NO. 2021-(TBD)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING VESTING TENTATIVE MAP 03-2020 FOR MCROY WILBUR COMMUNITIES, LOCATED AT 4131 KENTUCKY AVENUE (APN 062-022-020) – A PROJECT KNOWN AS COUNTRYSIDE III

WHEREAS, a development application has been received from McRoy Wilbur Communities for a Tentative Subdivision Map to divide approximately 4.56 acres into twenty-two (22) Planned Development single family residential lots with three (3) lots for a storm drainage basin and more particularly described as Stanislaus County Assessor Parcel Number 062-022-020; 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 0.19 acres of park land; and

WHEREAS, the proposed vesting tentative map is consistent with the following General Plan policies discussed in the staff report: DESIGN-2.4 (minimum dimensions), DESIGN-2.5 (streetscapes), DESIGN-3.1 (continuity), DESIGN-3.2 (pedestrian-friendly), DESIGN-3.5 (small lot minimization), CONS-4.2 (stormwater), CONS-8.6 (compact development), CONS-8.9 (drought-tolerant landscape), and SAFE 2.2 (fire protection); and

WHEREAS, the proposed subdivision is located on land that is within the City limits of the City of Riverbank and is within an area anticipated for urban land uses; and

WHEREAS, Vesting Tentative Map 03-2020 was reviewed by the Riverbank Planning Commission at a regular meeting held on August 17, 2021 in the manner prescribed by law; and

WHEREAS, the Riverbank Planning Commission recommends approval of Vesting Tentative Map 03-2020 dated June 7, 2021 and prepared by Benchmark Engineering, Inc. and modified by adopted Conditions of Approval, and incorporated herein as a part of this City Council Resolution; and

WHEREAS, The City Council of the City of Riverbank hereby finds and adopts the following findings:

1. The proposed map is consistent with applicable general and specific plans:

2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
3. The site is physically suitable for the type of development.
4. The site is physically suitable for the proposed density of the development.
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.
6. The design of the subdivision or the type of improvements is not likely to cause serious public 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.

Whereas, Vesting Tentative Map 03-2020 is hereby approved, 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 Community Facilities District 2016-01 (currently in process), or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and

2. The project storm drainage shall be sized to manage the storm water from Central Avenue, Kentucky Avenue, and Courts A and B together with all lots. Sizing shall be based on percolation rates; and

3. The basin is not likely to be an interim basin since there is no provision currently for a regional basin. (Tentative Map Note 7). Remove all reference to an interim basin and remove the lot lines for lots 23-25 and make them a City Standard basin design; and

4. All wells and septic tanks shall be abandoned as a condition of map approval; and

5. A 12-inch waterline in Kentucky Avenue is required to be connected at Central Avenue and tie into Claus Road; and

6. Water valves shall be installed at all three legs of the water cluster; and

7. Three (3) sets of landscape and irrigation plans conforming to the state's MWELO requirements shall be prepared and submitted with fee for review and approval by the City's contract landscape architect before Final Map. The storm basin shall be fully landscaped and slope protection provided; and

8. The City's Post Construction Standards Plan needs to be followed including DMA's LID standards, and the required worksheets located in the Appendix of the document. The document is available on the City's website; and

9. The location of OID facilities shall be shown and any proposed relocation or improvements including easements; and

10. All existing overhead electrical shall be placed underground; and

11. Applicant shall pay an in-lieu fee for parkland dedication based on values of land at the time the Final Map is recorded. The obligation for this project is the value of 0.16 acres; and

12. All wet utilities are to be cleaned, tested, and videotaped prior to acceptance by the City of Riverbank; and

13. Street names shall be approved by City Council on the Final Map; and

14. An automatic fire system shall be provided for all Group R occupancies. **CFC 903.2.8;** and

15. Buildings shall be provided with proper address identification in accordance with the California Fire Code as amended by the Stanislaus Consolidated Fire Protection District. **CFC 505.1**; and

16. Approved fire apparatus access roads shall be provided for every facility, building, or portion of a building hereafter constructed or moved into the jurisdiction. All fire apparatus access roads shall meet the design requirements of the California Fire Code. **CFC 503.1.1**; and

17. During construction, Fire apparatus access roads shall be clearly marked with notices or markings that include the words NO PARKING – FIRE LANE. The markings shall be clean and legible at all times. **CFC 503.3**; and

18. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the site. **CFC 507.1**; and

19. Fire apparatus access roads and a water supply for fire protection shall be installed and made serviceable prior to and during the time of construction. **CFC 501.4**; and

20. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two (2) times per day; and

21. All haul trucks transporting soil, sand, or other loose material off-site shall be covered; and

22. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited; and

23. All vehicle speeds on unpaved roads shall be limited to fifteen (15) miles per hour; and

24. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binding are used; and

25. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes. Clear signage shall be provided for construction workers at all access points; and

26. All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified visible emissions evaluator; and

27. Post a publicly visible sign with the telephone number and person to contact at the Air District regarding dust complaints. The Air District shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations; and

28. Applicant shall comply with San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review; and

29. If potential human remains are encountered, the construction contractor shall halt work in the vicinity (within 100 feet) of the find and contact the City of Riverbank. The project applicant and/or contractor shall be required to contact the Stanislaus County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5, If the coroner determines the remains are Native American, the coroner would contact the Native American Heritage Commission (NAHC). As provided in Public Resources Code Section 5097.98, the NAHC would identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98; and

30. Consistent with the requirements of the City of Riverbank Municipal Code, the National Pollutant Discharge Elimination System (NPDES) Construction General Permit, the project applicant shall prepare and implement a Storm Water Pollution

Prevention Plan (SWPPP) designed to reduce potential adverse impacts on surface water quality through the project construction period. The SWPPP shall be designed to address the following objectives:

a. All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity, are controlled using source control and treatment control best management practices (BMPs).
b. Where not otherwise permitted by the Regional Water Quality Control Board, all non-stormwater discharges are identified and eliminated.
c. BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity in accordance with the Construction General Permit; and

31. The project applicant shall fully comply with the City of Riverbank Municipal Code and all Regional Water Quality Control Board stormwater permit requirements, including Provision C.3 of the Municipal Regional Permit (MRP). This will require preparation and implementation of a complete Stormwater Control Plan (SCP) for the project, which shall be submitted to the City Engineer for review and approval prior to any construction activity. The SCP shall act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with the operation of the proposed project and shall be designed to comply with both MRP and City of Riverbank requirements. At a minimum, the SCP for the project shall include the following:

    a. An inventory and accounting of existing and proposed impervious areas.
    b. Low Impact Development (LID) design details incorporated into the project. Specific LID design details may include but are not limited to rain gardens, bio retention areas, pervious pavements, harvesting and reuse of stormwater, dispersal of runoff to landscaped areas, and/or routing of runoff swales and other small-scale facilities distributed throughout the site.
    c. Measures to address potential stormwater contaminants. These may include measures to address potential sources of stormwater pollutants at the project site, covering trash collection and parking areas.
    d. A Draft Stormwater Facility Operation and Maintenance Plan for the project site, which shall include periodic inspection and maintenance of the storm drainage system. Persons responsible for performing and funding the requirements of this plan shall be identified. This plan shall be finalized prior to the issuance of any building permits for the project; and

32. Construction equipment shall be well maintained to be as quiet as possible. The following measures, when applicable, shall be implemented to reduce noise from

construction activities:

a. All internal combustion engine-driven equipment shall be equipped with mufflers that are in good condition and appropriate for the equipment.
b. “Quiet” models of air compressors and other stationary noise sources shall be used, where technology exists.
c. Stationary noise-generating equipment shall be located as far as feasible from sensitive receptors (neighboring dwellings).
d. Unnecessary idling of internal combustion engines shall be prohibited.
e. Staging areas and construction material storage areas shall be located as far away as possible from adjacent sensitive land uses (neighboring dwellings).
f. Construction-related traffic shall be routed along major roadways (Claus Road and Kentucky Avenue) and as far as feasible from sensitive receptors.
g. Residences or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing. The construction contractor shall designate a “construction liaison” that would be responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and shall institute reasonable measures to correct the problem. The construction contractor shall conspicuously post a telephone number for the liaison at the construction site.
h. The construction contractor shall hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and construction liaison) are completed.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Riverbank that Vesting Tentative Map Application No. 03-2020 is approved, subject to the aforementioned conditions established by this Resolution, and to be built as illustrated in **Exhibit A** attached hereto entitled Vested Tentative Subdivision Map – Countryside Phase 3, dated June 7, 2021, and the adoption of Ordinance No. 2021-(TBD).

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of September 2021; motioned by Councilmember ______, seconded by Councilmember ______, and upon roll call was carried by the following vote of ___:

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:

____
Annabelle Aguilar, CMC
City Clerk

APPROVED:

____
Richard D. O'Brien
Mayor

Attachment: Exhibit A – Vesting Tentative Map 03-2020

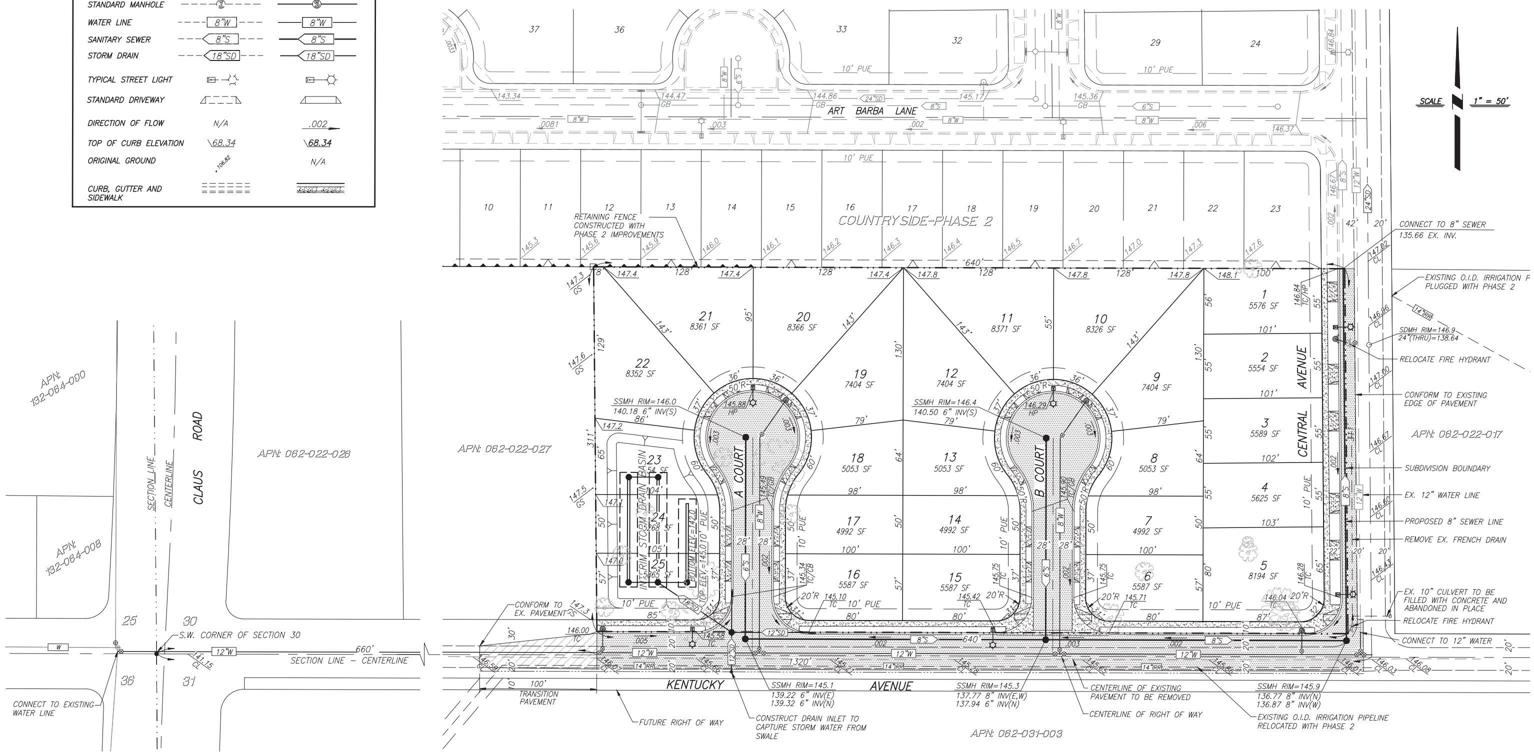
VESTING TENTATIVE SUBDIVISION MAP

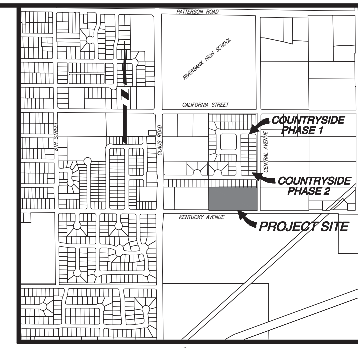
COUNTRYSIDE - PHASE 3

BEING SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER
OF THE SOUTHWEST QUARTER OF SECTION 30, T.2S., R.10E.,
MOUNT DIABLO BASE AND MERIDIAN
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

LEGEND

	EXISTING	PROPOSED
WATER VALVE		
FIRE HYDRANT		
BLOWOFF VALVE		
DRAIN INLET		
STANDARD MANHOLE		
WATER LINE	8"W	8"W
SANITARY SEWER	8"S	8"S
STORM DRAIN	18"SD	18"SD
TYPICAL STREET LIGHT		
STANDARD DRIVEWAY		
DIRECTION OF FLOW	N/A	.002
TOP OF CURB ELEVATION	68.34	68.34
ORIGINAL GROUND	106.40	N/A
CURB, GUTTER AND SIDEWALK		





VICINITY MAP

N.T.S.

OWNERS

PRAWEE SONGSATERM
BRYAN AND CAITLIN BOTTINI
162 SOUTH SONRISA STREET
MOUNTAIN HOUSE, CA 95391

SUBDIVIDER

McROY-WILBUR COMMUNITIES, INC.
2909 COFFEE ROAD, SUITE 12A
MODESTO, CA 95355
(209) 491-5450

STATEMENT OF SUBDIVIDER

1 ASSESSORS PARCEL NO: 062-022-020
2 EXISTING ZONING: R-1
3 PROPOSED ZONING: PD
4 EROSION CONTROL PER CITY OF RIVERBANK ORDINANCES AND STANDARDS.
5 FRONT YARD DEPTHS AND BUILDING LINES PER CITY OF RIVERBANK ORDINANCES AND STANDARDS.
6 WATER SUPPLY: CITY OF RIVERBANK.
7 SEWAGE DISPOSAL: CITY OF RIVERBANK.
8 STORM DRAINAGE: CITY OF RIVERBANK.
9 EROSION CONTROL PER CASQA STANDARDS AND CITY OF RIVERBANK.
10 TREE TYPE AND LOCATION SHALL BE DETERMINED BY CITY OF RIVERBANK.
11 ALL IMPROVEMENTS AND PUBLIC FACILITIES WILL BE INSTALLED OR CONSTRUCTED AT THE TIME OF DEVELOPMENT. ALL IMPROVEMENTS SHALL BE CONSTRUCTED IN COMPLIANCE WITH THE MUNICIPAL CODE, REGULATIONS, AND RIVERBANK CITY STANDARDS.
10 A GENERAL PLAN AMENDMENT (GPA) AND REZONE APPLICATION HAS BEEN FILED CONCURRENTLY WITH THIS MAP.

NOTES:

1 STREET IMPROVEMENTS SHALL BE INSTALLED PER CITY OF RIVERBANK STANDARD SPECIFICATIONS.
2 ALL EXISTING WELLS AND SEPTIC TANKS SHALL BE REMOVED AND/OR ABANDONED AS PER STANISLAUS COUNTY ENVIRONMENTAL RESOURCES DEPT. STANDARDS
3 ALL BUILDINGS, STRUCTURES AND TREES SHALL BE REMOVED PRIOR TO DEVELOPMENT.
4 QUITCLAIM AND ABANDONMENT OF OID'S PIPELINES WILL BE CONSIDERED BY OID ONLY AFTER THE PROPOSED PRIVATE IRRIGATION PIPELINE ALONG THE SOUTH SIDE OF KENTUCKY AVENUE IS INSTALLED.
5 THE SITE IS BASICALLY FLAT WITH SOME MOUNDING.
6 EXISTING IMPROVEMENTS SHOWN WERE ACQUIRED FROM RECORD INFORMATION AND SHALL BE VERIFIED IN THE FIELD.
7 TOTAL AREA OF THIS SUBDIVISION IS 4.56 ACRES± (5.48 UNITS/NET ACRE) CONTAINING 25 RESIDENTIAL LOTS WITH 3 LOTS BEING UTILIZED FOR AN INTERIM STORM DRAINAGE BASIN.
8 THE SUBDIVIDER HERBY RESERVES THE RIGHT TO FILE MULTIPLE SUBDIVISION MAPS AS SET FORTH BY THE SUBDIVISION MAP ACT, ARTICLE 4, SECTION 66456.1.

VOLUME CALCULATION:

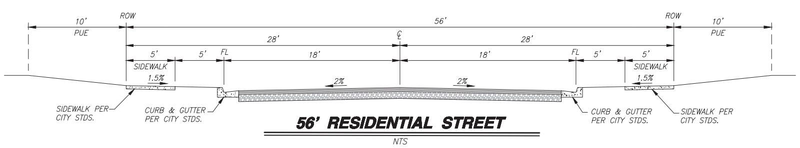
VOLUME (AC. FT.) = CAR/12
C = 0.55
A = 5.32 ACRES R = 2.88 IN
V = (0.55 X 5.32 X 2.88) / 12
V = 0.70224 AC. FT.
V = 0.70224 AC. FT. X 43,560 S.F. = 30,590 C.F.
V = 30,590 C.F. = 228,810 GAL

BASIN CAPACITY CALCULATION:

TOTAL VOLUME REQUIRED: V = 30,590 C.F. = 228,810 GAL
BASIN VOLUME: (8,459 SF BOTTOM + 10,448 SF HW) / 2 = 9,454 S.F. (AVG)
: 9,454 SF X 2' DEEP = 18,907 C.F.
HORIZONTAL DRAIN VOLUME: (271 L.F. PERC TRENCH X 15' WIDE X 8' DEEP) = 32,520 C.F.
DEDUCT 24" PIPE = 3.14 X 1^2 X 247 L.F. = 776 C.F. FROM 32,520 C.F. = 31,744 C.F.
DRAIN ROCK CAPTURE VOLUME: 31,744 C.F. X 0.35(ROCK VOIDS) = 11,110 C.F.
HORIZONTAL DRAIN SYSTEM CAPTURE VOLUME = 11,886 C.F.
TOTAL CAPTURE VOLUME = 30,793 C.F. = 230,332 GAL

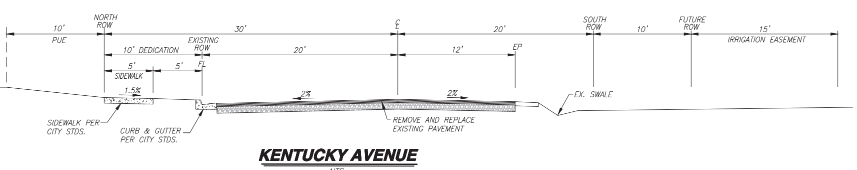
BASIN PERCOLATION CALCULATION:

TOTAL VOLUME REQUIRED: V = 228,810 GAL
PERCOLATION RATE: 12.82 GAL/S.F./DAY (AVERAGE)
: 6.41 GAL/S.F./DAY (SAFETY FACTOR OF 2)
BASIN VOLUME PERCOLATED: 6.41 GAL/S.F./DAY X 9,454 S.F. = 60,600 GAL/DAY
DRAIN ROCK AREA: A_{DR} = BOTTOM AREA + HALF OF SIDE AREAS
: A_{DR} = [8 L.F. + 15 L.F. + 8 L.F.] X 271 L.F.
: A_{DR} = 8,401 S.F.
HORIZONTAL DRAIN PERCOLATION: 8,401 S.F. x 6.41 GAL/S.F./DAY
: 53,850 GAL/DAY
TOTAL PERCOLATION PER DAY: 114,450 GAL/DAY
TOTAL PERCOLATION VOLUME IN 48HR: 228,901 GAL



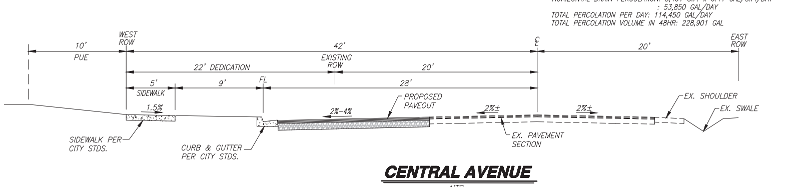
56' RESIDENTIAL STREET

NTS



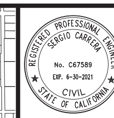
KENTUCKY AVENUE

NTS



CENTRAL AVENUE

NTS



PREPARED UNDER THE DIRECTION OF:

NO	DESCRIPTIONS	DATE	APPROVED
REVISIONS			DATE:

BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
915 17th STREET • MODESTO, CALIFORNIA • 95354
(209) 548-9300 FAX:(209) 548-9305

VESTING TENTATIVE SUBDIVISION MAP

COUNTRYSIDE - PHASE 3
RIVERBANK, CALIFORNIA

JOB NO. 141607
DATE 06/07/2021
DR BY DH/MR
CK BY RM
SCALE AS SHOWN

SHEET NUMBER
1
OF 1 SHEETS

FILE: K:\141607\Planning\VTSM\VTSM-25 LOTS.dwg

City of Riverbank
Planning Commission
Resolution No. 2021-012

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF ORDINANCE NO. 2021-TBD TO REZONE 4.6± ACRES, KNOWN AS COUNTRYSIDE III TO PLANNED DEVELOPMENT, LOCATED AT 4131 KENTUCKY AVENUE APN: 062-022-020

WHEREAS, an application has been received from McRoy Wilbur Communities, with a proposal to subdivide approximately 4.6± acres into twenty-two (22) single family and three (3) remainder lots which allows for a net density of zero to eight (0-8) dwelling units per acre; and

WHEREAS, the project site is currently zoned Single Family Residential (R-1) with a General Plan Land Use designation of Low Density Residential (LDR); and

WHEREAS, the applicant is proposing to rezone the property to Planned Development (PD) from Single Family Residential (R-1); and

WHEREAS, the Planning Commission held a public hearing on August 17, 2021, to consider Rezone 01-2020; and

WHEREAS, notice of the public hearing on the Rezone was published in the *Riverbank News*, a newspaper of general circulation on August 4, 2021; and

WHEREAS, notices of the public hearing on the Rezone were mailed to all property owners within three hundred (300) feet of the property, according to the most recent assessor's roll, on August 4, 2021; and

WHEREAS, the Planning Commission has reviewed the proposed Rezone and conducted a public hearing on August 17, 2021 in the manner prescribed by law; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE NO. 2021-XXX, REZONING 4.6± ACRES TO PLANNED DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED HEREIN BY THIS REFERENCE, BASED ON THE FOLLOWING FINDINGS:

1. <u>Pursuant to California Government Code Section 65855</u>, the recommendation to City Council shall include the relationship to the applicable general or specific plan.
    a. The property identified in this action has a General Plan Land Use Designation of Low Density Residential (LDR) and a current zoning of Single Family Residential (R-1). The project proposes a Rezone to Planned Development (PD).

b. The proposed Rezone to PD will continue the consistency between the General Plan and Zoning Code, pursuant to Government Code Section 65860.

2. Each individual unit of the development can be built in stages, as well as the total development, and can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development.

3. The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect.

4. Deviations from the standard ordinance requirements is warranted by the shape of the small lot and additional amenities are incorporated in the development which offer certain redeeming features to compensate for any deviations that may be permitted.

5. The principles incorporated in the proposed development identify unique characteristics which could not otherwise be achieved under other zoning districts.

6. The PD rezone was not initiated by the City, so the findings above are required.

Constitutionality, severability. 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 Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, or 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.

The City finds that the Project is exempt pursuant to CEQA Guidelines Section 21159.21 (a-j) Exemption for Qualified Housing Projects. The project is consistent with the (a) General Plan and its (b) EIR, (c) existing utility services are available to serve the project, (d) the project has no wetlands or value as wildlife habitat, (e) the project site is not on any environmental clean-up list, (f) the site and surrounding properties do not have the potential of exposure to future residents of hazardous substances, (g) the project will not have a significant effect on historical resources, (h) the site is not within an earthquake fault zone or subject to wildland fires, landslides or flooding, (i) the site is not within a developed open space area, and (j) the site is not located within the boundaries of a state conservancy.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a meeting held on the 17th of August, 2021; motioned by Commissioner Dinan, seconded by Commissioner Link, and upon roll call was carried by the following vote of 5-0:

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

NOES:

ABSENT:

ABSTAIN:

Attest: **Approved:**

Donna M. Kenney *Joan Stewart*

Donna M. Kenney
Planning and Building Manager

Joan Stewart, Chairperson
Planning Commission

Attachment: **Exhibit A** – Draft City Council Ordinance No. 2021-XXX

City of Riverbank
Planning Commission
Resolution No. 2021-013

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK RECOMMENDING APPROVAL OF THE REQUEST OF MCROY WILBUR COMMUNITIES FOR VESTING TENTATIVE MAP 03-2020 TO SUBDIVIDE 4.6± ACRES INTO 22 PLANNED DEVELOPMENT SINGLE FAMILY RESIDENTIAL LOTS AND 3 REMAINDER LOTS, LOCATED AT 4131 KENTUCKY AVENUE APN: 062-022-020

WHEREAS, an application has been received from McRoy Wilbur Communities, with a proposal to subdivide approximately 4.6± acres into twenty-two (22) single family and three (3) remainder lots which allows for a net density of zero to eight (0-8) dwelling units per acre; and

WHEREAS, the City Subdivision Ordinance, Section 152.037 states that as a condition of approval of a vesting 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 0.19 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 vesting tentative map is consistent with the following General Plan policies discussed in the staff report: DESIGN-2.4 (minimum dimensions), DESIGN-2.5 (streetscapes), DESIGN-3.1 (continuity), DESIGN-3.2 (pedestrian-friendly), DESIGN-3.5 (small lot minimization), DESIGN 5.2 (eyes on the street), CONS-4.2 (stormwater), CONS-8.6 (compact development), CONS-8.9 (drought-tolerant landscape), and SAFE 2.2 (fire protection); and

WHEREAS, Vesting Tentative Map 03-2020 was reviewed by the Riverbank Planning Commission at a regular meeting held on August 17, 2021 in the manner prescribed by law; and

WHEREAS, The Riverbank Planning Commission recommends approval of the requested Vesting Tentative Map dated June 7, 2021 prepared by Benchmark 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. The City finds that Pursuant to the California Environmental Quality Act, the proposed Vesting Tentative Map is exempt from additional environmental analysis pursuant to CEQA Guidelines Section 21159.21 (a-j) Exemption for Qualified Housing Projects. The project is consistent with the (a) General Plan and its (b) EIR, (c) existing utility services are available to serve the project, (d) the project has no wetlands or value as wildlife habitat, (e) the project site is not on any environmental clean-up list, (f) the site and surrounding properties do not have the potential of exposure to future residents of hazardous substances, (g) the project will not have a significant effect on historical resources, (h) the site is not within an earthquake fault zone or subject to wildland fires, landslides or flooding, (i) the site is not within a developed open space area, and (j) the site is not located within the boundaries of a state conservancy.

D. The approval of Vesting Tentative Map 03-2020 to divide parcel APN 062-022-020 of 4.6± acres, into 22 single family and 3 remainder 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 Community Facilities District 2016-01 (currently in process), or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and

2. The project storm drainage shall be sized to manage the storm water from Central Avenue, Kentucky Avenue, and Courts A and B together with all lots. Sizing shall be based on percolation rates; and

3. The basin is not likely to be an interim basin since there is no provision currently for a regional basin. (Tentative Map Note 7). Remove all reference to an interim basin and remove the lot lines for lots 23-25 and make them a City Standard basin design; and

4. All wells and septic tanks shall be abandoned as a condition of map approval; and

5. A 12-inch waterline in Kentucky Avenue is required to be connected at Central Avenue and tie into Claus Road; and

6. Water valves shall be installed at all three legs of the water cluster; and

7. Three (3) sets of landscape and irrigation plans conforming to the state's MWELO requirements shall be prepared and submitted with fee for review and approval by the City's contract

landscape architect before Final Map. The storm basin shall be fully landscaped and slope protection provided; and

8. The City's Post Construction Standards Plan needs to be followed including DMA's LID standards, and the required worksheets located in the Appendix of the document. The document is available on the City's website; and

9. The location of OID facilities shall be shown and any proposed relocation or improvements including easements; and

10. All existing overhead electrical shall be placed underground; and

11. Applicant shall pay an in-lieu fee for parkland dedication based on values of land at the time the Final Map is recorded. The obligation for this project is the value of 0.16 acres; and

12. All wet utilities are to be cleaned, tested, and videotaped prior to acceptance by the City of Riverbank; and

13. Street names shall be approved by City Council on the Final Map; and

14. An automatic fire system shall be provided for all Group R occupancies. **CFC 903.2.8;** and

15. Buildings shall be provided with proper address identification in accordance with the California Fire Code as amended by the Stanislaus Consolidated Fire Protection District. **CFC 505.1**; and

16. Approved fire apparatus access roads shall be provided for every facility, building, or portion of a building hereafter constructed or moved into the jurisdiction. All fire apparatus access roads shall meet the design requirements of the California Fire Code. **CFC 503.1.1**; and

17. During construction, Fire apparatus access roads shall be clearly marked with notices or markings that include the words NO PARKING – FIRE LANE. The markings shall be clean and legible at all times. **CFC 503.3**; and

18. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the site. **CFC 507.1**; and

19. Fire apparatus access roads and a water supply for fire protection shall be installed and made serviceable prior to and during the time of construction. **CFC 501.4**; and

20. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two (2) times per day; and

21. All haul trucks transporting soil, sand, or other loose material off-site shall be covered; and

22. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited; and

23. All vehicle speeds on unpaved roads shall be limited to fifteen (15) miles per hour; and

24. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binding are used; and

25. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes. Clear signage shall be provided for construction workers at all access points; and

26. All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified visible emissions evaluator; and

27. Post a publicly visible sign with the telephone number and person to contact at the Air District regarding dust complaints. The Air District shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations; and

28. Applicant shall comply with San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review; and

29. If potential human remains are encountered, the construction contractor shall halt work in the vicinity (within 100 feet) of the find and contact the City of Riverbank. The project applicant and/or contractor shall be required to contact the Stanislaus County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5, If the coroner determines the remains are Native American, the coroner would contact the Native American Heritage Commission (NAHC). As provided in Public Resources Code Section 5097.98, the NAHC would identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98; and

30. Consistent with the requirements of the City of Riverbank Municipal Code, the National Pollutant Discharge Elimination System (NPDES) Construction General Permit, the project applicant shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential adverse impacts on surface water quality through the project construction period. The SWPPP shall be designed to address the following objectives:
    a. All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity, are controlled using source control and treatment control best management practices (BMPs).
    b. Where not otherwise permitted by the Regional Water Quality Control Board, all non-stormwater discharges are identified and eliminated.
    c. BMPs are effective and result in the reduction or elimination of pollutants in stormwater

discharges and authorized non-stormwater discharges from construction activity in accordance with the Construction General Permit; and

31. The project applicant shall fully comply with the City of Riverbank Municipal Code and all Regional Water Quality Control Board stormwater permit requirements, including Provision C.3 of the Municipal Regional Permit (MRP). This will require preparation and implementation of a complete Stormwater Control Plan (SCP) for the project, which shall be submitted to the City Engineer for review and approval prior to any construction activity. The SCP shall act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with the operation of the proposed project and shall be designed to comply with both MRP and City of Riverbank requirements. At a minimum, the SCP for the project shall include the following:

    a. An inventory and accounting of existing and proposed impervious areas.
    b. Low Impact Development (LID) design details incorporated into the project. Specific LID design details may include but are not limited to rain gardens, bio retention areas, pervious pavements, harvesting and reuse of stormwater, dispersal of runoff to landscaped areas, and/or routing of runoff swales and other small-scale facilities distributed throughout the site.
    c. Measures to address potential stormwater contaminants. These may include measures to address potential sources of stormwater pollutants at the project site, covering trash collection and parking areas.
    d. A Draft Stormwater Facility Operation and Maintenance Plan for the project site, which shall include periodic inspection and maintenance of the storm drainage system. Persons responsible for performing and funding the requirements of this plan shall be identified. This plan shall be finalized prior to the issuance of any building permits for the project; and

32. Construction equipment shall be well maintained to be as quiet as possible. The following measures, when applicable, shall be implemented to reduce noise from construction activities:

    a. All internal combustion engine-driven equipment shall be equipped with mufflers that are in good condition and appropriate for the equipment.
    b. “Quiet” models of air compressors and other stationary noise sources shall be used, where technology exists.
    c. Stationary noise-generating equipment shall be located as far as feasible from sensitive receptors (neighboring dwellings).
    d. Unnecessary idling of internal combustion engines shall be prohibited.
    e. Staging areas and construction material storage areas shall be located as far away as possible from adjacent sensitive land uses (neighboring dwellings).
    f. Construction-related traffic shall be routed along major roadways (Claus Road and Kentucky Avenue) and as far as feasible from sensitive receptors.
    g. Residences or noise-sensitive land uses adjacent to construction sites shall be notified of

the construction schedule in writing. The construction contractor shall designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and shall institute reasonable measures to correct the problem. The construction contractor shall conspicuously post a telephone number for the liaison at the construction site.

h. The construction contractor shall hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and construction liaison) are completed.

NOW THEREFORE, BE IT RESOLVED the City of Riverbank Planning Commission recommends for approval Vesting Tentative Map No. 03-2020 (**Exhibit A**), subject to these Conditions of Approval established by Resolution No. 2021-013 and to be recorded as modified.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a meeting held on the 17th of August, 2021; motioned by Commissioner Dinan, seconded by Commissioner Link, and upon roll call was carried by the following vote of 5-0:

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

NOES:

ABSENT:

ABSTAIN:

Attest:	**Approved:**
Donna M. Kenney	*Joan Stewart*
Donna M. Kenney Planning and Building Manager	Joan Stewart, Chairperson Planning Commission

Attachment: **Exhibit A** – Vesting Tentative Map 03-2020

City of Riverbank
Planning Commission
Resolution No. 2021-014

APPROVAL OF ARCHITECTURE SITE PLAN REVIEW 05-2021
FOR COUNTRYSIDE III LOCATED AT 4131 KENTUCKY AVENUE
APN: 062-022-020

WHEREAS, an Architecture and Site Plan Review application has been received from McRoy Wilbur Communities, Inc with a proposal for twenty-two (22) single family dwelling units within the Countryside III subdivision located at Kentucky Avenue and Central Avenue (APN: 062-022-020); and

WHEREAS, the Planning Commission held a public hearing on August 17, 2021, to consider Architecture and Site Plan Review 05-2021 and take public comment; and

WHEREAS, the architectural review of structures for an approved subdivision is not a Project pursuant to CEQA Guidelines; and

WHEREAS, the Riverbank Planning Commission made the following findings:

1. The proposed project, together with the provisions for its design and improvements, is consistent with the goals, policies, program and uses of the General Plan.

2. The proposed Architecture and Site Plan Review along with the Conditions of Approval is in conformity with both the intent and provisions of the Zoning Ordinance, Title 153, of the City of Riverbank Code of Ordinances.

WHEREAS, the proposed project is consistent with the following aspects of the General Plan:

1. Policy Design-3.2: Approved plans, projects, and subdivision requests shall provide residential site and building design that contributes to an attractive pedestrian friendly environment along neighborhood streets. *The developer has provided residential building designs with garage placements that are varied to prevent monotonous streetscapes and a pedestrian friendly environment.*

2. Policy Design-4.2: Approved projects, plans and subdivisions shall provide diversity among dwelling units in the use of color, building materials, floor plan lay-outs, square footages, and roof-lines. Approved projects, plans, and subdivision requests shall maintain continuity of a few overall urban design features to provide context between individual units and the neighborhood. *The developer has provided five (5) models, three (3) variations (Farmhouse, Craftsman, and*

Cottage) and twelve (12) color schemes to provide diversity among the dwelling units. The dwellings will vary in the use of color, building materials, floor plan lay-outs, square footages, roof-lines, and architectural details. These details may include shutters, flower boxes, pillars, decorative vents, brick, rock, shake shingles, accent windows, and foam trim.

3. Policy Design-5.2: The City will encourage the use of porches, stoops, and other elements that provide a place to comfortably linger and thereby "provide eyes on the street," helping to maintain a sense of security within neighborhoods. *The developer has provided a street-facing window and small front porch for each unit. Mailboxes will be installed in a heavy use area.*

WHEREAS, the plans and elevations of McRoy Wilbur Communities, Inc are hereby granted and approved, subject to the following conditions:

1. Applicant shall comply with the City of Riverbank Standard Conditions as contained in the Planning Commission Resolution 2013-014 and/or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the project; and
2. The applicant shall build the entire project according to the site plans and elevations on file with the Community Development Department and as presented to the Planning Commission as part of this action; and
3. The Community Development Director shall approve block walls and fencing; and
4. An application, plans, and current fee shall be submitted for the approval of landscaping and irrigation; and
5. A Subdivision Improvement Agreement shall be signed and submitted to the Community Development Director before Final Map adoption; and
6. Street names shall not be final until Final Map adoption;
7. Any subdivision signage shall be approved under separate permit.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission that Architecture and Site Plan Review 05-2021 is hereby approved, subject to those conditions established by Resolution No. 2021-014 and as illustrated in **Exhibit "A"** Site Plans and Elevations.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a meeting held on the 17th of August, 2021; motioned by Commissioner Dinan, seconded by Commissioner Link, and upon roll call was carried by the following vote of 5-0:

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

NOES: None

ABSENT: None

ABSTAIN: None

Attest:

Donna M. Kenney

Donna M. Kenney,
Planning and Building Manager

Approved:

Joan Stewart

Joan Stewart, Chairperson
Planning Commission

Attachment: **Exhibit A** – Site Plan and Elevations

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 10.3

SECTION 10: PUBLIC HEARINGS

Meeting Date:	September 14, 2021
Subject/ Title:	First Reading by Title Only and Introduction of a Proposed **Ordinance** Approving the Rezone of 5.9 ± Acres to Planned Development, Located At 6448 Claus Road (Apn 062-020-001) – A Project Known as The Heritage Collection; and A **Resolution** Approving Tentative Map 01-2021 for SCM Hearthstone, LLC, Located At 6448 Claus Road (Apn 062-020-001) – A Project Known as The Heritage Collection
From:	Sean Scully, City Manager
Submitted by:	Gabriel R. Salazar, Associate Planner

RECOMMENDATION

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval, which initiates the second reading at the September 28, 2021, regular City Council meeting or soon thereafter to consider its adoption, and by separate roll call vote adopt the proposed resolution for the planned development project.

SUMMARY

The proposed project consists of Rezone 01-2021 (to Planned Development) and Tentative Map 01-2021 to subdivide a parcel of approximately 12.27 acres into forty-seven (47) single-family residential lots and associated street improvements. The project site is 6448 Claus Road (APN: 062-020-001) which currently has a General Plan Land Use designation of Medium Density Residential (MDR) and is currently zoned General Commercial (C-2). The applicant is applying for a rezone to Planned Development because the proposed lots are smaller than the minimum lot size standard for the R-1 Single-Family zoning district.

BACKGROUND

The total area of the site is approximately 12.27 acres with a proposed density of 5.78 units/net acre. The project site is situated on the eastern side of Riverbank and is bounded by the Diamond Bar West subdivision to the north; a ranchette to the east across Central Avenue; the railroad tracks to the south with Riverbank High School across Patterson Road; and the remainder parcel to the west with single-family residential across Claus Road. The formal address of the proposed project site is 6448 Claus Road. The project site is comprised of undeveloped land.

The developer had previously submitted applications for Vesting Tentative Map 01-2005 and Conditional Use Permit 01-2005 for 139 clustered "pull-apart" single-family residential lots, ranging in size from 964 square feet to 1,776 square feet, and an open space lot. The Conditional Use Permit was approved by the Planning Commission with Resolution 2005-008 on March 15, 2005 and they recommended approval of the map to the City Council on the same day. Vesting Tentative Map 01-2005 was approved under Resolution 2005-089 by the City Council on June 13, 2005. At the time, the Council also accepted a $10,000 payment for a Downtown Fund in order to assist with investment into the downtown business community, since the proposed project eliminated and minimized the availability of vacant commercial land on the east side. Due to the economic recession of 2008, the project was unable to move forward for development, and the entitlements expired. The tentative map expired on June 13, 2008.

The Project is located within the Bruinville Public Facilities Master Plan ("Master Plan") area. The Master Plan called for the formation of a Public Safety Community Facilities District. The City formed Community Facilities District ("CFD") 2016-01, which includes public safety, parks and landscaping maintenance, storm drainage system maintenance, and street maintenance. Conditions of Approval require the Heritage Collection to annex into CFD 2016-01. An annexation application has not yet been received and is a condition of project approval.

On August 17, 2021, the Planning Commission adopted Resolution 2021-015 (Attachment 3) to recommend to the City Council the approval of a Rezone to Planned Development for the site and they adopted Resolution 2021-016 to recommend the approval of Tentative Map No. 01-2021. The Planning Commission then adopted Resolution 2021-017 to approve Architecture and Site Plan Review 02-2021 for The Heritage Collection at Sierra Street.

ANALYSIS

A. Rezone 01-2021

The developer is requesting relief from Single Family Residential (R-1) standards through rezoning the property as Planned Development ("PD"). A PD allows the developer flexibility in presenting a project where they may not meet all of the development standards of the existing zoning district and in lieu provide additional amenities for the subdivision.

The Table provides information comparing the existing low-density residential zoning development standards and the proposd PD standards. The project differs to the LDR standards in the following five areas: lot size, lot width, lot depth, density and local street width. These development standards with a lower minimum than the minimum standards of the R-1 zone are denoted with a (*):

Type of Standard	LDR Zoning Standards	Proposed The Heritage Collection PD Standards
Lot Size	**6,000 square feet minimum**	**3,200 square feet minimum ***
Lot Width	**60/65 feet minimum**	**43/50 feet minimum ***
Lot Depth	**100 feet minimum**	**83 feet minimum***
Density	**8 units per net acre**	**8.13 units per net acre***
Height	35 feet maximum	27’-1”
Front Setback	10 feet minimum	10 feet minimum
Garage Setback	20 feet minimum	20 feet minimum
Side Setback	5 feet minimum	5 feet minimum
Rear Setback	5 feet minimum	10 feet minimum
Lot Coverage	50% maximum	50% maximum
Accessory Height	15 feet maximum	15 feet maximum
Local Street Width	**64 feet**	**50 feet minimum ***
Sidewalks	Both sides of street	Both sides of street
Onsite Parking	2 covered spaces	2 covered spaces
Street Parking	Both sides of street	Both sides of street

The average minimum lot size within the project is 3,320 square feet. The proposed lot coverage for the lots is fifty (50) percent. The majority of the lots comply with the fifty (50) percent maximum threshold with the exception of two lots (42 and 43).

Pursuant to RMC section 153.162 (E)(3), staff has requested that the developer offer amenities to compensate the neighborhood for deviating from the minimum standards above. These amenities could include enhanced landscaping, a colored concrete or brick crosswalk, upgraded front doors and garage doors, decorative wrought iron fencing in the front, open space furniture, French doors instead of sliders, community art, etc. Other suggestions to staff would be considered. The developer proposes the following amenities for the PD: (1) upgraded garage doors, (2) decorative garage lighting, and (3) colored pavement at crosswalks of the subdivision. Two more amenities will be negotiated by staff to accommodate the five (5) deviations from R-1 zoning.

Per Riverbank Municipal Code section 153.161 (A), no combination of parcels less than one (1) acre in size may be rezoned PD. The parcel proposed for development in this project totals approximately 4.56 acres. Therefore, the project meets this requirement.

Rezone Findings

The City Council may approve, conditionally approve, or deny the rezone to PD. To approve, the project must meet the required findings of fact:

1. Each individual unit of the development if built in stages, as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the

total development. *The development could be built in stages and exist as independent units capable of creating a good environment.*

2. The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect. *The site is currently undeveloped land. A new subdivision will reduce any blighted conditions on the property as well as add to the diverse housing stock the City has to offer to potential new residents.*

3. Any deviation from the standard ordinance requirements is warranted by the unusual design and additional amenities incorporated in the development plan which offers certain redeeming features to compensate for any deviations that may be permitted. *Amenities proposed by the developer and staff for the deviations from R-1 include upgraded garage doors, decorative garage lighting, and pavers or colored pavement at the crosswalks of the proposed subdivision.*

4. The principles incorporated in the proposed plans identify unique characteristics which could not otherwise be achieved under other zoning districts. *The combined size and shape of the property was inadequate to design standard size lots and accommodate streets. Smaller lots cannot be achieved under other zoning districts.*

5. Where a PD rezone is initiated by the City, the previous findings are not required. *This PD was not initiated by the City.*

B. Tentative Map 01-2021

A rezone to Planned Development must be approved by the City Council before a Tentative Map on that property can be approved. A "vesting" map is used in place of a Development Agreement and provides engineering information beyond what a normal tentative map shows (grading elevations, utility line sizes etc).

Tentative Map 01-2021 (Attachment 2 Exhibit A) is a proposed small lot single-family residential subdivision. The lot sizes are below the R-1 standard size of 6,000 square feet. Therefore, the applicant is applying for a rezone to PD which accommodates the proposed the lots that range from +/- 3,620 square feet to 6,743 square feet lots. All proposed streets are designed to accommodate City Street Designs with consideration for low-impact design standards as well as encourage Complete Streets for vehicles as well as pedestrians.

The applicant will be required to connect to the Diamond Bar West storm drain basin to the north to ensure adequate site drainage. This existing oversized basin is expected to manage the storm water from Sierra Street, Central Avenue, and all interior streets and lots per City Standards. The City has developed LID guidelines due to storm water discharge standards implemented by the State of California through the MS4 permit process. The proposed project embraces the City's and State's LID guidelines. All project storm water will be collected and disposed of on-site through the use of a storm water detention basin. The project is required to annex into Community Facilities District (CFD) 2016-01 for the future maintenance of the storm water system as well as the streets, waste water, and water systems.

The tentative map proposes forty-seven (47) buildable single-family residential lots. Before Final Map stage, the proposed street names will be reviewed by staff and outside agencies such as Fire and 911 to see if they are currently in use. Per RMC section 152.026 (L) all street names shall be approved by City Council. Duplication of existing names within the County will not be allowed unless the streets are obviously in alignment with existing streets and likely to sometime be a continuation of the other street. The City is requiring the applicant to improve portions of Claus Road, Central Avenue, and Sierra Street including the project's frontage, to be consistent with the City's Circulation Element Street Design Standards. The temporary sidewalk on the east side of Claus Road will be replaced with curb, gutter, and sidewalk. This project will connect Sierra Street across Claus Road. A crosswalk is required for school children to cross Claus Road at Sierra Street.

If the remainder parcel is developed with housing in the future instead of mini storage units, a rezone, a tentative map, and architectural review for that area are required.

Tentative Map Findings

Tentative Map 01-2021 may be approved or conditionally approved by the City Council if it makes all of the following findings:

1. The proposed map is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted.*

2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans. *The proposed map is consistent with the General Plan if the recommended Conditions of Approval are adopted as they relate to connectivity, sidewalks, and the provision of amenities.*

3. The site is physically suitable for the type of development. *The Heritage Collection site is suitable for a new subdivision of this type and is an extension of additional residential housing in the area as Diamond Bar West is located north of the the project.*

4. The site is physically suitable for the proposed density of the development (*8.13 dwelling units per net acre are proposed*). *The subject site is designated as Medium Density Residential per the General Plan. The site is physically suitable for a proposed density of between eight (8) and sixteen (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. *There is nothing in the design of the subdivision or proposed improvements that should 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. *The design of the subdivision should not conflict with any easements of record. The map was reviewed by the Oakdale Irrigation District.*

C. Architecture and Site Plan Review

At their regular meeting of August 17, 2021, the Planning Commission with a vote of 5-0 approved Architecture and Site Plan Review 02-2021 of the housing product for the Project.

GENERAL PLAN CONSISTENCY

The project site's density is 8.13 dwelling units per net acre. Total project acreage minus the land needed for streets and public uses equals net acres. At this density, the Project is consistent with a General Plan designation of Medium Density Residential (MDR, net density of 8-16 units per acre). Below is a discussion of General Plan Policies with which the proposed project is consistent:

1. Policy DESIGN-2.7

"In general, the City will require the construction of sidewalks on both sides of all new streets." *The applicant has provided sidewalks on both sides of all new proposed streets within the cul-de-sac and interior streets.*

2. Policy DESIGN-3.1

"The City will limit block lengths and encourage continuity of streets among neighborhoods to facilitate access, increase connectivity, and support safe pedestrian, bicyclist, and vehicular movement in residential neighborhoods." *The City is requiring the applicant to make improvements at the intersection of Claus Road and Sierra Street in order to accommodate resident safety and support vehicular movements.*

3. Policy DESIGN-3.2

"Approved plans, projects, and subdivision requests shall provide residential site and building design that contributes to an attractive, pedestrian-friendly environment along neighborhood streets. Approved plans, projects and subdivision requests will minimize the visual prominence of garages and instead incorporate porches, stoops, active rooms, and functionally opening windows that face the street." *Architecture and Site Plan Review* *was approved by the Planning Commission. The visual prominence of garages is reduced.*

4. **Policy DESIGN-5.2**

"The City will encourage the use of porches, stoops, and other elements that provide a place to comfortably linger and thereby provide 'eyes on the street,' helping to maintain a sense of security within neighborhoods." *The applicant has provided architectural details for the use of porches and stoops.*

5. **Policy CONS-4.2**

"Approved projects, plans and subdivisions shall provide for collection, conveyance, treatment, detention, and other storm water management measures in a way that does not decrease water quality or alter hydrology in the Stanislaus River or associated groundwater recharge areas." *The Developer has not provided a stormwater basin within the project site but will connect to the existing oversized Diamond Bar West basin to the north. The developer is required to annex into Community Facilities District 01-2016 for future maintenance or replacement of facilities.*

PARK-IN-LIEU FEE

Pursuant to RMC Section 11-3-12(c), the Project has an obligation to dedicate park land or pay a park-in-lieu fee. The developer has not set aside land for a park so must pay the fee. The obligation for this project is 0.43 acres to be paid based on values of land at the time the Final Map is recorded. A recent appraisal by another developer shows an acre of residential/park land is valued at $130,000 per acre. Therefore, if this does not change by Final Map, the project will owe $55,900 in park in-lieu fees for the forty-seven (47) houses ($1,140 per unit). If the remainder parcel is developed with housing in the future instead of mini storage units, additional park-in-lieu fees will be required.

DEVELOPMENT AGREEMENT

The developer has submitted a request and a deposit for a Development Agreement. A development agreement vests the rights of the developer like a Vesting Map does. The term of the Development Agreement is normally 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. Staff will work with the applicant to complete the Development Agreement and present it to City Council when negotiations are complete.

ENVIRONMENTAL DETERMINATION

The proposed Tentative Map is exempt from additional environmental analysis pursuant to CEQA Guidelines Section 21159.21 (a-j) Exemption for Qualified Housing Projects. The project is consistent with the (a) General Plan and its (b) EIR, (c) existing utility services are available to serve the project, (d) the project has no wetlands or value as wildlife habitat, (e) the project site is not on any environmental clean-up list, (f) the site and surrounding properties do not have the potential of exposure to future residents of hazardous substances, (g) the project will not have a significant effect on historical resources, (h) the site is not within an earthquake fault zone or subject to wildland fires, landslides or flooding, (i) the site is not within a developed open space area, and (j) the site is not located within the boundaries of a state conservancy. Therefore, the project qualifies for this exemption.

FISCAL IMPACT

The Project includes the development of a subdivision on existing undeveloped land. The fiscal impacts associated with providing municipal services to new residential projects will be partially off-set by the funds generated through CFD 2016-1. Street lighting, road maintenance, storm drainage maintenance, common area landscaping, and police services will be funded through the implementation of CFD 2016-01. In light of the obligation to participate in the above mentioned Community Facilities Districts, the Project is unlikely to negatively impact the City's finances.

STRATEGIC GOALS

The City's Strategic Planning Session is a plan and set of goals that the City will work towards for the next three years. This project works toward the goals of "achieving and maintaining financial stability" and "maintain and improve the City infrastructure systems."

PUBLIC NOTICE

On August 30, 2021, public notices for the public hearing were mailed to interested parties and property owners within 300 feet of the project location. The notice was posted on the City's website and physically posted at City Hall North, South, the post office and sent to the library on August 30, 2021.

ATTACHMENTS

1. City Council Ordinance No. 2021-(TBD) Rezone
2. Resolution No. 2021-(TBD) TM
   Exhibit A – TM 01-2021
3. Planning Commission Resolutions 2021-015 /016 /017 without attachments

CITY OF RIVERBANK

ORDINANCE NO. 2021-(TBD)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING THE REZONE OF 5.9 ± ACRES TO PLANNED DEVELOPMENT, LOCATED AT 6448 CLAUS ROAD (APN 062-020-001) – A PROJECT KNOWN AS THE HERITAGE COLLECTION

WHEREAS, an application has been received by SCM Hearthstone, Inc. with a proposal to subdivide approximately 5.9± acres into forty-seven (47) single family residential lots which allows for a net density of eight to sixteen (8-16) dwelling units per acre; and

WHEREAS, the City of Riverbank Planning Commission conducted a Public Hearing on Tuesday, August 17, 2021 to consider the proposed Ordinance and with a vote of 5-0 recommended approval by the City Council; and

WHEREAS, the City Council for City of Riverbank has made the following findings to adopt the Rezone:

1. Each individual unit of the development if built in stages, as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development.
2. The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect.
3. Any deviation from the standard ordinance requirements is warranted by the unusual design and additional amenities incorporated in the development plan which offers certain redeeming features to compensate for any deviations that may be permitted.
4. The principles incorporated in the proposed plans identify unique characteristics which could not otherwise be achieved under other zoning districts.
5. Where a PD rezone is initiated by the City, the previous findings are not required.

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

Section 1: The City Council of the City of Riverbank approves Rezoning the Project site to Planned Development (APN 062-020-001).

<u>Section 2</u>: <u>Constitutionality, severability</u>. 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 Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution 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.

<u>Section 3</u>: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption (on July 23, 2015), provided it is published pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a regular meeting of the City Council of the City of Riverbank on September 14, 2021. Said ordinance was given a second reading by title only and adopted.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on the __ day of ___, 2015; motioned by Councilmember ____________, seconded by Councilmember _______________, moved said ordinance by a City Council roll call vote of ____:

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:

____

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

____

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

____

Tom P. Hallinan
City Attorney

CITY OF RIVERBANK

RESOLUTION NO. 2021-(TBD)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING TENTATIVE MAP 01-2021 FOR SCM HEARTHSTONE LLC., LOCATED AT 6448 CLAUS ROAD (APN 062-020-001) – A PROJECT KNOWN AS THE HERITAGE COLLECTION

WHEREAS, a development application has been received from SCM Hearthstone, LLC. for a Tentative Subdivision Map to divide approximately 5.9 acres into forty-seven (47) Planned Development single family residential lots and more particularly described as Stanislaus County Assessor Parcel Number 062-020-021; 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 0.43 acres of park land; and

WHEREAS, the proposed vesting tentative map is consistent with the following General Plan policies discussed in the staff report: DESIGN-2.7 (sidewalks), DESIGN-3.1 (continuity), DESIGN-3.2 (pedestrian-friendly), DESIGN 5.2 (eyes on the street), CONS-4.2 (stormwater); and

WHEREAS, the proposed subdivision is located on land that is within the City limits of the City of Riverbank and is within an area anticipated for urban land uses; and

WHEREAS, Tentative Map 01-2021 was reviewed by the Riverbank Planning Commission at a regular meeting held on August 17, 2021 in the manner prescribed by law; and

WHEREAS, the Riverbank Planning Commission recommends approval of Tentative Map 01-2021 dated June 15, 2021 and prepared by Associated Engineering Group, Inc. and modified by adopted Conditions of Approval, and incorporated herein as a part of this City Council Resolution; and

WHEREAS, The City Council of the City of Riverbank hereby finds and adopts the following findings:

1. The proposed map is consistent with applicable general and specific plans:

2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
3. The site is physically suitable for the type of development.
4. The site is physically suitable for the proposed density of the development.
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.
6. The design of the subdivision or the type of improvements is not likely to cause serious public 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.

Whereas, Tentative Map 01-2021 is hereby approved, 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 Community Facilities District 2016-01 (currently in process), or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and

2. The project storm drainage system shall be sized to manage the storm water from Sierra Street, Central Avenue, and all interior streets and lots within a storage basin per City Standards.

3. Connection to the existing Diamond Bar West storm drain basin is required in the first phase of the project

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4. Storm water on the west side of Central Avenue shall also be managed with roadside swales and horizontal drains or connected to the storm basin.

5. Additional storm water inlets are required per City Standards and are not to exceed 500 feet spacing.

6. Sierra Street shall be fully constructed from Claus Road to the existing improvements constructed with Diamond Bar West.

7. Complete street improvements are required on Claus Road which includes curb, gutter, and sidewalk. A crosswalk for school children shall be constructed at Claus Road and Sierra Street.

8. A concrete sound wall is required along the railroad tracks.

9. Five amenities are required per the Rezone application: (1) decorative garage doors, (2) decorative garage lights, (3) pavers or colored pavement at crosswalks at the subdivision entrance, plus two (2) more.

10. Three (3) sets of landscape and irrigation plans conforming to the state's MWELO requirements shall be prepared and submitted with fee for review and approval by the City's contract landscape architect before Final Map. The storm basin shall be fully landscaped and slope protection provided; and

11. The City's Post Construction Standards Plan needs to be followed including DMA's LID standards, and the required worksheets located in the Appendix of the document. The document is available on the City's website; and

12. All existing overhead electrical shall be placed underground; and

13. Applicant shall pay an in-lieu fee for parkland dedication based on values of land at the time the Final Map is recorded. The obligation for this project is the value of 0.43 acres; and

14. All wet utilities are to be cleaned, tested, and videotaped prior to acceptance by the City of Riverbank; and

15. Street names shall be approved by City Council on the Final Map; and

16. An automatic fire system shall be provided for all Group R occupancies. **CFC 903.2.8;** and

17. Buildings shall be provided with proper address identification in accordance with the California Fire Code as amended by the Stanislaus Consolidated Fire Protection District. **CFC 505.1**; and

18. Approved fire apparatus access roads shall be provided for every facility, building, or portion of a building hereafter constructed or moved into the jurisdiction. All fire apparatus access roads shall meet the design requirements of the California Fire Code. **CFC 503.1.1**; and

19. During construction, Fire apparatus access roads shall be clearly marked with notices or markings that include the words NO PARKING – FIRE LANE. The markings shall be clean and legible at all times. **CFC 503.3**; and

20. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the site. **CFC 507.1**; and

21. Fire apparatus access roads and a water supply for fire protection shall be installed and made serviceable prior to and during the time of construction. **CFC 501.4**; and

22. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two (2) times per day; and

23. All haul trucks transporting soil, sand, or other loose material off-site shall be covered; and

24. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited; and

25. All vehicle speeds on unpaved roads shall be limited to fifteen (15) miles per hour; and

26. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binding are used; and

27. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes. Clear signage shall be provided for construction workers at all access points; and

28. All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified visible emissions evaluator; and

29. Post a publicly visible sign with the telephone number and person to contact at the Air District regarding dust complaints. The Air District shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations; and

30. Applicant shall comply with San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review; and

31. If potential human remains are encountered, the construction contractor shall halt work in the vicinity (within 100 feet) of the find and contact the City of Riverbank. The project applicant and/or contractor shall be required to contact the Stanislaus County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5, If the coroner determines the remains are Native American, the coroner would contact the Native American Heritage Commission (NAHC). As provided in Public Resources Code Section 5097.98, the NAHC would identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent

makes recommendations for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98; and

32. Consistent with the requirements of the City of Riverbank Municipal Code, the National Pollutant Discharge Elimination System (NPDES) Construction General Permit, the project applicant shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential adverse impacts on surface water quality through the project construction period. The SWPPP shall be designed to address the following objectives:
    a. All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity, are controlled using source control and treatment control best management practices (BMPs).
    b. Where not otherwise permitted by the Regional Water Quality Control Board, all non-stormwater discharges are identified and eliminated.
    c. BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity in accordance with the Construction General Permit; and

33. The project applicant shall fully comply with the City of Riverbank Municipal Code and all Regional Water Quality Control Board stormwater permit requirements, including Provision C.3 of the Municipal Regional Permit (MRP). This will require preparation and implementation of a complete Stormwater Control Plan (SCP) for the project, which shall be submitted to the City Engineer for review and approval prior to any construction activity. The SCP shall act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with the operation of the proposed project and shall be designed to comply with both MRP and City of Riverbank requirements. At a minimum, the SCP for the project shall include the following:

    a. An inventory and accounting of existing and proposed impervious areas.
    b. Low Impact Development (LID) design details incorporated into the project. Specific LID design details may include but are not limited to rain gardens, bio retention areas, pervious pavements, harvesting and reuse of stormwater, dispersal of runoff to landscaped areas, and/or routing of runoff swales and other small-scale facilities distributed throughout the site.
    c. Measures to address potential stormwater contaminants. These may include measures to address potential sources of stormwater pollutants at the project site, covering trash collection and parking areas.
    d. A Draft Stormwater Facility Operation and Maintenance Plan for the project site, which shall include periodic inspection and maintenance of the storm

drainage system. Persons responsible for performing and funding the requirements of this plan shall be identified. This plan shall be finalized prior to the issuance of any building permits for the project; and

34. Construction equipment shall be well maintained to be as quiet as possible. The following measures, when applicable, shall be implemented to reduce noise from construction activities:

    a. All internal combustion engine-driven equipment shall be equipped with mufflers that are in good condition and appropriate for the equipment.
    b. “Quiet” models of air compressors and other stationary noise sources shall be used, where technology exists.
    c. Stationary noise-generating equipment shall be located as far as feasible from sensitive receptors (neighboring dwellings).
    d. Unnecessary idling of internal combustion engines shall be prohibited.
    e. Staging areas and construction material storage areas shall be located as far away as possible from adjacent sensitive land uses (neighboring dwellings).
    f. Construction-related traffic shall be routed along major roadways (Claus Road and Patterson Road) and as far as feasible from sensitive receptors.
    g. Residences or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing. The construction contractor shall designate a “construction liaison” that would be responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and shall institute reasonable measures to correct the problem. The construction contractor shall conspicuously post a telephone number for the liaison at the construction site.
    h. The construction contractor shall hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and construction liaison) are completed.

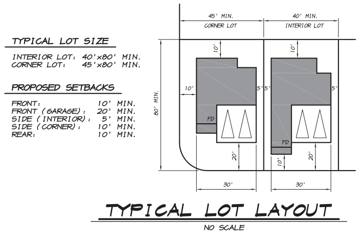
NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Riverbank that Tentative Map Application No. 01-2021 is approved, subject to the aforementioned conditions established by this Resolution, and to be built as illustrated in **Exhibit A** attached hereto entitled Tentative Subdivision Map – The Heritage Collection dated June 15, 2021, and the adoption of Ordinance No. 2021-(TBD).

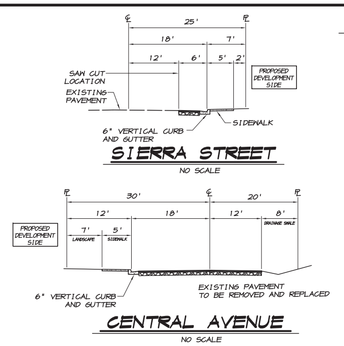
PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of September 2021; motioned by Councilmember ______, seconded by Councilmember ______, and upon roll call was carried by the following vote of ___:

AYES:
NAYS:
ABSENT:
ABSTAINED:

ATTEST:	**APPROVED:**
____________________________	____________________________
Annabelle Aguilar, CMC **City Clerk**	**Richard D. O'Brien** **Mayor**

Attachment: Exhibit A – Tentative Map 01-2021





STATEMENT OF SUBDIVIDER

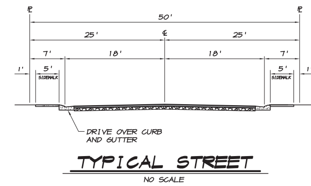
A. ALL IMPROVEMENTS SHALL BE CONSTRUCTED AS PER THE CITY OF RIVERBANK STANDARD SPECIFICATIONS.

B. STORM DRAINAGE: CITY OF RIVERBANK, CONNECT TO FUTURE REGIONAL STORM DRAINAGE BASIN. BASIN AND OFF-SITE FACILITIES TO BE CONSTRUCTED PRIOR TO SUBDIVISION.

C. SEWAGE DISPOSAL: CITY OF RIVERBANK SYSTEM.

D. WATER SUPPLY: CITY OF RIVERBANK SYSTEM.

E. NO PUBLIC AREAS ARE PROPOSED.

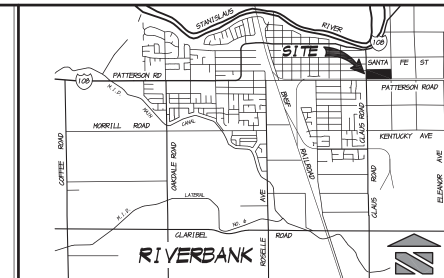


OWNERS & SUBDIVIDERS

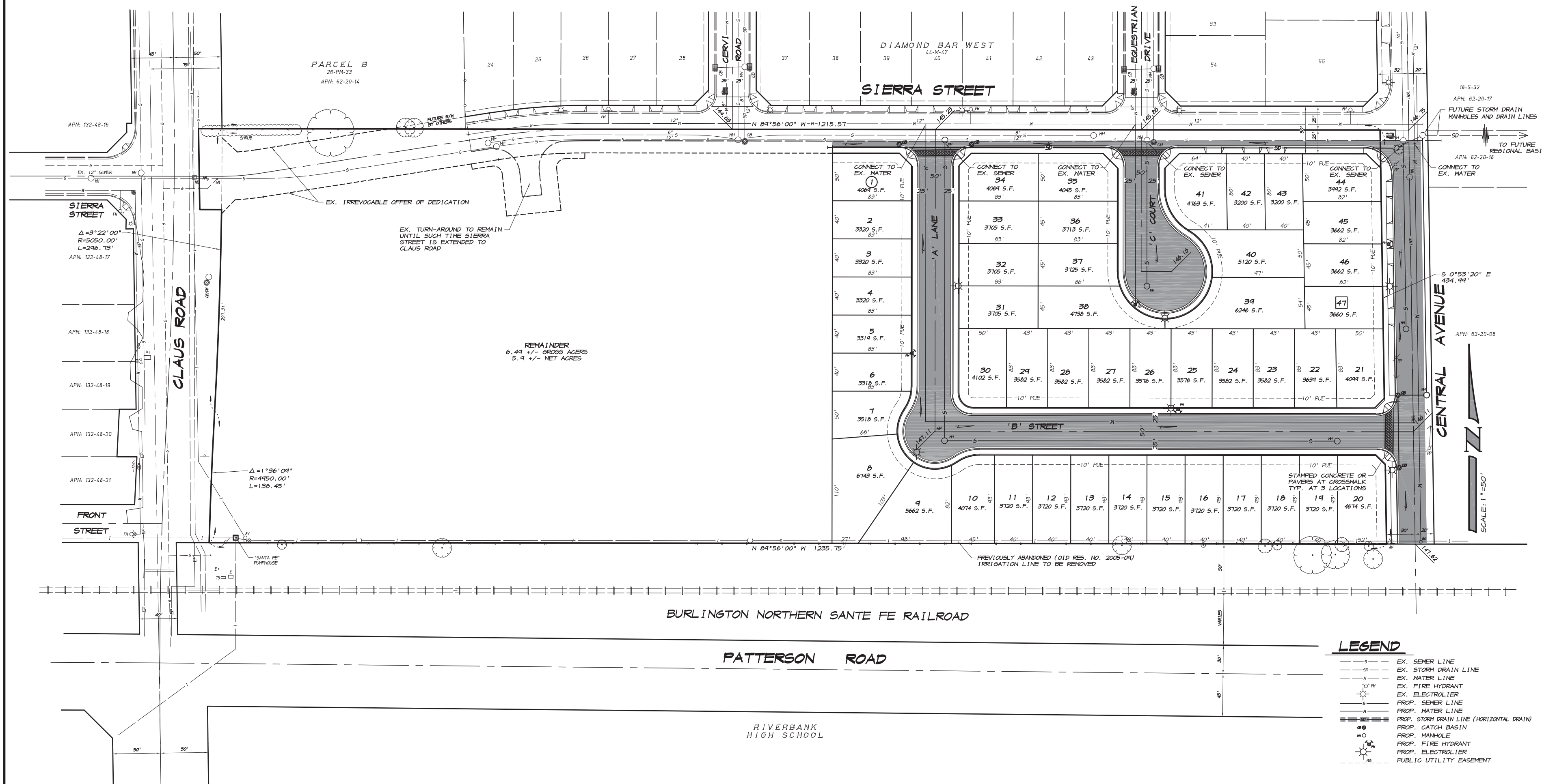
SCM HEARTHSTONE LLC
1920 STANDIFORD AVENUE, SUITE 1
MODESTO, CA 95350

GENERAL NOTES

1. ASSESSOR'S PARCEL NUMBER: 062-020-001
2. ZONING: COMMERCIAL
3. GENERAL PLAN: MEDIUM DENSITY RESIDENTIAL
4. SITE SUMMARY: TOTAL PROJECT SITE = 12.27 ACRES BEING DIVIDED INTO 47 SINGLE-FAMILY LOTS AND A REMAINDER.
   SUBDIVISION = 5.78 +/- GROSS ACRES
   REMAINDER PARCEL = 6.49 +/- GROSS ACRES
5. THE PROPERTY LINE DISTANCES, BEARINGS, AND ALL OTHER DIMENSIONS SHOWN ON THIS MAP ARE TAKEN FROM DEEDS, ASSESSOR'S MAPS, OR BOTH, AND PRELIMINARY FIELD OBSERVATIONS BY OFFICE PERSONNEL AND DO NOT REFLECT AN ACTUAL FIELD SURVEY.
6. PURSUANT TO SECTION 66463.1 OF THE SUBDIVISION MAP ACT, THE OWNER~SUBDIVIDER HEREBY RESERVES THE RIGHT TO FILE MULTIPLE SUBDIVISION MAPS.
7. THIS PROJECT SITE IS RELATIVELY FLAT, SLOPING FOR IRRIGATION PURPOSES. THE LAND HEREON LIES BETWEEN 142 AND THE 146 FOOT ELEVATION CONTOURS AS SHOWN ON USGS MAPS.
8. UTILITY LINES SHOWN ON THIS MAP ARE BASED ON PRELIMINARY DESIGN AND ARE SUBJECT TO CHANGE AT TIME OF THE DEVELOPMENT OF THE PROJECT IMPROVEMENT PLANS.



VICINITY MAP
NO SCALE



LEGEND

—S—	EX. SEWER LINE
—SD—	EX. STORM DRAIN LINE
—W—	EX. WATER LINE
	EX. FIRE HYDRANT
	EX. ELECTROLIER
	PROP. SEWER LINE
	PROP. WATER LINE
	PROP. STORM DRAIN LINE (HORIZONTAL DRAIN)
	PROP. CATCH BASIN
	PROP. MANHOLE
	PROP. FIRE HYDRANT
	PROP. ELECTROLIER
—PUE—	PUBLIC UTILITY EASEMENT

REVISION	DATE	DESCRIPTION	BY

ASSOCIATED ENGINEERING GROUP
4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356
PHONE: (209) 545-3390 FAX: (209) 545-3875 www.assoceng.com

TENTATIVE SUBDIVISION MAP
THE HERITAGE COLLECTION AT SIERRA STREET
RIVERBANK CALIFORNIA

RYAN CARREL, R.C.E. 61619
DAVE SKIDMORE, L.S. 7126

DRAWN BY: JF
DATE: 6/15/21 3:51
SCALE: 1"=50'
DWG: 383-TSM_REV3
CHECKED:
JOB #: 383C-21
SHEET 1 OF

City of Riverbank
Planning Commission
Resolution No. 2021-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF ORDINANCE NO. 2021-TBD TO REZONE 5.78± ACRES, KNOWN AS THE HERITAGE COLLECTION AT SIERRA STREET TO PLANNED DEVELOPMENT (PD), LOCATED AT 6448 CLAUS ROAD APN: 062-020-001

WHEREAS, an application has been received from SCM Hearthstone LLC, with a proposal to subdivide approximately 12.27± acres into forty-seven (47) single family lots and a remainder lot which allows for a net density of eight to sixteen (8-16) dwelling units per acre; and

WHEREAS, the project site is currently zoned General Commercial (C-2) with a General Plan Land Use designation of Medium Density Residential (MDR); and

WHEREAS, the applicant is proposing to rezone the property to Planned Development (PD) from General Commercial (C-2); and

WHEREAS, the Planning Commission held a public hearing on August 17, 2021, to consider Rezone 01-2021; and

WHEREAS, notice of the public hearing on the Rezone was published in the *Riverbank News*, a newspaper of general circulation on August 4, 2021; and

WHEREAS, notices of the public hearing on the Rezone were mailed to all property owners within three hundred (300) feet of the property, according to the most recent assessor's roll, on August 5, 2021; and

WHEREAS, the Planning Commission has reviewed the proposed Rezone and conducted a public hearing on August 17, 2021 in the manner prescribed by law; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE NO. 2021-TBD, REZONING 5.78± ACRES TO PLANNED DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED HEREIN BY THIS REFERENCE, BASED ON THE FOLLOWING FINDINGS:

1. Pursuant to California Government Code Section 65855, the recommendation to City Council shall include the relationship to the applicable general or specific plan.

a. The property identified in this action has a General Plan Land Use Designation of Medium Density Residential (MDR) and is zoned General Commercial (C-2). The project proposes a Rezone to Planned Development (PD).

b. The proposed Rezone to PD will continue the consistency between the General Plan and Zoning Code, pursuant to Government Code Section 65860.

2. Each individual unit of the development can be built in stages, as well as the total development, and can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development.

3. The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect.

4. Deviations from the standard ordinance requirements is warranted and additional amenities are incorporated in the development which offer certain redeeming features to compensate for any deviations that may be permitted.

5. The principles incorporated in the proposed development identify unique characteristics which could not otherwise be achieved under other zoning districts.

6. The PD rezone was not initiated by the City, so the findings above are required.

<u>Constitutionality, severability.</u> 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 Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, or 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.

The City finds that the Project is exempt pursuant to CEQA Guidelines Section 21159.21 (a-j) Exemption for Qualified Housing Projects. The project is consistent with the (a) General Plan and its (b) EIR, (c) existing utility services are available to serve the project, (d) the project has no wetlands or value as wildlife habitat, (e) the project site is not on any environmental clean-up list, (f) the site and surrounding properties do not have the potential of exposure to future residents of hazardous substances, (g) the project will not have a significant effect on historical resources, (h) the site is not within an earthquake fault zone or subject to wildland fires, landslides or flooding, (i) the site is not within a developed open space area, and (j) the site is not located within the boundaries of a state conservancy.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a meeting held on the 17th of August, 2021; motioned by Commissioner Link, seconded by Commissioner Basso, and upon roll call was carried by the following vote of 5-0:

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

NOES:

ABSENT:

ABSTAIN:

Attest:

Donna M. Kenney

Donna M. Kenney
Planning and Building Manager

Approved:

Joan Stewart

Joan Stewart, Chairperson
Planning Commission

Attachment: **Exhibit A** – Draft City Council Ordinance No. 2021-TBD

City of Riverbank
Planning Commission
Resolution No. 2021-016

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK RECOMMENDING APPROVAL OF THE REQUEST OF SCM HEARTHSTONE LLC FOR TENTATIVE MAP 01-2021 TO SUBDIVIDE 12.27± ACRES INTO 47 PLANNED DEVELOPMENT SINGLE FAMILY RESIDENTIAL LOTS AND A REMAINDER LOT, LOCATED AT 6448 CLAUS ROAD APN: 062-020-001

WHEREAS, an application has been received from SCM Hearthstone LLC, with a proposal to subdivide approximately 12.27± acres into forty-seven (47) single family lots and a remainder lot (6.49 gross acres), which allows for a net density of eight to sixteen (8-16) dwelling units per acre; 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 0.43 acres;

WHEREAS, the proposed tentative map is consistent with the following General Plan policies discussed in the staff report: DESIGN-2.7 (sidewalks), DESIGN-3.1 (continuity), DESIGN-3.2 (pedestrian-friendly), DESIGN 5.2 (eyes on the street), CONS-4.2 (stormwater); and

WHEREAS, Tentative Map 01-2021 was reviewed by the Riverbank Planning Commission at a regular meeting held on August 17, 2021 in the manner prescribed by law; and

WHEREAS, The Riverbank Planning Commission recommends approval of the requested Tentative Map dated June 15, 2021 prepared by Associated Engineering Group, 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. The City finds that Pursuant to the California Environmental Quality Act, the proposed Tentative Map is exempt from additional environmental analysis pursuant to CEQA Guidelines Section 21159.21 (a-j) Exemption for Qualified Housing Projects. The project is consistent with the (a) General Plan and its (b) EIR, (c) existing utility services are available to serve the project, (d) the project has no wetlands or value as wildlife habitat, (e) the project site is not on any environmental clean-up list, (f) the site and surrounding properties do not have the potential of exposure to future residents of hazardous substances, (g) the project will not have a significant effect on historical resources, (h) the site is not within an earthquake fault zone or subject to wildland fires, landslides or flooding, (i) the site is not within a developed open space area, and (j) the site is not located within the boundaries of a state conservancy.

D. The approval of Tentative Map 01-2021 to divide parcel APN 062-020-021 (12.27± acres) into 47 single family lots and a remainder lot (5.9 net acres) 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 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 Community Facilities District 2016-01 (currently in process), or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and

2. The project storm drainage system shall be sized to manage the storm water from Sierra Street, Central Avenue, and all interior streets and lots within a storage basin per City Standards.

3. Connection to the existing Diamond Bar West storm drain basin is required in the first phase of the project

4. Storm water on the west side of Central Avenue shall also be managed with roadside swales and horizontal drains or connected to the storm basin.

5. Additional storm water inlets are required per City Standards and are not to exceed 500 feet spacing.

6. Sierra Street shall be fully constructed from Claus Road to the existing improvements constructed with Diamond Bar West.

7. Complete street improvements are required on Claus Road which includes curb, gutter, and sidewalk. A crosswalk for school children shall be constructed at Claus Road and Sierra Street.

8. A concrete sound wall is required along the railroad tracks.

9. Three amenities are required per the Rezone application: (1) decorative garage doors, (2) decorative garage lights, and (3) pavers or colored pavement at crosswalks at the subdivision entrance.

10. Three (3) sets of landscape and irrigation plans conforming to the state's MWELO requirements shall be prepared and submitted with fee for review and approval by the City's contract landscape architect before Final Map. The storm basin shall be fully landscaped and slope protection provided; and

11. The City's Post Construction Standards Plan needs to be followed including DMA's LID standards, and the required worksheets located in the Appendix of the document. The document is available on the City's website; and

12. All existing overhead electrical shall be placed underground; and

13. Applicant shall pay an in-lieu fee for parkland dedication based on values of land at the time the Final Map is recorded. The obligation for this project is the value of 0.43 acres; and

14. All wet utilities are to be cleaned, tested, and videotaped prior to acceptance by the City of Riverbank; and

15. Street names shall be approved by City Council on the Final Map; and

16. An automatic fire system shall be provided for all Group R occupancies. **CFC 903.2.8;** and

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18. Approved fire apparatus access roads shall be provided for every facility, building, or portion of a building hereafter constructed or moved into the jurisdiction. All fire apparatus access roads shall meet the design requirements of the California Fire Code. **CFC 503.1.1**; and

19. During construction, Fire apparatus access roads shall be clearly marked with notices or markings that include the words NO PARKING – FIRE LANE. The markings shall be clean and legible at all times. **CFC 503.3**; and

20. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the site. **CFC 507.1**; and

21. Fire apparatus access roads and a water supply for fire protection shall be installed and made serviceable prior to and during the time of construction. **CFC 501.4**; and

22. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two (2) times per day; and

23. All haul trucks transporting soil, sand, or other loose material off-site shall be covered; and

24. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited; and

25. All vehicle speeds on unpaved roads shall be limited to fifteen (15) miles per hour; and

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27. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes. Clear signage shall be provided for construction workers at all access points; and

28. All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified visible emissions evaluator; and

29. Post a publicly visible sign with the telephone number and person to contact at the Air District regarding dust complaints. The Air District shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations; and

30. Applicant shall comply with San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review; and

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    b. Where not otherwise permitted by the Regional Water Quality Control Board, all non-

stormwater discharges are identified and eliminated.

c. BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity in accordance with the Construction General Permit; and

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    b. Low Impact Development (LID) design details incorporated into the project. Specific LID design details may include but are not limited to rain gardens, bio retention areas, pervious pavements, harvesting and reuse of stormwater, dispersal of runoff to landscaped areas, and/or routing of runoff swales and other small-scale facilities distributed throughout the site.
    c. Measures to address potential stormwater contaminants. These may include measures to address potential sources of stormwater pollutants at the project site, covering trash collection and parking areas.
    d. A Draft Stormwater Facility Operation and Maintenance Plan for the project site, which shall include periodic inspection and maintenance of the storm drainage system. Persons responsible for performing and funding the requirements of this plan shall be identified. This plan shall be finalized prior to the issuance of any building permits for the project; and

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    b. "Quiet" models of air compressors and other stationary noise sources shall be used, where technology exists.
    c. Stationary noise-generating equipment shall be located as far as feasible from sensitive receptors (neighboring dwellings).
    d. Unnecessary idling of internal combustion engines shall be prohibited.
    e. Staging areas and construction material storage areas shall be located as far away as possible from adjacent sensitive land uses (neighboring dwellings).
    f. Construction-related traffic shall be routed along major roadways (Claus Road and

Patterson Road) and as far as feasible from sensitive receptors.

g. Residences or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing. The construction contractor shall designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and shall institute reasonable measures to correct the problem. The construction contractor shall conspicuously post a telephone number for the liaison at the construction site.
h. The construction contractor shall hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and construction liaison) are completed.

NOW THEREFORE, BE IT RESOLVED the City of Riverbank Planning Commission recommends for approval Tentative Map No. 01-2021 (**Exhibit A**), subject to these Conditions of Approval established by Resolution No. 2021-016 and to be recorded as modified.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a meeting held on the 17th of August, 2021; motioned by Commissioner Link, seconded by Commissioner Basso, and upon roll call was carried by the following vote of 5-0:

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

NOES:

ABSENT:

ABSTAIN:

Attest:

Donna M. Kenney

Donna M. Kenney
Planning and Building Manager

Approved:

Joan Stewart

Joan Stewart, Chairperson
Planning Commission

Attachment: **Exhibit A** – Tentative Map 01-2021

City of Riverbank
Planning Commission
Resolution No. 2021-017

APPROVAL OF ARCHITECTURE SITE PLAN REVIEW 02-2021
FOR THE HERITAGE COLLECTION AT SIERRA STREET
LOCATED AT 6448 CLAUS ROAD APN: 062-020-001

WHEREAS, an Architecture and Site Plan Review application has been received from SCM Hearthstone LLC with a proposal for forty-seven (47) single family dwelling units located at Claus Road and Sierra Street (APN: 062-020-001); and

WHEREAS, the Planning Commission held a public hearing on August 17, 2021, to consider Architecture and Site Plan Review 02-2021 and take public comment; and

WHEREAS, the architectural review of structures for an approved subdivision is not a Project pursuant to CEQA Guidelines; and

WHEREAS, the Riverbank Planning Commission made the following findings:

1. The proposed project, together with the provisions for its design and improvements, is consistent with the goals, policies, program and uses of the General Plan; and

2. The proposed Architecture and Site Plan Review along with the Conditions of Approval is in conformity with both the intent and provisions of the Zoning Ordinance, Title 153, of the City of Riverbank Code of Ordinances.

WHEREAS, the proposed project is consistent with the following aspects of the General Plan:

1. Policy Design-2.7: In general, the City will require the construction of sidewalks on both sides of all new streets.

2. Policy Design-3.1: The City will limit block lengths and encourage continuity of streets among neighborhoods to facilitate access, increase connectivity, and support safe pedestrian, bicyclist, and vehicular movement in residential neighborhoods.

3. Policy Design-3.2: Approved plans, projects, and subdivision requests shall provide residential site and building design that contributes to an attractive pedestrian friendly environment along neighborhood streets.

4. Policy Design-5.2: The City will encourage the use of porches, stoops, and other elements that provide a place to comfortably linger and thereby "provide eyes on the street," helping to maintain a sense of security within neighborhoods.

5. Policy CONS-4.2: Approved projects, plans and subdivisions shall provide for collection, conveyance, treatment, detention, and other storm water management measures in a way that does not decrease water quality or alter hydrology in the Stanislaus River or associated groundwater recharge areas.

6. Policy DESIGN-4.2: Approved projects, plans and subdivisions shall provide diversity among dwelling units in the use of color, building materials, floor plan lay-outs, square footages, and roof-lines. Approved projects, plans, and subdivision requests shall maintain continuity of a few overall urban design features to provide context between individual units and the neighborhood.

WHEREAS, the plans and elevations of SCM Hearthstone LLC are hereby approved, subject to the following conditions:

1. Applicant shall comply with the City of Riverbank Standard Conditions as contained in the Planning Commission Resolution 2013-014 and/or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the project; and

2. Three amenities are required for the project and will be included in the subdivision: (1) decorative garage doors, (2) decorative garage lights, and (3) pavers or colored pavement at crosswalks at the subdivision entrance; and

3. The applicant shall build the entire project according to the site plans and elevations on file with the Community Development Department and as presented to the Planning Commission as part of this action; and

4. The Community Development Director shall approve block walls and fencing; and

5. An application, plans, and current fee shall be submitted for the approval of landscaping and irrigation; and

6. A Subdivision Improvement Agreement shall be signed and submitted to the Community Development Director before Final Map adoption; and

7. Street names shall not be final until Final Map adoption; and

8. Any subdivision signage shall be approved under separate permit.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission that Architecture and Site Plan Review 02-2021 is hereby approved, subject to those conditions established by Resolution No. 2021-017 and as illustrated in **Exhibit "A"** Site Plans and Elevations.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a meeting held on the 17th of August, 2021; motioned by Commissioner Link, seconded by Commissioner Basso, and upon roll call was carried by the following vote of 5-0:

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

NOES:

ABSENT:

ABSTAIN:

Attest:

Donna M. Kenney

Donna M. Kenney,
Planning and Building Manager

Approved:

Joan Stewart

Joan Stewart, Chairperson
Planning Commission

Attachment: **Exhibit A** – Site Plan and Elevations

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 11.1

SECTION 11: NEW BUSINESS

Meeting Date:	September 14, 2021
Subject:	A **Resolution** Approving the City of Riverbank 2022-2027 Strategic Plan
Submitted by:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that City Council:

1. Approve the proposed resolution which approves the proposed City of Riverbank 2022-2027 Strategic Plan.
2. Alternative action: The Council may choose to approve the strategic plan with specific amendments (if desired).
3. Alternative action: Request revisions or more analysis and consider at a future Council meeting date.

SUMMARY

In 2019 the City of Riverbank completed a new 5-year strategic plan with strategic planning consultant Kendall Flint. The purpose of the plan is to better position the City to prioritize the goals of the Council in a fiscally viable manner, aligning fiscal and human resources to achieve the agency's short- and long-term goals. Council and Staff have made significant progress in many of the key areas within the 2020-2025 strategic plan, in addition to having to adapt to a number of unforeseen circumstances (such as the COVID19 pandemic). Given that progress, and the completion of a variety of keystone projects, in August of this year the City once again contracted with Mrs. Flint of DKS and Associates to review the progress of the strategic plan and provide an update in an effort to keep the plan fresh and relevant to current City priorities. RGS held a series of meetings with Council members, the City Manager, Department Managers, and then reviewed pertinent background materials including financial reports, meeting agendas, minutes and other City documents.

The background research culminated with a planning session held on August 10th 2020. The Study Session, which was open to the public, resulted in the updated strategic plan which include a Mission Statement, a Vision Statement, a set of Core Values and eight Goals to guide the City's future operations.

FINANCIAL IMPACT

The Strategic Plan will be used to guide the development of the future municipal operating budgets.

STRATEGIC PLAN

The City Council identified eight Goals at its Strategic Planning Workshop with equal priority. They are:

1. Ensure Financial Stability
2. Improve Public Safety
3. Improve the City's Historic Downtown
4. Improve Community Communication
5. Encourage Employee Development
6. Promote Economic Development through Manufacturing
7. Promote Sustainable Land Use Planning
8. Maintain a High Quality of Life

The Strategic Plan is meant to serve as a living and working document, which will continue to be updated by Council and staff on a regular basis.

The 2022-2027 Strategic Plan captures the Goals, suggested programs, projects and initiatives suggested by Council and staff over the course of its development. The Goals that are included represent the highest priorities for City Council. Should other sources of revenue be identified, the City may revisit this Plan and adapt it as needed. For now, by limiting the City's efforts to these key areas, the City of Riverbank will be better positioned to achieve its long-term vision and maintain its fiscal viability. The list of goals and programs is not exhaustive and the plan retains the flexibility to allow the Council to change direction should conditions or desires change within the community. In addition, many of the goals are ongoing efforts that require consistent attention from staff and Council as they are key services delivered to the general public.

ATTACHMENTS:

1. Resolution 2021-XXXX
2. Proposed 2022-2027 Strategic Plan

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING THE CITY OF RIVERBANK 2022-2027 STRATEGIC PLAN

WHEREAS, the City of Riverbank has had a long history of making strategic planning a core component of City operation and direction;

WHEREAS, The City has been operating under a 2020-2025 strategic plan; and

WHEREAS, The City has completed or made significant progress of many of the goals identified in the 2020-2025 Strategic Plan and as such conducted another strategic planning session on August 10th 2021; and

WHEREAS, the strategic planning session resulted in an update to the current strategic plan, the updated strategic plan will be for the 2022–2027 time frame unless otherwise amended by Council in the future; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the City of Riverbank 2022-2027 Strategic Plan attached hereto as **Exhibit A**.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of September, 2021; 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 - Draft 2022-2027 Strategic Plan

Executive Summary

This document will serve as the City of Riverbank's 2022-2027 Strategic Plan. Its purpose is to help the City prioritize its efforts, allocating both fiscal and human resources to achieve a shared Vision and Goals that also reflect community priorities and needs. The Plan is the result of a comprehensive review by DKS Associates of the City's current operations and finances, interviews with staff members and discussions with City Council members.

DKS facilitated a planning session for the City Council and staff at a one-day meeting that was held Tuesday, August 10, 2021. The Study Session, which was open to the public, confirmed the City's Mission Statement, Vision Statement, and Core Values and updated the eight Goals to guide the City's future operations.

The Goals

The City Council identified eight Goals at its Strategic Planning Workshop with equal priority. They are:

1. Ensure Financial Stability
2. Improve Public Safety
3. Improve the City's Historic Downtown
4. Improve Community Communication
5. Encourage Employee Development
6. Promote Economic Development through Manufacturing
7. Promote Sustainable Land Use Planning
8. Maintain a High Quality of Life

Implementation

The role of the City Council is to establish Goals based on community input and fiscal viability. The role of the City Manager is to develop Strategies to achieve those goals. City staff, under the direction of the City Manager, will develop specific tactics to implement the Council's plan.

The Strategic Plan is meant to serve as a living and working document, which will be updated by Council and staff on a regular basis.

Conclusion

The 2022-2027 Strategic Plan captures the Goals, suggested programs, projects and initiatives suggested by Council and staff over the course of its development. The Goals that are included represent **the highest priorities** for City Council. Should other sources of revenue be identified, the City may revisit this Plan and adapt it as needed. For now, by limiting the City's efforts to these key areas, the City of Riverbank will be better positioned to achieve its long-term vision and maintain its fiscal viability.

Mission, Vision and Core Values

The purpose of establishing the City's Mission, Vision and Core Values is to clearly define why the City was incorporated; how the City Council envisions its future and what principles Council and Staff will adhere to as part of conducting its business.

Our Mission

> *The Mission of the City of Riverbank is to provide high quality, professional services and a safe family-oriented community for our diverse residents to thrive.*

Our 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.*

Our Core Values

Integrity	*Respect*
Collaboration	*Customer Service*
Transparency	*Innovation*
Diversity	*Responsiveness*

Goals

Each Goal is intended to focus the City's fiscal and human resources on areas of highest priority.

1. Ensure the City's Continued Financial Stability

The City Council, management team and community acknowledge and value the City's commitment to maintaining adequate reserves and working within a balanced budget. Strategies to support this Goal include:

- 1.1 Maintain sound, responsible fiscal policies regulating debt and establishing parameters for reserves.
  - 1.1.a. Maintain a minimum of 10% of the General Fund in reserves.
  - 1.1.b. Adhere to adopted policies and procedures.
  - 1.1.c. Continue to review and update Master Fee Schedules and Rate Schedules on regular basis.
- 1.2 Prioritize use of discretionary funds based on the 2022-2027 Strategic Plan Goals.
- 1.3 Continue to seek local, regional and federal grant opportunities to support City projects, programs and initiatives especially those that provide funding for diversity and equity.
- 1.4 Explore options to reduce pension liabilities including retiring debt through bond(s) or other financial tools.
  - 1.4.1. At Mid-Year review, Council will establish a % of reserves to commit to a 115 Trust or other investment option to reduce CalPERS liability.

- 1.5 Provide transparency in all activities related to municipal finance and ensure that financial records are accurate, reliable and timely.

- 1.6 Continue to explore options for service delivery mechanisms to reduce costs.

    - 1.6.a. Explore the use of renewable energy for City operations/vehicles.

2. Improve Public Safety

Public Safety continues to be a top priority for the City Council. In this context, Public Safety includes law enforcement, and the maintenance and improvement of infrastructure such as roadways and the water system. Strategies include the following:

- 2.1 Ensure adequate funding for appropriate levels of staffing for law enforcement and fire department personnel.

    - 2.1.a. Expand community resource deputy program.

    - 2.1.b. Seek options for availability of mental health providers in the field.

- 2.2 Support local and regional partnerships for mutual aid.

- 2.3 Continue to update emergency operations plan(s) and ensure appropriate staff training and engagement for implementation.

- 2.4 Support emergency preparedness throughout the community, including those related to public health and natural disasters.

- 2.5 Maintain safe, well-lit streets and roads.

    - 2.5.a. Complete the City's Active Transportation Plan

    - 2.5.b. Continue to support enhancements for Safe Routes to Schools.

- 2.5.c Review ADA access and compliance working collaboratively with public utilities.

- 2.5.d. Consider development of a Local Road Safety Plan for the City.

- 2.6 Monitor treatment, storage and delivery systems to ensure safe, reliable delivery of water.

- 2.7 Explore and Expand use of technology to including cameras.

- 2.8 Eliminate use of illegal fireworks through aggressive/proactive monitoring and enhanced marketing/community outreach strategies.

3. Improve Historic Downtown

Increasing retail opportunities - especially in the Downtown area - is a top priority for the City Council. The City needs to focus its efforts in areas with the highest likelihood of success. As such, Strategies to support this Goal include the following:

- 3.1 Continue to work with Community Development to solicit feedback from businesses and developers on the permit approval and other processes and provide recommended solutions for consideration by the City Manager and/or City Council.

- 3.2 Support efforts that promote beautification of the physical environment including public art.

  - 3.2.a. Support the efforts of Code Enforcement.

  - 3.2.b. Enforce compliance by landlords through fines and/or other incentives.

  - 3.2.c. Explore opportunities for façade improvement programs.

  - 3.3.d. Explore opportunities for lighting and landscaping enhancements.

- 3.3 Support sustainable programs to promote local businesses and/or improve the downtown area.
- 3.4 Coordinate efforts with the Chamber of Commerce, Opportunity Stanislaus and regional economic interests to identify opportunities for development.
- 3.5 Explore opportunities for incubator businesses.
- 3.6 Support community events produced by local non-profit agencies.
- 3.7 Consider structural amenities to enhance the downtown experience.
  - 3.7.a Include charging stations for electric vehicles.
  - 3.7.b Promote connectivity/mobility for multiple modes of transportation including bike and pedestrian access, and ADA compliance.

4. Improve Internal and External Communication

The Council believes communication with residents and the business community is essential to the long-range viability of the City. Strategies include the following:

- 4.1 Proactively communicate news about the City to residents, businesses and surrounding communities.
  - 4.1.a Continue to deliver the City's newsletter to residents.
  - 4.1.b Use new electronic billboard to share information.
  - 4.1.c Ensure appropriate linguistic translation of materials to engage the City's Hispanic population.
- 4.2 Use social media to disseminate positive news, milestones and accomplishments throughout the community.

- 4.3 Promote regional interaction and coordination with surrounding communities and service providers including schools, economic development interests, transportation and non-profit agencies.

- 4.4 Work with youth to develop a Youth Council for the community that includes millennials.

5. Encourage Employee Development

City employees are fundamental to carrying out the Strategic Plan and ensuring that each Goal is achieved. The City reduced staffing over the past several years but continues to provide excellent customer service and fulfill the objectives of the Council's policy direction. The purpose of this Goal is to ensure that the City continues to provide a positive work environment and is able to retain and attract high quality employees. Strategies include the following:

- 5.1 Develop and implement organization wide staff succession planning.

- 5.2 Develop and implement specialized customer service training across all departments.

- 5.3 Support employee training, enrichment and recognition, including team building opportunities.

- 5.4 Establish clear performance standards for the workforce and provide annual employee reviews.

- 5.5 Conduct a review of the City's management tools, systems and resources including geographic information systems (GIS).

    - 5.5.a. Consider "shared" administration position(s) to support multiple departments.

    - 5.5.b. Review technological tools/software to ensure maximum efficiency.

- 5.6 Research feasibility of a new City Hall to accommodate current and future needs,

- ~~5.6 Conduct a spatial analysis of staff work environments which considers workability, safety, ergonomics and potential expansion to accommodate future growth.~~

6. Promote Sustainable Development

The Goal of Promoting Sustainable Development reflects the City Council's desire to plan for the long-term health of the City through thoughtful and careful planning. Strategies include the following:

- 6.1 Update the City's General Plan and Zoning Code including:
  - 6.1.a. Work with LAFCO to update the City's Sphere of Influence.
  - 6.1.b. Follow North County Corridor project impacts on Riverbank.
  - 6.1.c. Housing Element Update and Technical General Plan Update
    - *Consider exploring dual-use housing for farmworkers during growing season and homeless off-season.*
  - 6.1.d. Inclusion of an Environmental Justice Element
- 6.2 Complete/implement High Value Specific Plans including:
  - 6.2.a. Eastside Industrial Specific Plan
  - 6.2.b. The River Walk Specific Plan
  - 6.2.c. The Cannery Site
- 6.3 Develop Regional Storm Water Plan.
- 6.4 Continue to Develop Regional Waste Resources/Treatment Plant and identify funding for project completion.

- 6.5 Incentivize programs for saving electricity, water and other essential resources.

7. Support Economic Development that Promotes Job-Housing Balance.

The Goal to Support Economic Development that Promotes Job-Housing Balance ensures that the City is committed to attracting new businesses o the community that will provide well-paying jobs for our residents. Strategies include the following:

- 6.1 Complete the Crossroads West Development.
- 6.2 Implement permit streamlining to attract businesses to the City.
- 6.3 Focus efforts on manufacturing and development businesses.
- ~~6.4 Explore opportunities to hire an economic development manager.~~
- 6.4 Cross train building and community development staff to support economic development.
- 6.5 Complete conveyance of Army property to the City.
- ~~6.6 Explore opportunities to expand the City's corporate boundaries.~~

8. Enhance Quality of Life

Riverbank's unique character and exceptional quality of life were repeatedly mentioned during this process as a key strength of the community. Strategies to support the Goal this include the following:

- 8.1 Maintain and refresh the parks, trails and facilities to provide exceptional experiences.
    - 8.1.a. Seek ways to provide amenities and facilities to underserved/aging neighborhoods.

- 8.1.b. Provide public restrooms, benches and other amenities in City parks.
- 8.1.c. Develop recreational facilities such as an aquatic center.
- 8.1.d. Support youth activities.
- 8.1.e. Promote Stanislaus River opportunities and activities.

- 8.2 Promote Community Partnerships
  - 8.2.a. Support Love Riverbank and other volunteer groups.
  - 8.2.b. Support public art opportunities.
  - 8.3.c. Support community-driven multi-cultural events.
- 8.3 Support environmental enhancements.
  - 8.3.a. Consider a sound wall on east side of BNSF tracks.
  - 8.3.b. Support efforts to improve air quality.
  - 8.3.c. Explore new materials and technology for roadway improvements and lighting.
- 8.4 Promote a healthy community.
  - 8.4.a. Consider establishing a PAR course or other facilities to promote fitness.
  - 8.4.b. Explore opportunities for community gardens.
- 8.5 Engage the community and non-profit partners in the development of programs, facilities, transitional housing and/or solutions for homeless services.
- 8.6 Successfully implement a transitional shelter type pilot project within Riverbank to be funded through grants.

Benchmarks

Over the next five years staff will provide progress reports to the City Council and the community on the implementation of the Strategic Plan citing specific examples of fulfillment. Agenda items and staff reports will be tied to the achievements of attaining individual Goals.

Summary and Recommendations

Following the adoption of the Strategic Plan, individual Departmental Implementation Plans will be developed and incorporated into this Plan as tactics to support each Goal and Strategy, including ongoing engagement and communications with the public. It is recommended that the City Council review the 2020-2025 Strategic Plan annually at minimum to gauge progress toward achieving its goals.

Development of the Plan

Research

DKS Associates, as part of this process, conducted a substantial amount of research. This research included a thorough review of the following:

- The City's Annual Budget;
- The City's current Strategic Plan;
- The City's Capital Improvement Program;
- City Council Meetings (Agendas, Minutes and Broadcasts);
- News Articles, Prior Election Results and Other Materials;
- Demographic Data; and
- Economic Trends (Local and Regional).

City Council and Staff Interviews

Staff participation and input is critical to the implementation of a successful Strategic Plan. Individuals representing all departments were engaged in a series of interviews and were asked to identify the City's strengths and weaknesses. Interviews were held via conference calls with the management team and key staff members from all City departments. We also spoke individually with the Mayor and Council members to discuss their goals for the Strategic Plan and learn more about their priorities for the City.

Council Study Session

The Riverbank City Council and staff attended a one-day Study Session on August 10, 2021. The purpose of the session was to identify areas of concern and address appropriate priorities for the City moving forward. Discussion revolved around the following topics:

- What should the City's main priorities be now and in the future?
- How can the City best address its fiscal challenges?
- How can the City increase public safety services?
- What types of housing and business development does Riverbank need to remain viable?
- What steps should be taken to improve the Downtown area?

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 11.2

SECTION 11: NEW BUSINESS

Meeting Date:	September 14, 2021
Subject:	Riverbank Recycled Water Project Planning Studies – Project Status Report and Implementation Steps
From:	Sean Scully, City Manager
Submitted by:	Sean Scully, City Manager Michael Riddell, Public Works Director

RECOMMENDATION

Staff recommends that City Council receive an update and presentation on the current status of the City of Riverbank Recycled Water Planning Studies and provide feedback and direction on proposed implementation steps as appropriate.

SUMMARY

In December 2019, the City was awarded two grants from the State Water Resources Control Board under the Water Recycling Funding Program to study the production and use of recycled water under a potential regional recycled water project. Grant funding agreements executed in December 2019 (State Water Resources Control Board Project Nos. WRFP 8438-110 and 8439-110) provided $75,000 grant funding for each Project (a total of $150,000 for the two studies), with remaining project costs matched by the City. The two studies received City Council and community input on June 8th and then were subsequently submitted to the state for review and approval. That approval is ongoing and is expected to be completed by the State Water Resources Control Board in Mid-October.

Concurrently, the City Council conducted their strategic planning session on August 10th. During that meeting the need for expansion and upgrade of the treatment plant was discussed as a high priority at multiple times during the meeting. Based in part on that initial discussion, staff has met with Neal Collwell (project engineer) to discuss what next steps should be taken to move the project forward for construction design, financing and ultimately, final consideration by the City Council.

This project would represent one of the largest infrastructure investments the community can make it its ongoing future. As such, there are a variety of sub-projects and tasks that must be undertaken for the project to ultimately be successful. Some of those include; rate analysis, financial (bonding) analysis, CEQA analysis, State and Federal grant funding, state permitting, right-of-way purchase, and ultimately construction.

Neal Collwell will be in attendance to present the potential future steps should the Council choose to move forward in earnest with the project. A presentation detailing the key points has been attached to the staff report as well as a notional schedule to forecast the potential timeline. NOTE: The schedule is preliminary, and depending on potential grant funding as well as state approval timelines the schedule could shrink or expand.

ATTACHMENT

1) Power Point Presentation
2) Notional Schedule

City of Riverbank
Recycled Water Planning Studies

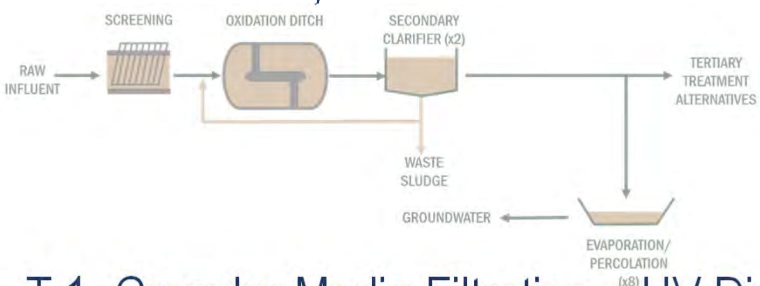
Project Status Report and Implementation Steps
September 14, 2021

PLANNING STUDY UPDATE

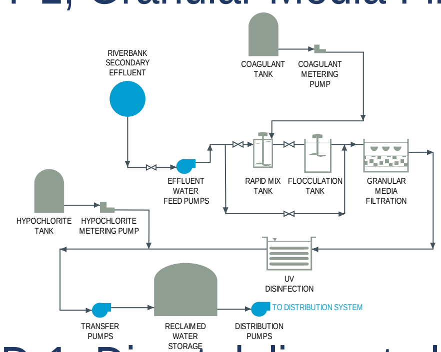
1. Project has been updated per input from City Council June 8, 2021 Council meeting
2. Reports have been submitted to SWRCB with minimal review comments
3. SWRCB meeting will be scheduled for report review
4. Follow-up coordination has been completed with interested recycled water users, with written letters of interest expected
5. Final documents should be completed by mid-October 2021
6. Compiling application information requirements and preliminary contact with potential financial assistance entities completed, including:
   a) State Water Resources Control Board – Division of Financial Assistance
   b) United States Bureau of Reclamation – Title XVI California Program Coordinator

CURRENT PROJECT PLAN

- Upgraded Headworks Facility
- Alternative S-3, Oxidation ditch with circular clarifiers



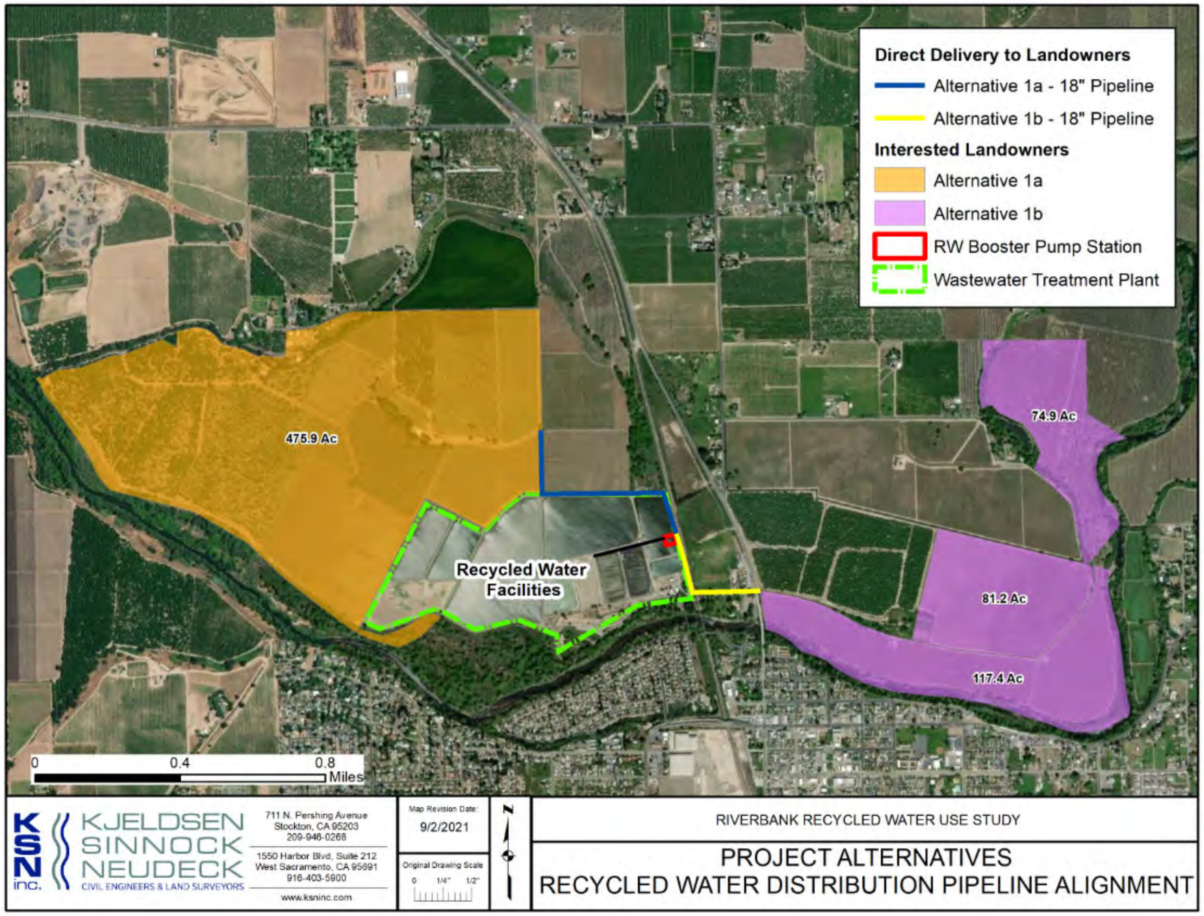
- T-1, Granular Media Filtration + UV Disinfection



- D-1, Direct delivery to landowners

Project Component	Total Capital Cost ($)
Upgraded Headworks Facility	$1,840,000
S-3, Oxidation Ditch Plus Circular Clarifiers	$37,900,000
T-1, Granular Media Filtration + UV Disinfection	$8,800,000
D-1, Phased Direct Delivery to Landowners w/Limited Storage Improvements[a]	$16,500,000
Total	$65,040,000

UPDATED RECYCLED WATER DELIVERY CONCEPT



- Updated delivery concept includes pipeline to a close point of connection to a potential users
- More than one user is interested
- Final configuration will depend on project budget and execution of agreement with grower

NEED FOR AND BENEFITS OF RECOMMENDED PROJECT

The benefits and need for the project include:

1. Capacity as needed to accommodate planned development
2. Water quality improvements to address recent regulatory requirements (Basin Plan Amendment regarding nitrate)
3. Support sustainability and groundwater management, in-lieu groundwater recharge
4. Provide for future opportunities for:
   a) Regional consolidation with Escalon and possibly Oakdale
   b) Future opportunities for recycled water delivery to SSJID
   c) Possible opportunities for increase recycled water sales or transfers

PROJECT IMPLEMENTATION – POTENTIAL GRANT/FINANCING SOURCES

Funding/Financing Source	Financing Type	Funding Amount	Loan Term
US Bureau of Reclamation Title XVI WaterSMART	Federal Grants	Lesser of $20M or 25% of project cost	30-year amortization at 1.75% interest
DWR Prop 1 Grant Program	State Grants & Loans	A portion of up to $21.5M or 50% of project cost	N/A
SGM Prop 68 Grant Program	State Grants & Loans	A portion of $77M, or up to 75% of project costs	N/A
SWRCB Prop 1 Clean Water State Revolving Fund	State Grant & Loans	Up to 35% of project cost	20-year amortization at 2.25% interest or 30-year amortization at 2.5% interest
USDA Rural Development WEP Loan Program	Federal Loans	N/A (1)	30-year amortization at 1.75% interest
EPA WIFIA Loan Program	Federal Loans	N/A	30-year at 1.85% interest
Traditional Bonds	Municipal Revenue Bonds	N/A	30-year amortization at 5.0% interest
Other State or Federal Legislative Funding	Grants/Loans	TBD	TBD

PROJECT IMPLEMENTATION – UPDATED LIKELY PROJECT FUNDING AND FINANCING

User Rate Component	Grant Funding Scenario		
	0% Grant Funding	12.5% Grant Funding	25% Grant Funding
O&M Costs ($USD/yr)	$961,000	$961,000	$961,000
Construction Loan Debt Service ($USD/year)	$2,093,518 + $711,641 = $2,805,159	$1,831,829 + $622,686 = $2,454,515	$1,570,139 + $533,731 = $2,103,870
Annual Additional Cost ($USD/yr)	$3,766,159	$3,415,515	$3,064,870

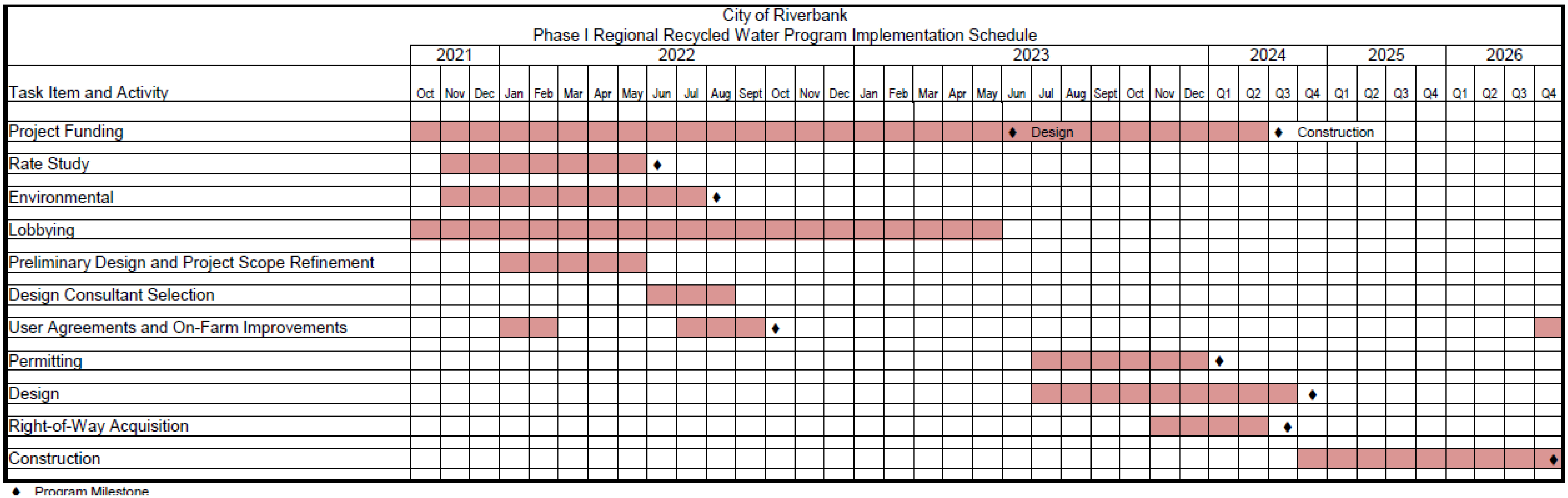
Note: Estimates are based on 2020 USD and assume 1.75% interest over 30-year term.

KEY STEPS FOR PROJECT IMPLEMENTATION

Next Steps for City Implementation of the Project Would include:

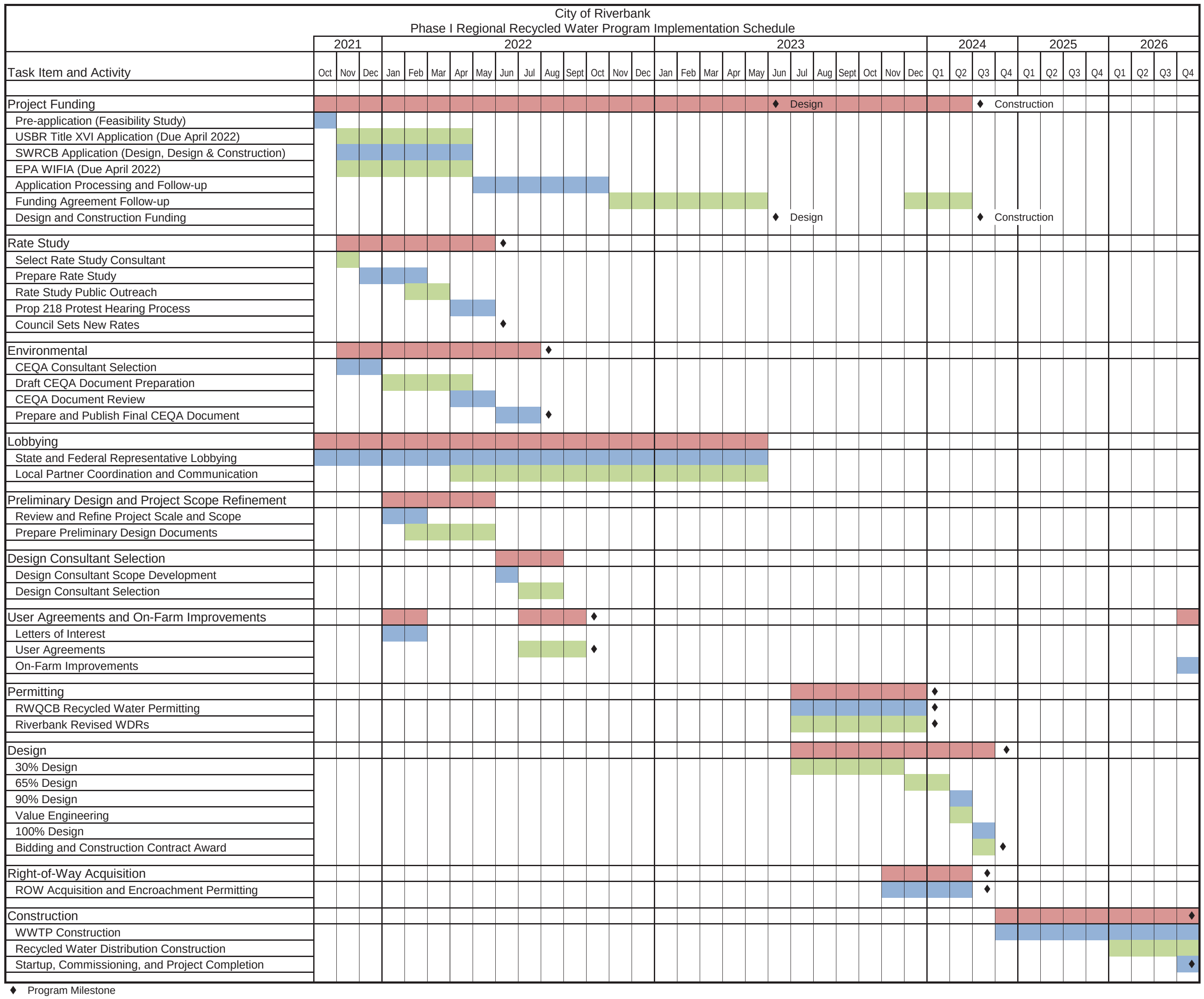
1. Confirming scale of project
2. Establishing City funding sources for project:
   a) Capacity charges (new development)
   b) Update sewer rates
3. Prepare environmental documentation for project
4. Preparing applications for project financial assistance
5. Lobbying for grant funds
6. Selection of design consultant and proceed into detailed design

NEAR TERM PROJECT IMPLEMENTATION SCHEDULE



NEAR TERM CITY ACTIONS FOR PROCEEDING WITH PROJECT

1. Continue with process of developing financial assistance application documentation
2. Initiate selection of rate and project financing consultant
3. Continue with garnering project support
4. Proceed with project scope refinement and preliminary design
5. Schedule selection of environmental document consultant


City of Riverbank
Phase I Regional Recycled Water Program Implementation Schedule
2021
2022
2023
2024
2025
2026
Task Item and Activity
Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4
Project Funding
Design
Construction
Pre-application (Feasibility Study)
USBR Title XVI Application (Due April 2022)
SWRCB Application (Design, Design & Construction)
EPA WIFIA (Due April 2022)
Application Processing and Follow-up
Funding Agreement Follow-up
Design and Construction Funding
Design
Construction
Rate Study
Select Rate Study Consultant
Prepare Rate Study
Rate Study Public Outreach
Prop 218 Protest Hearing Process
Council Sets New Rates
Environmental
CEQA Consultant Selection
Draft CEQA Document Preparation
CEQA Document Review
Prepare and Publish Final CEQA Document
Lobbying
State and Federal Representative Lobbying
Local Partner Coordination and Communication
Preliminary Design and Project Scope Refinement
Review and Refine Project Scale and Scope
Prepare Preliminary Design Documents
Design Consultant Selection
Design Consultant Scope Development
Design Consultant Selection
User Agreements and On-Farm Improvements
Letters of Interest
User Agreements
On-Farm Improvements
Permitting
RWQCB Recycled Water Permitting
Riverbank Revised WDRs
Design
30% Design
65% Design
90% Design
Value Engineering
100% Design
Bidding and Construction Contract Award
Right-of-Way Acquisition
ROW Acquisition and Encroachment Permitting
Construction
WWTP Construction
Recycled Water Distribution Construction
Startup, Commissioning, and Project Completion
♦ Program Milestone

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 11.3

SECTION 11: NEW BUSINESS

Meeting Date:	September 14, 2021
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 two resolutions which were submitted prior to the filing deadline. Resolution Number 1 will be referred initially to the Revenue and Taxation Policy Committee, Resolution Number 2 will be referred to the Housing, Community and Economic Development Committee and the Transportation, Communications and Public Works Committee. 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. Resolution Number 1 has been submitted by the City of Rancho Cucamonga with concurrence from Apple Valley, El Cerrito, La Canada Flintrdige, La Verne, Lakewood, Moorepark, Placentia and Sacramento. Resolution Number 2 was submitted by the City of South Gate with concurrence from Bell Gardens, Bell, Commerce, Cudahy, El Segundo, Glendora, Huntington Park, La Mirada, Long Beach, Lynwood, Montebello, Paramount, and Pico Rivera.

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.

<u>Resolution Number 1:</u> "RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION"

Detailed analysis on this matter can be found on page 25 of the attached packet provided by the league. In brief terms, the resolution seeks to "address the issues in how sales and use taxes are distributed in the 21st century." The analysis notes that the argument centers around the fact that the sales tax system was established during a time when physical retail locations were the primary source for receiving goods and services. That has obviously shifted over time with many sales moving into an online format with massive online retailers controlling significant portions of the market space. The analysis goes into great detail in explaining needed changes for the vast majority of communities to ensure that the sales tax revenues can be maintained in order to provide critical public services. Staff will provide a more in-depth analysis on this resolution at the time of the meeting.

<u>Resolution Number 2:</u> A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECCESARY FUNDING FOR CPUC TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QAULITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETLY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUTT THE RAILROAD RIGHTOF-WAY.

This resolution notes that as the CPUC is the State regulating authority for railroads and railroad right of way. Currently the CPUC has 41 positions who are required to inspect and cover over 6,000 miles of railway within the State. The resolution seeks to request that the Governor and Legislature provide sufficient funding for adequate enforcement and monitoring of illegal dumping, graffiti and homeless encampments within railroad right of way. Additionally, the resolution seeks funding for cities to work on addressing these issues within those areas. Detailed analysis is located in the attached packet, staff will provide additional analysis on this resolution at the time of the meeting.

<u>FINANCIAL IMPACT:</u>

As is typical with League Resolutions which have general statewide impacts forecasting the exact financial impact is complicated. Generally, resolution number one would seek to create more equity within the current sales tax system which could be a positive financial change for the City of Riverbank due to the contents of the proposed resolution. Staff will provide additional analysis on this specific financial impact at the time of the meeting.

Resolution number 2 would not necessarily have a direct financial impact on the City of Riverbank but depending on funding, could be a useful tool to address code enforcement related issues along railroad right-of-way.

ATTACHMENTS:

1) League Resolution Packet

Annual Conference Resolutions Packet

2021 Annual Conference Resolutions

September 22 - 24, 2021

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League of California Cities (Cal Cities) 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, two resolutions have been introduced for consideration at the Annual Conference and referred to Cal Cities policy committees.

POLICY COMMITTEES: Three policy committees will meet virtually one week prior to the Annual Conference to consider and take action on the resolutions. The sponsors of the resolutions have been notified of the time and location of the meetings.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 23, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of Cal Cities regional divisions, functional departments, and standing policy committees, as well as other individuals appointed by the Cal Cities president. Please check in at the registration desk for room location.

CLOSING LUNCHEON AND GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, September 24, at the SAFE Credit Union Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a petition 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 Closing Luncheon & General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 23. Resolutions can be viewed on Cal Cities Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond mdesmond@calcities.org.

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within Cal Cities. The principal means for deciding policy on the important issues facing cities is through Cal Cities 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 Cal Cities 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 Cal Cities 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 Cal Cities 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.

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

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

REVENUE & TAXATION POLICY COMMITTEE

		1	2	3
1	Online Sales Tax Equity			

TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

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 Cal Cities Bylaws.

1. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

Source: City of Rancho Cucamonga
Concurrence of five or more cities/city officials:
Cities: Town of Apple Valley; City of El Cerrito; City of La Canada Flintridge; City of La Verne; City of Lakewood; City of Moorpark; City of Placentia; City of Sacramento
Referred to: Revenue and Taxation Policy Committee

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being entirely allocated to the specific city where the warehouse fulfillment center is located as opposed to going into a countywide pool that is shared with all jurisdictions in that County, as was done previously; and

WHEREAS, this all-or-nothing change for the allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue from the retailer that was once spread amongst all cities in countywide pools is now concentrated in select cities that host a fulfillment center; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting a 1 million square foot fulfillment center, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their RHNA obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering product from that center now receive no revenue from the center's sales activity despite also experiencing the impacts created by the center, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

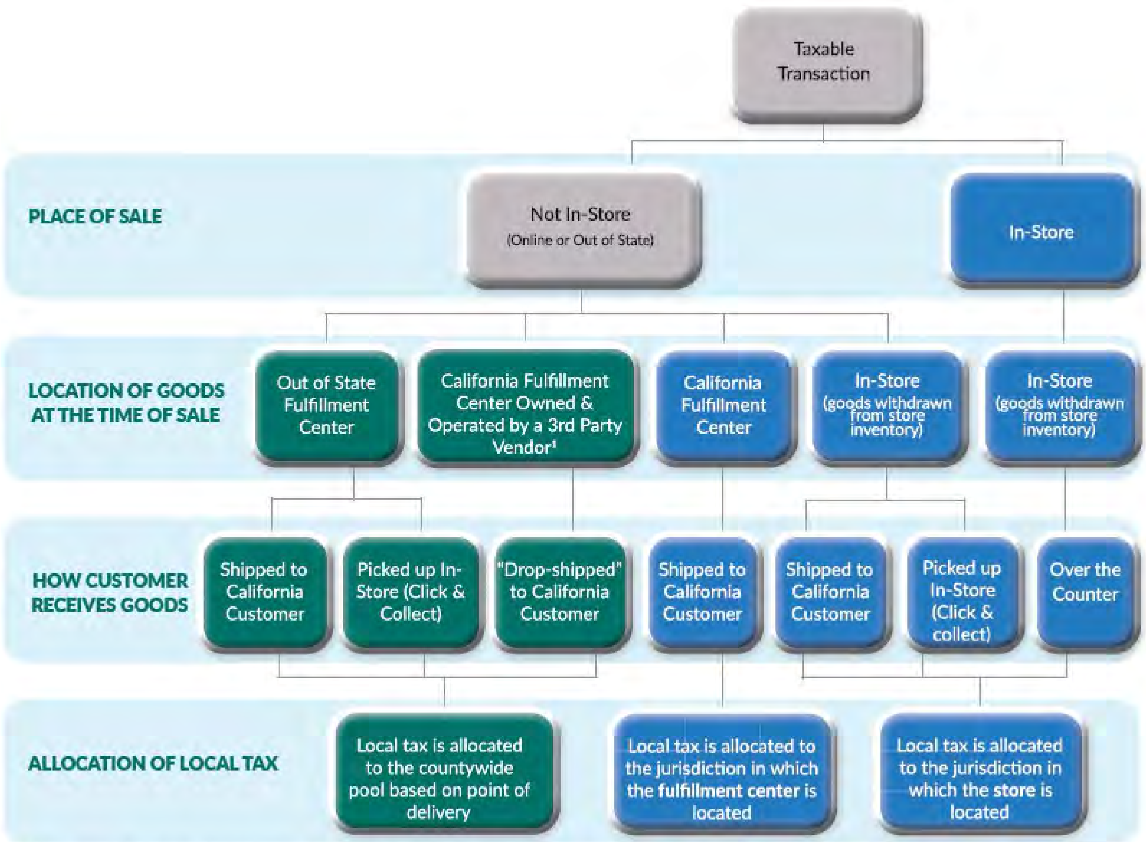
Background Information to Resolution

Source: City of Rancho Cucamonga

Background:
Sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries.

Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances. The California Department of Tax and Fee Administration (CDTFA) is responsible for administering this system and issuing rules regarding how it is applied in our state.

The following chart created by HdL Companies, the leading provider of California sales tax consulting, illustrates the complex structure of how sales and use tax allocation is done in California, depending on where the transaction starts, where the goods are located, and how the customer receives the goods:



[1] *In this scenario the retailer does not own a stock of goods in California and sales orders are negotiated/processed out of state. An out of state company is not required to hold a seller's permit for an in-state third party warehouse if they do not own a stock of goods at the time of sale.*

With the exponential growth of online sales and the corresponding lack of growth, and even decline, of shopping at brick and mortar locations, cities are seeing much of their sales tax growth coming from the countywide sales tax pools, since much of the sales tax is now funneled to the pools.

Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated. Following the chart above, previously much of the sales tax would have followed the green boxes on the chart and been allocated to the countywide pool based on point of delivery. Now, much of the tax is following the blue path through the chart and is allocated to the jurisdiction in which the fulfillment center is located. (It should be noted that some of the tax is still flowing to the pools, in those situations where the fulfillment center is shipping goods for another seller that is out of state.)

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers.

This has brought to light again the need to address the issues in how sales and use taxes are distributed in the 21st century. Many, if not most cities will never have the opportunity have a warehouse fulfillment center due to lack of space or not being situated along a major travel corridor. These policies especially favor retailers who may leverage current policy in order to negotiate favorable sales tax sharing agreements, providing more money back to the retailer at the expense of funding critical public services.

With that stated, it is important to note the many impacts to the jurisdictions home to the fulfillment centers. These centers do support the ecommerce most of us as individuals have come to rely on, including heavy wear and tear on streets – one truck is equal to about 8,000 cars when it comes to impact on pavement – and increased air pollution due to the truck traffic and idling diesel engines dropping off large loads. However, it is equally important that State policies acknowledge that entities without fulfillment centers also experience impacts from ecommerce and increased deliveries. Cities whose residents are ordering products that are delivered to their doorstep also experience impacts from traffic, air quality and compromised safety, as well as the negative impact on brick-and-mortar businesses struggling to compete with the sharp increase in online shopping. These cities are rightfully entitled to compensation in an equitable share of sales and use tax. We do not believe that online sales tax distribution between fulfillment center cities and other cities should be an all or nothing endeavor, and not necessarily a fifty-fifty split, either. But we need to find an equitable split that balances the impacts to each jurisdiction involved in the distribution of products purchased online.

Over the years, Cal Cities has had numerous discussions about the issues surrounding sales tax in the modern era, and how state law and policy should be revisited to address these issues. It is a heavy lift, as all of our cities are impacted a bit differently, making consensus difficult. We believe that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger.

It is for these reasons, that we should all aspire to develop an equitable sales tax distribution for online sales.

League of California Cities Staff Analysis on Resolution No. 1

Staff: Nicholas Romo, Legislative Affairs, Lobbyist

Committee: Revenue and Taxation

Summary:

This Resolution calls on the League of California Cities (Cal Cities) to request the Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

Background:

The City of Rancho Cucamonga is sponsoring this resolution to *"address the issues in how sales and use taxes are distributed in the 21st century."*

The City notes that *"sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries. Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances.*

Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated.

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers."

The City's resolution calls for action on an unspecified solution that *"rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction,"* which aims to acknowledge the actions taken by cities to alleviate poverty, catalyze economic development, and improve financial stability within their communities through existing tax sharing and zoning powers.

Ultimately, sponsoring cities believe *"that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger."*

Sales and Use Tax in California

The Bradley-Burns Uniform Sales Tax Act allows all local agencies to apply its own sales and use tax on the same base of tangible personal property (taxable goods). This tax rate currently is fixed at 1.25% of the sales price of taxable goods sold at retail locations in a local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Cities and counties use this 1% of the tax to support general operations, while the remaining 0.25% is used for county transportation purposes.

In California, all cities and counties impose Bradley-Burns sales taxes. California imposes the sales tax on every retailer engaged in business in this state that sells taxable goods. The law requires businesses to collect the appropriate tax from the purchaser and remit the amount to the California Department of Tax and Fee Administration (CDTFA). Sales tax applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business. Unless the person pays the sales tax to the retailer, they are liable for the use tax, which is imposed on any person consuming taxable goods in the state. The use tax rate is the same rate as the sales tax rate.

Generally, CDTFA distributes Bradley-Burns tax revenue based on where a sale took place, known as *a situs-based system*. A retailer's physical place of business—such as a retail store or restaurant—is generally the place of sale. "Sourcing" is the term used by tax practitioners to describe the rules used to determine the place of sale, and therefore, which tax rates are applied to a given purchase and which jurisdictions are entitled to the local and district taxes generated from a particular transaction.

California is primarily an origin-based sourcing state – meaning tax revenues go to the jurisdiction in which a transaction physically occurs if that can be determined. However, California also uses a form of destination sourcing for the local use tax and for district taxes (also known as "transactions and use taxes" or "add-on sale and use taxes"). That is, for cities with local add-on taxes, they receive their add-on rate amount from remote and online transactions.

Generally, allocations are based on the following rules:

- The sale is sourced to the place of business of the seller - whether the product is received by the purchaser at the seller's business location or not.
- If the retailer maintains inventory in California and has no other in state location, the source is the jurisdiction where the warehouse is situated. *This resolution is concerned with the growing amount of online retail activity being sourced to cities with warehouse/fulfillment center locations.*
- If the business' sales office is located in California but the merchandise is shipped from out of state, the tax from transactions under $500,000 is allocated

via the county pools. The tax from transactions over $500,000 is allocated to the jurisdiction where the merchandise is delivered.

- When a sale cannot be identified with a permanent place of business in the state, the sale is sourced to the allocation pool of the county where the merchandise was delivered and then distributed among all jurisdictions in that county in proportion to ratio of sales. *For many large online retailers, this has been the traditional path.*

Online Sales and Countywide Pools

While the growth of e-commerce has been occurring for more than two decades, led by some of the largest and most popular retailers in the world, the dramatic increase in online shopping during the COVID-19 pandemic has provided significant revenue to California cities as well as a clearer picture on which governments enjoy even greater benefits.

In the backdrop of booming internet sales has been the steady decline of brick-and-mortar retail and shopping malls. For cities with heavy reliance on in-person retail shopping, the value of the current allocation system has been diminished as their residents prefer to shop online or are incentivized to do so by retailers (during the COVID-19 pandemic, consumers have had no other option but to shop online for certain goods). All the while, the demands and costs of city services continue to grow for cities across the state.

As noted above, the allocation of sales tax revenue to local governments depends on the location of the transaction (or where the location is ultimately determined). For in-person retail, the sales tax goes to the city in which the product and store are located - a customer purchasing at a register. For online sales, the Bradley Burns sales tax generally goes to a location other than the one where the customer lives – either to the city or county where an in-state warehouse or fulfillment center is located, the location of in-state sales office (ex. headquarters) or shared as use tax proceeds amongst all local governments within a county based on their proportionate share of taxable sales.

Under current CDTFA regulations, a substantial portion of local use tax collections are allocated through a countywide pool to the local jurisdictions in the county where the property is put to its first functional use. The state and county pools constitute over 15% of local sales and use tax revenues. Under the pool system, the tax is reported by the taxpayer to the countywide pool of use and then distributed to each jurisdiction in that county on a pro-rata share of taxable sales. If the county of use cannot be identified, the revenues are distributed to the state pool for pro-rata distribution on a statewide basis.

Concentration of Online Sales Tax Revenue and Modernization

Sales tax modernization has been a policy goal of federal, state, and local government leaders for decades to meet the rapidly changing landscape of commercial activity and ensure that all communities can sustainably provide critical services.

For as long as remote and internet shopping has existed, policy makers have been concerned about their potential to disrupt sales and use tax allocation procedures that underpin the funding of local government services. The system was designed in the early twentieth century to ensure that customers were paying sales taxes to support local government services within the community where the transactions occurred whether they resided there or not. This structure provides benefit to and recoupment for the public resources necessary to ensure the health and safety of the community broadly.

City leaders have for as long been concerned about the loosening of the nexus between what their residents purchase and the revenues they receive. Growing online shopping, under existing sourcing rules, has led to a growing concentration of sales tax revenue being distributed to a smaller number of cities and counties. As more medium and large online retailers take title to fulfillment centers or determine specific sales locations in California as a result of tax sharing agreements in specific cities, online sales tax revenue will be ever more concentrated in a few cities at the control of these companies. Furthermore, local governments are already experiencing the declining power of the sales tax to support services as more money is being spent on non-taxable goods and services.

For more on sales and use tax sourcing please see Attachment A.

<u>State Auditor Recommendations</u>
In 2017, the California State Auditor issued a report titled, "[The Bradley-Burns Tax and Local Transportation Funds](), noting that:

"Retailers generally allocate Bradley Burns tax revenue based on the place of sale, which they identify according to their business structure. However, retailers that make sales over the Internet may allocate sales to various locations, including their warehouses, distribution center, or sales offices. This approach tends to concentrate Bradley Burns tax revenue into the warehouses' or sales offices' respective jurisdictions. Consequently, counties with a relatively large amount of industrial space may receive disproportionately larger amounts of Bradley Burns tax, and therefore Local Transportation Fund, revenue.

The State could make its distribution of Bradley Burns tax revenue derived from online sales more equitable if it based allocations of the tax on the destinations to which goods are shipped rather than on place of sale."

The Auditor's report makes the following recommendation:

"To ensure that Bradley‑Burns tax revenue is more evenly distributed, the Legislature should amend the Bradley‑Burns tax law to allocate revenues from Internet sales based on the destination of sold goods rather than their place of sale."

In acknowledgement of the growing attention from outside groups on this issue, Cal Cities has been engaged in its own study and convening of city officials to ensure pursued solutions account for the circumstances of all cities and local control is best protected. These efforts are explored in subsequent sections.

Cal Cities Revenue and Taxation Committee and City Manager Working Group

In 2015 and 2016, Cal Cities' Revenue and Taxation Policy Committee held extensive discussions on potential modernization of tax policy affecting cities, with a special emphasis on the sales tax. The issues had been identified by Cal Cities leadership as a strategic priority given concerns in the membership about the eroding sales tax base and the desire for Cal Cities to take a leadership role in addressing the associated issues. The policy committee ultimately adopted a series of policies that were approved by the Cal Cities board of directors. Among its changes were a recommended change to existing sales tax sourcing (determining where a sale occurs) rules, so that the point of sale (situs) is where the customer receives the product. The policy also clarifies that specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood. See "Existing Cal Cities Policy" section below.

Cal Cities City Manager Sales Tax Working Group Recommendations

In the Fall of 2017, the Cal Cities City Managers Department convened a working group (Group) of city managers representing a diverse array of cities to review and consider options for addressing issues affecting the local sales tax.

The working group of city managers helped Cal Cities identify internal common ground on rapidly evolving e-commerce trends and their effects on the allocation of local sales and use tax revenue. After meeting extensively throughout 2018, the Group made several recommendations that were endorsed unanimously by Cal Cities' Revenue and Taxation Committee at its January, 2019 meeting and by the board of directors at its subsequent meeting.

The Group recommended the following actions in response to the evolving issues associated with e-commerce and sales and use tax:

Further Limiting Rebate Agreements: The consensus of the Group was that:

- Sales tax rebate agreements involving online retailers should be prohibited *going forward*. They are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one.
- Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited *going forward*. Existing law already prohibits such agreements for auto dealers and big box stores.

Shift Use Tax from Online Sales, including from the South Dakota v. Wayfair Decision Out of County Pools: The Group's recommendation is based first on the principle of "situs" and that revenue should be allocated to the jurisdiction where the use occurs. Each city and county in California imposed a Bradley Burns sales and use tax rate under state law in the 1950s. The use tax on a transaction is the rate imposed where the purchaser resides (the destination). These use tax dollars, including new revenue from the South Dakota v. Wayfair decision, should be allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

- Shift of these revenues, from purchases from out of state retailers including transactions captured by the South Dakota v. Wayfair decision, out of county pools to full destination allocation on and after January 1, 2020.
- Allow more direct reporting of use taxes related to construction projects to jurisdiction where the construction activity is located by reducing existing regulatory threshold from $5 million to $100,000.

<u>Request/Require CDTFA Analysis on Impacts of Sales Tax Destination Shifts</u>: After discussion of numerous phase-in options for destination sourcing and allocation for sales taxes, the Group ultimately decided that a more complete analysis was needed to sufficiently determine impacts. Since the two companies most cities rely on for sales tax analysis, HdL and MuniServices, were constrained to modeling with transaction and use tax (district tax) data, concerns centered on the problem of making decisions without adequate information. Since the CDTFA administers the allocation of local sales and use taxes, it is in the best position to produce an analysis that examines:

- The impacts on individual agencies of a change in sourcing rules. This would likely be accomplished by developing a model to examine 100% destination sourcing with a report to the Legislature in early 2020.
- The model should also attempt to distinguish between business-to-consumer transactions versus business-to-business transactions.
- The model should analyze the current number and financial effects of city and county sales tax rebate agreements with online retailers and how destination sourcing might affect revenues under these agreements.

<u>Conditions for considering a Constitutional Amendment that moves toward destination allocation</u>: Absent better data on the impacts on individual agencies associated with a shift to destination allocation of sales taxes from CDTFA, the Group declined to prescribe if/how a transition to destination would be accomplished; the sentiment was that the issue was better revisited once better data was available. In anticipation that the data would reveal significant negative impacts on some agencies, the Group desired that any such shift should be accompanied by legislation broadening of the base of sales taxes, including as supported by existing Cal Cities policy including:

- Broadening the tax base on goods, which includes reviewing existing exemptions on certain goods and expanding to digital forms of goods that are otherwise taxed; and
- Expanding the sales tax base to services, such as those commonly taxed in other states.

This Resolution builds upon previous work that accounts for the impacts that distribution networks have on host cities and further calls on the organization to advocate for changes to sales tax distribution rules.

The Resolution places further demands on data collected by CDTFA to establish a “fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases.” Such data is proposed to be collected by SB 792 (Glazer, 2021). More discussion on this topic can be found in the “Staff Comments” section.

Staff Comments:

Proposed Resolution Affixes Equity Based, Data Driven Approach to Existing Cal Cities Policy on Sales Tax Sourcing

The actions resulting from this resolution, if approved, would align with existing policy and efforts to-date to modernize sales tax rules. While not formalized in existing Cal Cities policy or recommendations, city managers and tax practitioners generally have favored proposals that establish a sharing of online sales tax revenues rather than a full destination shift. City leaders and practitioners across the state have acknowledged during Cal Cities Revenue and Taxation and City Manager’s working group meetings that the hosting of fulfillment centers and ancillary infrastructure pose major burdens on local communities including detrimental health and safety impacts. This acknowledgement has moved mainstream proposals such as this one away from full revenue shifts towards an equity-based, data driven approach that favors revenue sharing. This Resolution would concretely affix this approach as Cal Cities policy.

More Data is Needed to Achieve Equity Based Approach

A major challenge is the lack of adequate data to model the results of shifting in-state online sale tax revenues. Local government tax consultants and state departments have limited data to model the effects of changes to sales tax distribution because their information is derived only from cities that have a local transactions and use tax (TUT). Tax experts are able to model proposed tax shifts using TUTs since they are allocated on a destination basis (where a purchaser receives the product; usually a home or business). However, more than half of all cities, including some larger cities, do not have a local TUT therefore modeling is constrained and incomplete.

Efforts to collect relevant sales tax information on the destination of products purchased online are ongoing. The most recent effort is encapsulated in SB 792 (Glazer, 2021), which would require retailers with online sales exceeding $50 million a year to report to CDTFA the gross receipts from online sales that resulted in a product being shipped or delivered in each city. The availability of this data would allow for a much more complete understanding of online consumer behavior and the impacts of future proposed changes to distribution. SB 792 (Glazer) is supported by Cal Cities following approval by the Revenue and Taxation Committee and board of directors.

Impact of Goods Movement Must Be Considered

As noted above, city leaders and practitioners across the state acknowledge that the hosting of fulfillment centers and goods movement infrastructure pose major burdens on local communities including detrimental health, safety, and infrastructure impacts. Not least of which is the issue of air pollution from diesel exhaust. According to California Environmental Protection Agency (Cal EPA):

"Children and those with existing respiratory disease, particularly asthma, appear to be especially susceptible to the harmful effects of exposure to airborne PM from diesel exhaust, resulting in increased asthma symptoms and attacks along with decreases in lung function (McCreanor et al., 2007; Wargo, 2002). People that live or work near heavily-traveled roadways, ports, railyards, bus yards, or trucking distribution centers may experience a high level of exposure (US EPA, 2002; Krivoshto et al., 2008). People that spend a significant amount of time near heavily-traveled roadways may also experience a high level of exposure. Studies of both men and women demonstrate cardiovascular effects of diesel PM exposure, including coronary vasoconstriction and premature death from cardiovascular disease (Krivoshto et al., 2008). A recent study of diesel exhaust inhalation by healthy non-smoking adults found an increase in blood pressure and other potential triggers of heart attack and stroke (Krishnan et al., 2013) Exposure to diesel PM, especially following periods of severe air pollution, can lead to increased hospital visits and admissions due to worsening asthma and emphysema-related symptoms (Krivoshto et al., 2008). Diesel exposure may also lead to reduced lung function in children living in close proximity to roadways (Brunekreef et al., 1997)."

The founded health impacts of the ubiquitous presence of medium and heavy-duty diesel trucks used to transport goods to and from fulfillment centers and warehouses require host cities to meet increased needs of their residents including the building and maintenance of buffer zones, parks, and open space. While pollution impacts may decline with the introduction of zero-emission vehicles, wide scale adoption by large distribution fleets is still in its infancy. Furthermore, the impacts of heavy road use necessitate increased spending on local streets and roads upgrades and maintenance. In addition, many cities have utilized the siting of warehouses, fulfillment centers, and other heavy industrial uses for goods movements as key components of local revenue generation and economic development strategies. These communities have also foregone other land uses in favor of siting sales offices and fulfillment networks.

All said, however, it is important to acknowledge that disadvantaged communities (DACs) whether measured along poverty, health, environmental or education indices exist in cities across the state. For one example, see: California Office of Environmental Health Hazard Assessment (OEHHA) CalEnviroScreen. City officials may consider how cities without fulfillment and warehouse center revenues are to fund efforts to combat social and economic issues, particularly in areas with low property tax and tourism-based revenues.

The Resolution aims to acknowledge these impacts broadly (this analysis does not provide an exhaustive review of related impacts) and requests Cal Cities to account for them in a revised distribution formula of the Bradley Burns 1% local sales tax from in-state online purchases. The Resolution does not prescribe the proportions.

Clarifying Amendments
Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. *To review the proposed changes, please see Attachment B.*

Fiscal Impact:
Significant but unknown. The Resolution on its own does not shift sales tax revenues. In anticipation and mitigation of impacts, the Resolution requests Cal Cities to utilize online sales tax data to identify a fair and equitable distribution formula that accounts for the broad impacts fulfillment centers involved in online retail have on the cities that host them. The Resolution does not prescribe the revenue distribution split nor does it prescribe the impacts, positive and negative, of distribution networks.

Existing Cal Cities Policy:

- Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.
- Support as Cal Cities policy that point of sale (situs) is where the customer receives the product. Specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood.
- Revenue from new regional or state taxes or from increased sales tax rates should be distributed in a way that reduces competition for situs-based revenue. (Revenue from the existing sales tax rate and base, including future growth from increased sales or the opening of new retail centers, should continue to be returned to the point of sale.)
- The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected.
- Restrictions should be implemented and enforced to prohibit the enactment of agreements designed to circumvent the principle of situs-based sales and redirect or divert sales tax revenues from other communities, when the physical location of the affected businesses does not change. Sales tax rebate agreements involving online retailers are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one. Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited going forward.
- Support Cal Cities working with the state California Department of Tax and Fee Administration (CDTFA) to update the county pool allocation process to ensure that more revenues are allocated to the jurisdiction where the purchase or first use of a product occurs (usually where the product is delivered). Use Tax collections from online sales, including from the South Dakota v Wayfair Decision, should be shifted out of county pools and allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

Support:
The following letters of concurrence were received:
Town of Apple Valley
City of El Cerrito
City of La Canada Flintridge
City of La Verne
City of Lakewood

City of Moorpark
City of Placentia
City of Sacramento

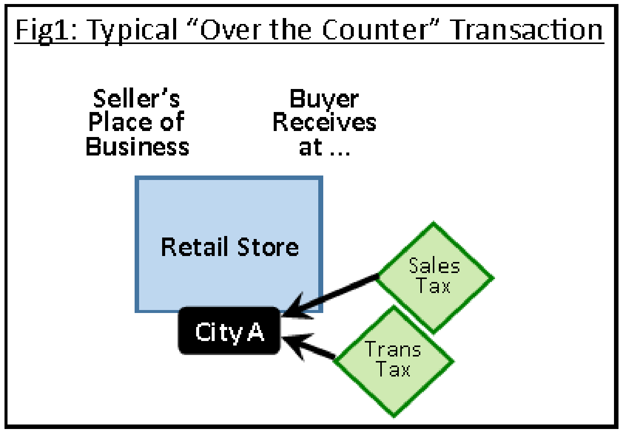


Fig1: Typical "Over the Counter" Transaction
Seller's Place of Business
Buyer Receives at ...
Retail Store
City A
Sales Tax
Trans Tax

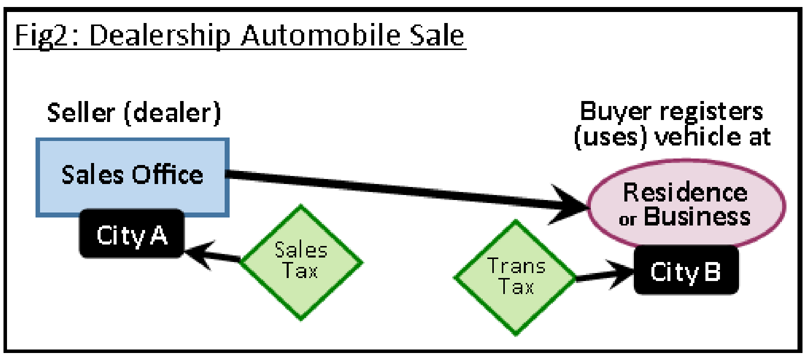


Fig2: Dealership Automobile Sale
Seller (dealer)
Sales Office
City A
Sales Tax
Buyer registers (uses) vehicle at
Residence or Business
Trans Tax
City B

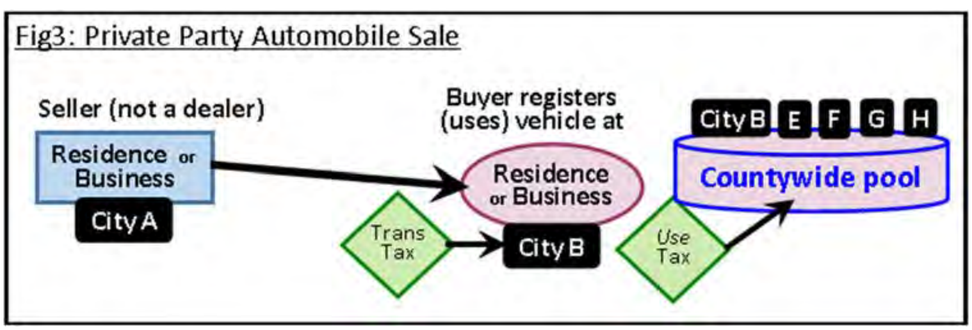
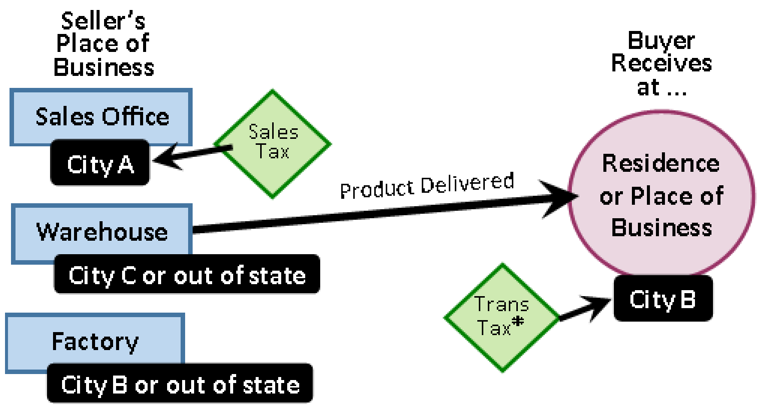


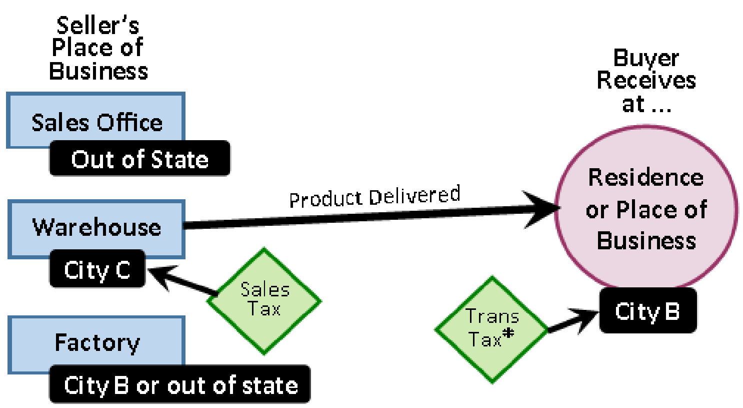
Fig3: Private Party Automobile Sale
Seller (not a dealer)
Residence or Business
City A
Buyer registers (uses) vehicle at
Residence or Business
Trans Tax
City B
City B
E
F
G
H
Countywide pool
Use Tax

Fig4: Remote (Online) Sale—In-State Business Office

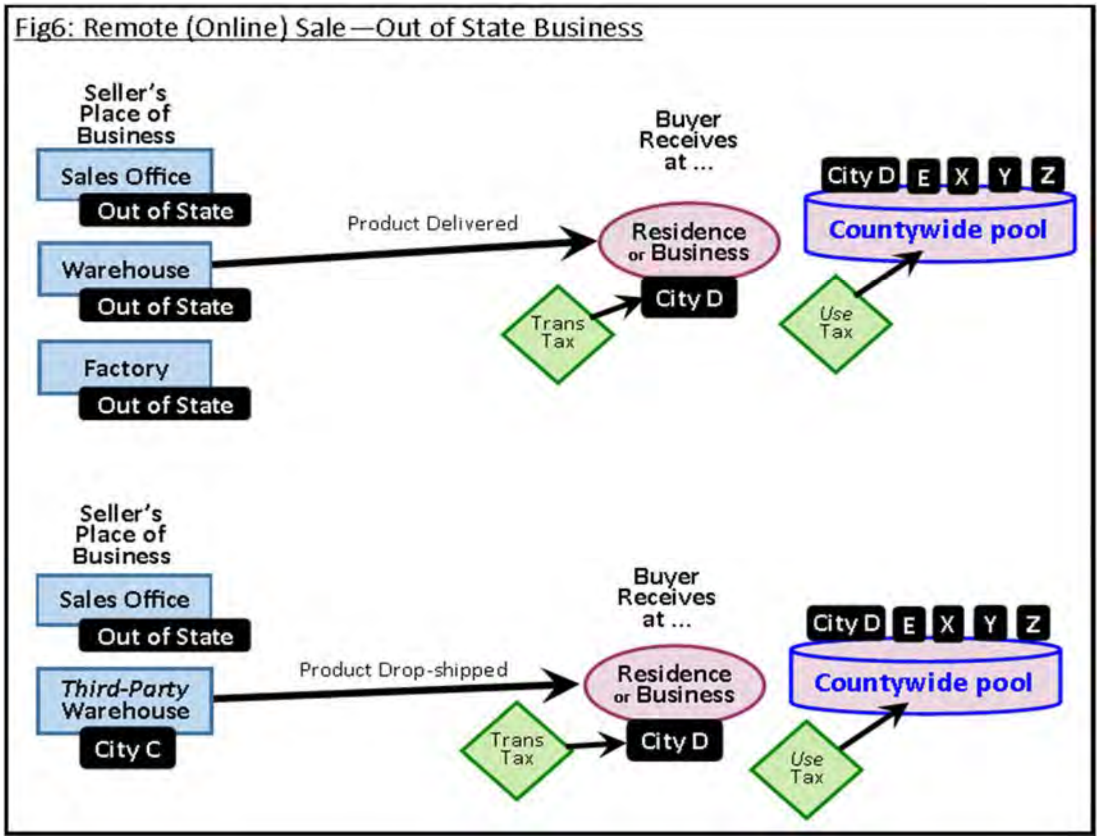


*If the seller is in the same Transactions and Use Tax "district" as the buyer, then the seller is responsible for collecting and remitting the tax. If the buyer is in a different district, the buyer is responsible.

Fig5: Remote (Online) Sale—In-State Warehouse, Out-of-State Sales Office



*If the seller is in the same Transactions and Use Tax "district" as the buyer, then the seller is responsible for collecting and remitting the tax. If the buyer is in a different district, the buyer is responsible.



GUIDELINES FOR ALLOCATION OF LOCAL TAX - ONLINE AND IN-STORE			
Place of Sale	**Location of Goods at the Time of Sale**	**How Customer Receives Goods**	**Allocation of Tax**
Online – Order is placed or downloaded outside California	California Fulfillment Center	Shipped to California Customer	Local tax is allocated to the jurisdiction in which the fulfillment center is located
Online – Order is placed or downloaded in California	California Fulfillment Center	Shipped to California Customer	Per CDTFA Regulation 1802, local tax is allocated to the jurisdiction where the order is placed
Online	Out of State Fulfilment Center	Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	Out of State Fulfilment Center	Picked Up In-Store (Click & Collect)	Local tax is allocated to the countywide pool based on point of delivery
Online	California Fulfillment Center Owned and Operated by Third Party Vendor	Drop-Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	In-Store (Goods withdrawn from store inventory)	Shipped to California Customer	Local Tax is allocated to the jurisdiction where the store is located
Online	In-Store (Goods withdrawn from store inventory)	Picked Up In-Store (Click & Collect)	Local Tax is allocated to the jurisdiction where the store is located
In-Store	In-Store (Goods withdrawn from store inventory)	Over the Counter	Local Tax is allocated to the jurisdiction where the store is located

Courtesy of HdL Companies

Tax Incentive Programs, Sales Tax Sharing Agreements

In recent years, especially since Proposition 13 in 1978, local discretionary (general purpose revenues) have become more scarce. At the same time, options and procedures for increasing revenues have become more limited. One outcome of this in many areas has been a greater competition for sales and use tax revenues. This has brought a rise in arrangements to encourage certain land use development with rebates and incentives which exploit California's odd origin sales tax sourcing rules.

The typical arrangement is a sales tax sharing agreement in which a city provides tax rebates to a company that agrees to expand their operations in the jurisdiction of the city. Under such an arrangement, the company generally agrees to make a specified amount of capital investment and create a specific number of jobs over a period of years in exchange for specified tax breaks, often property tax abatement or some sort of tax credit. In some cases, this has simply taken the form of a sales office, while customers and warehouses and the related economic activity are disbursed elsewhere in the state. In some cases the development takes the form of warehouses, in which the sales inventory, owned by the company, is housed.[6]

Current sales tax incentive agreements in California rebate amounts ranging from 50% to 85% of sales tax revenues back to the corporations.

Today, experts familiar with the industry believe that between 20% to 30% of local Bradley-Burns sales taxes paid by California consumers is diverted from local general funds back to corporations; over $1 billion per year.

The Source of Origin Based Sourcing Problems

Where other than over-the-counter sales are concerned origin sourcing often causes a concentration of large amounts of tax revenue in one location, despite the fact that the economic activity and service impacts are also occurring in other locations.

The large amounts of revenue concentrated in a few locations by California's "warehouse rule" origin sourcing causes a concentration of revenue far in excess of the service costs associated with the development.

In order to lure jobs and tax revenues to their communities, some cities have entered into rebate agreements with corporations. This has grown to such a problem, that 20% to 30% of total local taxes paid statewide are being rebated back to corporations rather than funding public services.

Moving to Destination Sourcing: The Concept[7]

A change from origin sourcing rules to destination sourcing rules for the local tax component of California's sales tax would improve overall revenue collections and distribute these revenues more equitably among all of the areas involved in these transactions.

A change from origin based sourcing to destination based sourcing would have no effect on state tax collections. However, it would alter the allocations of local sales and use tax revenues among local agencies. Most retail transactions including dining, motor fuel purchases, and in-store purchases would not be affected. But in cases where the property is received by the purchaser in a different jurisdiction than where the sales agreement was negotiated, there would be a different allocation than under the current rules.

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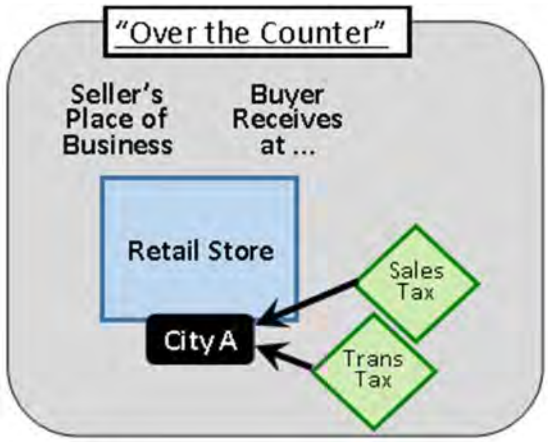
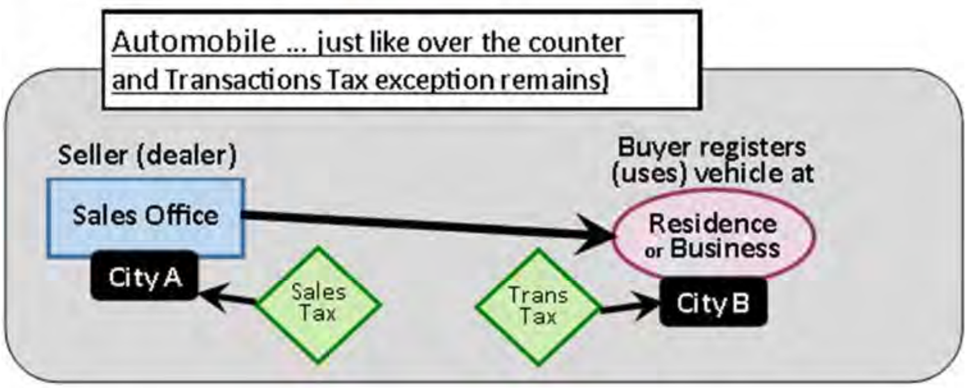
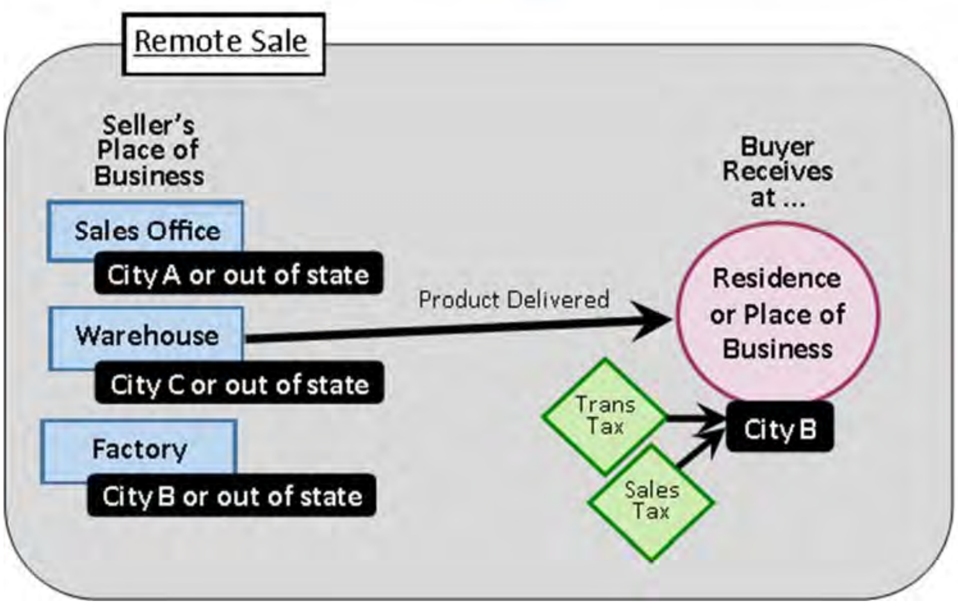
[6] See Jennifer Carr, "Origin Sourcing and Tax Incentive Programs: An Unholy Alliance" Sales Tax Notes; May 27, 2013.

[7] The same issues that are of concern regarding the local sales tax do not apply to California's Transactions and Use Taxes ("Add-on sales taxes") as these transactions, when not over the counter, are generally allocated to the location of use or, as in the case of vehicles, product registration. There is no need to alter the sourcing rules for transactions and use taxes.

Destination Sourcing Scenario 1: Full-On

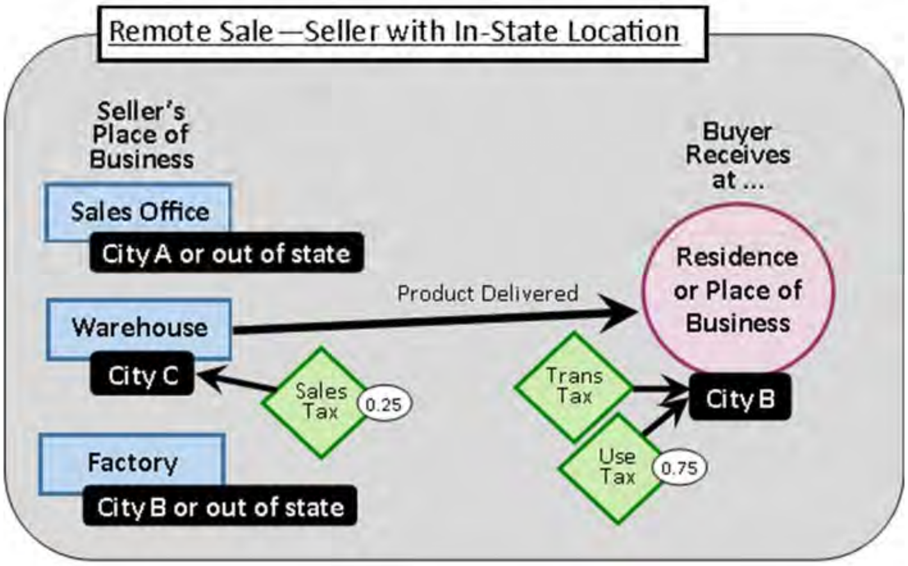


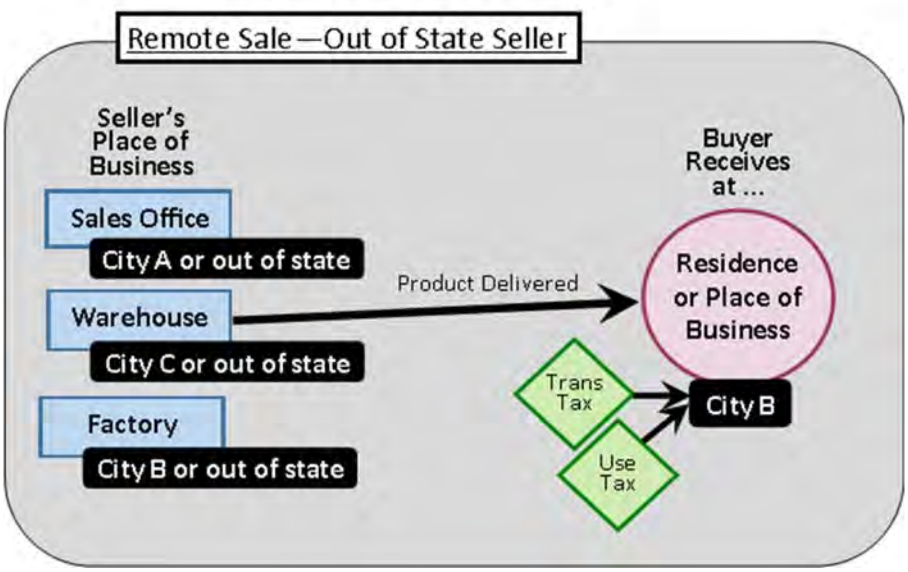




Destination Sourcing Scenario 2: Split Source

- Same as now for "over the counter" and automobile.
- Leave 0.25% on current seller if instate (origin)
- Could be phased in.





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RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being ~~entirely~~ allocated to ~~the specific city~~ cities where ~~the~~ warehouse fulfillment centers ~~is~~ are located as opposed to going into ~~a~~ countywide pools that ~~is~~ are shared with all jurisdictions in those counties ~~that County~~, as was done previously; and

WHEREAS, this all-or-nothing ~~change for the~~ allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue ~~from the retailer~~ that was once spread amongst all cities in countywide pools is now concentrated in select cities that host ~~a~~ fulfillment centers; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting ~~a 1 million square foot~~ fulfillment centers, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering products from **those** ~~**that**~~ centers now receive no **Bradley Burns** revenue ~~**from the center's sales activity**~~ despite also experiencing the impacts created by them ~~center~~, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

2. **A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECCESARY FUNDING FOR CUPC TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QAULITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETLY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUTT THE RAILROAD RIGHT-OF-WAY.**

Source: City of South Gate
Concurrence of five or more cities/city officials:
Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera
Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the California Public Utilities Commission for operational safety and maintenance; and

WHEREAS, the California Public Utilities Commission (CPUC) is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the League Annual Conference on September 24, 2021, in Sacramento, that the League calls for the Governor and the Legislature to work with the League and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. The League will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.

Background Information to Resolution

Source: City of South Gate

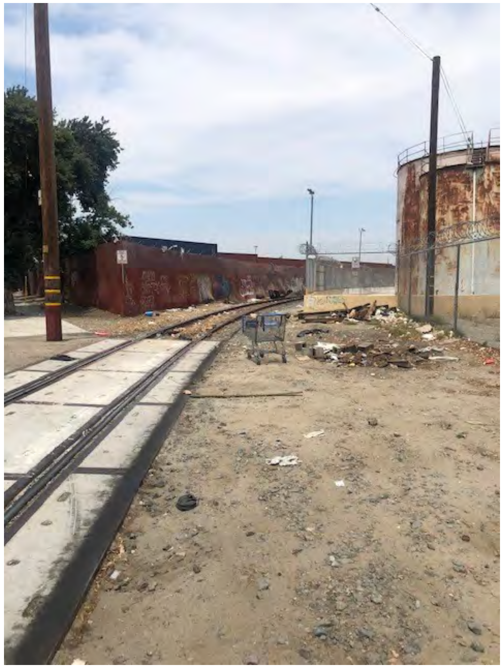
Background:
The State of California has over 6,000 miles of rail lines, with significant amount running through communities that are either economically disadvantaged and/or disadvantaged communities of color. While the Federal Railroad Administration (FRA) has primary oversight of rail operations, they delegate that obligation to the State of California for lines within our State. The administration of that oversight falls under the California Public Utilities Commission (CPUC). The CPUC has only 41 inspectors covering those 6,000 miles of railroad lines in the State of California. Their primary task is ensuring equipment, bridges and rail lines are operationally safe.

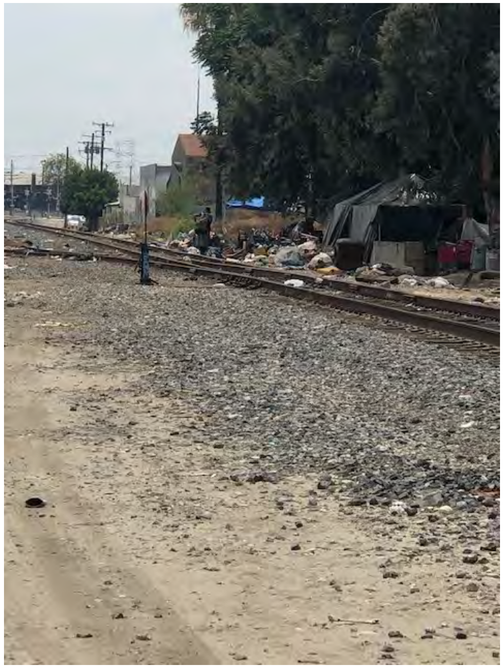
The right-of-way areas along the rail lines are becoming increasingly used for illegal dumping, graffiti and homeless encampments. Rail operators have admitted that they have insufficient funds set aside to clean up or sufficiently police these right-of-way areas, despite reporting a net income of over $13 billion in 2020. CPUC budget does not provide the resources to oversee whether rail operators are properly managing the right-of-way itself.

The City of South Gate has three rail lines traversing through its city limits covering about 4 miles. These lines are open and inviting to individuals to conduct illegal dumping, graffiti buildings and structures along with inviting dozens of homeless encampments. As private property, Cities like ourselves cannot just go upon them to remove bulky items, trash, clean graffiti or remove encampments. We must call and arrange for either our staff to access the site or have the rail operator schedule a cleanup. This can take weeks to accomplish, in the meantime residents or businesses that are within a few hundred feet of the line must endure the blight and smell. Trash is often blown from the right-of-way into residential homes or into the streets. Encampments can be seen from the front doors of homes and businesses.

South Gate is a proud city of hard working-class residents, yet with a median household income of just $50,246 or 65% of AMI for Los Angeles County, it does not have the financial resources to direct towards property maintenance of any commercial private property. The quality of life of communities like ours should not be degraded by the inactions or lack of funding by others. Cities such as South Gate receive no direct revenue from the rail operators, yet we deal with environmental impacts on a daily basis, whether by emissions, illegal dumping, graffiti or homeless encampments.

The State of California has record revenues to provide CPUC with funding nor only for safety oversight but ensuring right-of-way maintenance by operators is being managed properly. Rail Operators should be required to set aside sufficient annual funds to provide a regular cleanup of their right-of-way through the cities of California.





LETTERS OF CONCURRENCE

Resolution No. 2

League of California Cities Staff Analysis on Resolution No. 2

Staff: Damon Conklin, Legislative Affairs, Lobbyist
Jason Rhine, Assistant Director, Legislative Affairs
Caroline Cirrincione, Policy Analyst

Committees: Transportation, Communications, and Public Works
Housing, Community, and Economic Development

Summary:
The City of South Gate submits this resolution, which states the League of California Cities should urge the Governor and the Legislature to provide adequate regulatory authority and necessary funding to assist cities with railroad right-of-way areas to address illegal dumping, graffiti, and homeless encampments that proliferate along the rail lines and result in public safety issues.

Background:

California Public Utilities Commission (CPUC) Railroad Oversight

The CPUC's statewide railroad safety responsibilities are carried out through its Rail Safety Division (RSD). The Railroad Operations and Safety Branch (ROSB), a unit of RSD, enforces state and federal railroad safety laws and regulations governing freight and passenger rail in California.

The ROSB protects California communities and railroad employees from unsafe practices on freight and passenger railroads by enforcing rail safety laws, rules, and regulations. The ROSB also performs inspections to identify and mitigate risks and potential safety hazards before they create dangerous conditions. ROSB rail safety inspectors investigate rail accidents and safety-related complaints and recommend safety improvements to the CPUC, railroads, and the federal government as appropriate.

Within the ROSB, the CPUC employs 41 inspectors who are federally certified in the five Federal Railroad Administration (FRA) railroad disciplines, including hazardous materials, motive power and equipment, operations, signal and train control, and track. These inspectors perform regular inspections, focused inspections, accident investigations, security inspections, and complaint investigations. In addition, the inspectors address safety risks that, while not violations of regulatory requirements, pose potential risks to public or railroad employee safety.

CPUC's Ability to Address Homelessness on Railroads

Homeless individuals and encampments have occupied many locations in California near railroad tracks. This poses an increased safety risk to these homeless individuals of being struck by trains. Also, homeless encampments often create unsafe work environments for railroad and agency personnel.

While CPUC cannot compel homeless individuals to vacate railroad rights-of-way or create shelter for homeless individuals, it has the regulatory authority to enforce measures that can reduce some safety issues created by homeless encampments. The disposal of waste materials or other disturbances of walkways by homeless individuals can create tripping hazards in the vicinity of railroad rights-of-way. This would cause violations of Commission GO 118-A, which sets standards for walkway surfaces alongside railroad tracks. Similarly, tents, wooden structures, and miscellaneous debris in homeless encampments can create violations of

Commission GO 26-D, which sets clearance standards between railroad tracks, and structures and obstructions adjacent to tracks.

Homelessness in California

According to the 2020 Annual Homeless Assessment Report (AHAR) to Congress, there has been an increase in unsheltered individuals since 2019. More than half (51 percent or 113,660 people) of all unsheltered homeless people in the United States are found in California, about four times as high as their share of the overall United States population.

Many metro areas in California lack an adequate supply of affordable housing. This housing shortage has contributed to an increase in homelessness that has spread to railroad rights-of-way. Homeless encampments along railroad right-of-way increase the incidents of illegal dumping and unauthorized access and trespassing activities. Other impacts include train service reliability with debris strikes, near-misses, and trespasser injuries/fatalities. As of April 2021, there have been 136 deaths and 117 injuries reported by the Federal Railroad Administration over the past year. These casualties are directly associated with individuals who trespassed on the railroad.

Cities across the state are expending resources reacting to service disruptions located on the railroad's private property. It can be argued that an increase in investments and services to manage and maintain the railroad's right-of-way will reduce incidents, thus enhancing public safety, environmental quality, and impacts on the local community.

State Budget Allocations – Homelessness

The approved State Budget includes a homelessness package of $12 billion. This consists of a commitment of $1 billion per year for direct and flexible funding to cities and counties to address homelessness. While some details related to funding allocations and reporting requirements remain unclear, Governor Newsom signed AB 140 in July, which details key budget allocations, such as:

- $2 billion in aid to counties, large cities, and Continuums of Care through the Homeless Housing, Assistance and Prevention grant program (HHAP);
- $50 million for Encampment Resolution Grants, which will help local governments resolve critical encampments and transitioning individuals into permanent housing; and
- $2.7 million in onetime funding for Caltrans Encampment Coordinators to mitigate safety risks at encampments on state property and to coordinate with local partners to connect these individuals to services and housing.

The Legislature additionally provided $2.2 billion specifically for Homekey with $1 billion available immediately. This funding will help local governments transition individuals from Project Roomkey sites into permanent housing to minimize the number of occupants who exit into unsheltered homelessness.

With regards to this resolution, the State Budget also included $1.1 billion to clean trash and graffiti from highways, roads, and other public spaces by partnering with local governments to pick up trash and beautify downtowns, freeways, and neighborhoods across California. The program is expected to generate up to 11,000 jobs over three years.

Cities Railroad Authority

A city must receive authorization from the railroad operator before addressing the impacts made by homeless encampments because of the location on the private property. Additionally, the city must coordinate with the railroad company to get a flagman to oversee the safety of the work crews, social workers, and police while on the railroad tracks.

A city may elect to declare the encampment as a public nuisance area, which would allow the city to clean up the areas at the railroad company's expense for failing to maintain the tracks and right-of-way. Some cities are looking to increase pressure on railroad operators for not addressing the various homeless encampments, which are presenting public safety and health concerns.

Courts have looked to compel railroad companies to increase their efforts to address homeless encampments on their railroads or grant a local authority's application for an Inspection and Abatement Warrant, which would allow city staff to legally enter private property and abate a public nuisance or dangerous conditions.

In limited circumstances, some cities have negotiated Memoranda of Understandings (MOU) with railroad companies to provide graffiti abatement, trash, and debris removal located in the right-of-way, and clean-ups of homeless encampments. These MOUs also include local law enforcement agencies to enforce illegally parked vehicles and trespassing in the railroad's right-of-way. MOUs also detailed shared responsibility and costs of providing security and trash clean-up. In cases where trespassing or encampments are observed, the local public works agency and law enforcement agency are notified and take the appropriate measures to remove the trespassers or provide clean-up with the railroad covering expenses outlined in the MOU.

Absent an MOU detailing shared maintenance, enforcement, and expenses, cities do not have the authority to unilaterally abate graffiti or clean-up trash on a railroad's right-of-way.

Fiscal Impact:
If the League of California Cities were to secure funding from the state for railroad clean-up activities, cities could potentially save money in addressing these issues themselves or through an MOU, as detailed above. This funding could also save railroad operators money in addressing concerns raised by municipalities about illegal dumping, graffiti, and homeless encampments along railroads.

Conversely, if the League of California Cities is unable to secure this funding through the Legislature or the Governor, cities may need to consider alternative methods, as detailed above, which may include significant costs.

Existing League Policy:
Public Safety:
Graffiti
The League supports increased authority and resources devoted to cities for abatement of graffiti and other acts of public vandalism.

Transportation, Communications, and Public Works
Transportation
The League supports efforts to improve the California Public Utilities Commission's ability to respond to and investigate significant transportation accidents in a public and timely manner to improve rail shipment, railroad, aviation, marine, highway, and pipeline safety

Housing, Community, and Economic Development

Housing for Homeless

Homelessness is a statewide problem that disproportionately impacts specific communities. The state should make funding and other resources, including enriched services, and outreach and case managers, available to help assure that local governments have the capacity to address the needs of the homeless in their communities, including resources for regional collaborations.

Homeless housing is an issue that eludes a statewide, one-size-fits-all solution, and collaboration between local jurisdictions should be encouraged.

Staff Comments:

Clarifying Amendments

Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. To review the proposed changes, please see Attachment A.

The committee may also wish to consider clarifying language around regulatory authority and funding to assist cities with these efforts. The resolution asks that new investments from the state be sent to the CPUC to increase their role in managing and maintaining railroad rights-of-ways and potentially to cities to expand their new responsibility.

The committee may wish to specify MOUs as an existing mechanism for cities to collaborate and agree with railroad operators and the CPUC on shared responsibilities and costs.

Support:

The following letters of concurrence were received:

City of Bell Gardens
City of Bell
City of Commerce
City of Cudahy
City of El Segundo
City of Glendora
City of La Mirada
City of Paramount
City of Pico Rivera
City of Huntington Park
City of Long Beach
City of Lynwood
City of Montebello

ATTACHMENT A

2. A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE ~~NECCESARY~~ NECESSARY FUNDING FOR ~~CUPC~~ THE CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE ~~QAULITY~~ QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC ~~SAFETLY~~ SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUT~~T~~ THE RAILROAD RIGHT-OF-WAY.

Source: City of South Gate
Concurrence of five or more cities/city officials
Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera
Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the ~~California Public Utilities Commission~~ CPUC for operational safety and maintenance; and

WHEREAS, the ~~California Public Utilities Commission (~~CPUC~~)~~ is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well as a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the ~~League~~ Cal Cities Annual Conference on September 24, 2021, in Sacramento, that ~~the~~ Cal Cities ~~League~~ calls for the Governor and the Legislature to work with ~~the~~ Cal Cities ~~League~~ and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. ~~The~~ Cal Cities ~~League~~ will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.