

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

AGENDA

TUESDAY, SEPTEMBER 28, 2021– 6:00 P.M.

(THE AGENDA PACKET IS ONLINE AT [HTTP://WWW.RIVERBANK.ORG/AGENDACENTER](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 "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. Presentation by Stanislaus County on "Restore, Grow and Catalyze Economic Opportunity" and "Housing Stanislaus" Initiatives.

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 City Manager to Execute a Contract with iWorQ Systems to Provide Permit Processing Software for Development Services.
- Item 9.3.** A **Resolution** to Approve the 2021-2022 Fees Schedule for Park Amenity Rentals, Recreation Programs, and Facility Rentals for the City of Riverbank.
- Item 9.4.** Approval of the August 10, 2021 Special City Council Minutes.
- Item 9.5.** A **Resolution** Approving the Updated Compensation Plan for Part-Time/Temporary/Seasonal Positions for Use Before the State of California Minimum Wage Increase Effective January 1, 2022.
- Item 9.6.** A **Resolution** Approving Final Map 06-2021 for Narciso and Adela Hernandez at 3625 Kansas Avenue (APN 132-054-034).

10. UNFINISHED BUSINESS

- Item 10.1.** **Second Reading by Title Only of Proposed Ordinance No. 2021-005 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** – It is recommended that the City Council conduct the second reading of Ordinance No. 201-005 and consider its adoption by roll call vote. At their regular meeting of August 17, 2021, the Planning Commission voted 5-0 to recommend to the City Council the adoption of the draft ordinance and approval of the vesting tentative map resolution. They then voted 5-0 to approve the project's Architecture and Site Plan Review.
- Item 10.2.** **Second Reading by Title Only of Proposed Ordinance No. 2021-006 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** – It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2021-006 and consider its adoption by roll call vote. At their regular meeting of August 17, 2021, the Planning Commission voted 5-0 to recommend to the City Council the adoption of the draft ordinance and approval of the vesting tentative map resolution. They then voted 5-0 to approve the project's Architecture and Site Plan Review.

11. WORKSHOPS

Information and educational presentation of a subject matter to receive direction and to prepare for its future consideration and decisions by the City Council.

- Item 11.1.** **Centennial Celebration 2022 – Workshop** – It is recommended that the City Council hear the presentation on the proposed preliminary plans and budget for the Centennial Celebration and provide direction and feedback on the plan.

12. NEW BUSINESS

- Item 12.1.** **Consideration of a Resolution Approving a New Franchise Agreement with Gilton Solid Waste Management Inc.** – It is recommended that the City Council consider the resolution which approves the attached proposed updated Solid Waste Franchise Agreement with Gilton Solid Waste for contracted solid waste services and added services designed to ensure compliance with SB1383 or provide direction on desired edits and amendment to the contract.

- Item 12.2.** **A Resolution Approving a Letter of Agreement with the SitelogiQ for the Design, Engineering and Development of an Energy Efficiency Project and Directing the City Manager to Execute the Letter of Agreement** – It is recommended that the City Council consider approval of the proposed resolution approving a Letter of Agreement (LOA) with SitelogiQ to move forward with the design and engineering of an energy efficiency project on various locations within the City of Riverbank.

- Item 12.3.** **Fleet Management Services Discussion and Consideration of the Following Options:**

- (1) **Direct Staff to Continue Current Fleet Management Program and Budget for Replacements on an As-Needed Basis, or**
- (2) **Direct Staff to Explore Other Fleet Management Program Options, or**
- (3) **Approve the Proposed Resolution Authorizing the City Manager to Enter into a Master Equity Lease Agreement with Enterprise Fleet Management Trust.**

It is recommended that the City Council receive information regarding the establishment of a Fleet Management Program for the City of Riverbank and consider the following options:

- (1) **Direct Staff to Continue Current Fleet Management Program and Budget for Replacements on an As-Needed Basis, or**
- (2) **Direct Staff to Explore Other Fleet Management Program Options, or**
- (3) **Approve the Proposed Resolution Authorizing the City Manager to Enter into a Master Equity Lease Agreement with Enterprise Fleet Management Trust**

13. 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 13.1. Staff

Item 13.2. Council/Authority Member

Item 13.3. Mayor/Chair

14. 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 14.1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
(Pursuant to Government Code § 54956.9(b))
Number of cases: 3 potential case

Item 14.2. **PUBLIC EMPLOYMENT**
(Pursuant to Government Code § 54957)
Title: Community Development Director

15. RECONVENE – REPORT FROM CLOSED SESSION**16. ADJOURNMENT**

- The next regular City Council meeting will be on Tuesday, Oct. 12th at 6:00 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 23, 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/83407491747>
- Join by accessing website: <https://zoom.us/join>
 - o Webinar ID: 834 0749 1747
- Join by telephone: 1 669 900 9128 plus Webinar 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:

- o Using a computer - click on the "raise hand" feature in the webinar controls. This will let us know you wish to speak.
 - Once you confirm that you want to be unmuted, your 3 minutes will begin for you to make your comments.
- o Using a Phone - 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 24, 2021

Subject: Presentation by Stanislaus County on “Restore, Grow and Catalyze Economic Opportunity” and “Housing Stanislaus” Initiatives

Submitted by: Sean Scully, City Manager

RECOMMENDATION

It is recommended that the Council receive a presentation from Stanislaus County CEO Jody Hayes on the “Restore, Grow and Catalyze Economic Opportunity” and Housing Stanislaus” initiatives.

SUMMARY

Stanislaus County CEO Jody Hayes has requested to be placed on the agenda to present information on two important Countywide initiatives. Both initiatives are designed to address major areas of concern within our broader community. One is related to economic development and another related to housing. Informational slides are attached and an in-depth presentation will be presented by the County CEO and his team at the time of the meeting.

FINANCIAL IMPACT

None

ATTACHMENT

1. PowerPoints – Housing Stanislaus and Economic Opportunity

HOUSING STANISLAUS



Jody Hayes
CEO

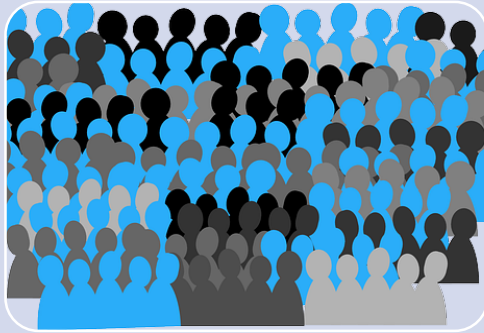


Evan Schmidt
CEO

Presentation Overview

1. Imperative for a Shared Approach to Housing
2. Intent and Desired Outcomes
3. Roles
4. Game Plan
5. Q&A

Imperative for a Shared Approach to Housing



Increasing Demand

- Population growth
- Overcrowding



Inadequate Supply

- Total units
- Mix of housing types
- Location
- Barriers to development
- *But State/Federal funding for housing is on the horizon*



Rising Costs

- To build/refurbish
- To buy
- To rent

Project Intent

WHAT IT IS

- **A county-wide initiative to build a shared vision and policy framework for housing in Stanislaus County.**
- Focused on affordable and market rate housing.
- Developed collectively, relying on input from residents, cities, and other stakeholders, as well as data on current and future conditions.
- Provide a framework that accounts for local preferences.

WHAT IT IS NOT

- Taking away local control or telling cities what and how to develop.

Desired Outcomes

1

Establish a shared understanding of the needs, challenges, and opportunities associated with housing in Stanislaus County

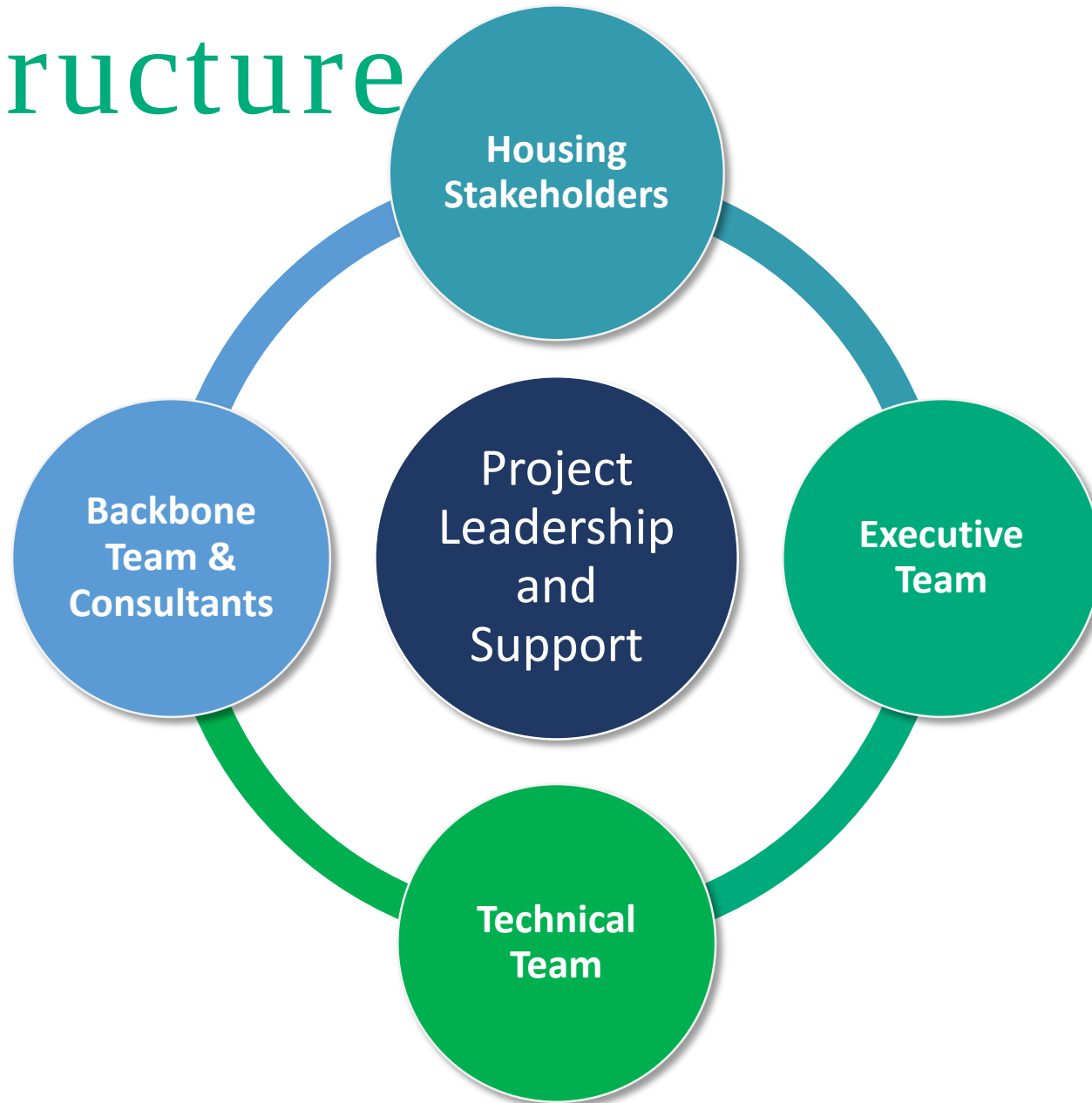
2

Develop a unified and actionable countywide vision and strategy framework – inclusive of priorities, policies, and investments – for accelerating affordable and market-rate housing in Stanislaus County

3

Prioritize projects and programs for housing development

Structure



HOUSING STAKEHOLDERS
Residents, neighborhood associations, advocates, employers, builders, funders + financiers, infrastructure and community service providers, etc.

EXECUTIVE TEAM
City Managers and County Chief Executive Officer

TECHNICAL TEAM
City and County planning staff, building and public works staff, other housing experts.

BACKBONE TEAM & CONSULTANTS
Valley Vision and County staff

Game Plan



Coalition Building
August - September 2021



Baseline Research
July - November 2021



Build Shared Vision
November 2021 – April 2022

Housing Summit
Early 2022



Develop Housing Plan
March 2022 – July 2022



Integrate into Housing Elements
September 2021 – December 2023

HOUSING STANISLAUS

Thank You

www.HousingStanislaus.org

Website
coming soon

Contact

Alan Lange, Managing Director, Valley Vision

alan.lange@valleyvision.org



RESTORE, GROW & CATALYZE
ECONOMIC OPPORTUNITY

STANISLAUS 2030

Presented to City Councils of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, Waterford

VISION & MISSION

Vision:

We envision - *and commit to build* - a high-performing, diverse economy to match our multi-cultural lifestyles and dreams for the future.

Mission:

We will create pathways for Stanislaus residents to achieve economic mobility by building an economy that is diverse, inclusive, connected, vibrant and sustainable.



THE WHY

WHY CREATE AN INVESTMENT AGENDA?

IMPROVE OUR ODDS

Collaborate and take an 'ecosystem' approach to build a shock-proof economy

ADDRESS GAPS

Address gaps in economic infrastructure that reverse history of disinvestment

CLARITY

Articulate a future vision & consensus on priority projects that will transform our economy

COMPETITION

Other states and regions use joint planning rooted in data & market analysis as a competitive strength

OPPORTUNITY

Maximize public, private and philanthropic investments to fund our highest priority plans

ENGAGEMENT & CONSENSUS

Seek community input and build resident engagement throughout process

THE WHAT

THE BROOKINGS FRAMEWORK FOR REDEFINING ECONOMIC SUCCESS

GROWTH



More jobs created and expanded output that increases labor demand and wages, plus young firms that generate greater wealth, employment, and earnings.

METRICS

Jobs
Gross Metropolitan Product
Entrepreneurship (*Jobs at Young Firms*)

PROSPERITY



More productive firms to grow the economy from within and generate higher-paying jobs, so the region competes on quality versus low wages.

METRICS

Productivity (*GMP per Job*)
Standard of Living (*GMP per capita*)
Average Annual Wage

INCLUSION



Access to opportunities that raise employment and income, enabling residents across all community segments to participate to the fullest of their ability.

METRICS

Employment Rate
Median Wage
Relative Poverty

*Data reporting and analysis by race and geography

Source: Brookings Metro Monitor



THE OUTCOMES

DESIRED OUTCOMES

POPULATION SCALE INVESTMENT AGENDA BASED ON:

- Understanding **larger market forces and future trends**
- **Current and future state** of Stanislaus economy
- Knowledge of **demographic shifts**
- Authentic **community input**

BUSINESS PLANS FOR EACH PRIORITY INVESTMENT AREA:

- Business plans with **investable strategies and tactics** owned by key local stakeholders/agencies
- **Funding and policy aligned** with business plans
- Business plans are executed, and **performance reported regularly** to partners and public
- Examples of priority investment areas are **workforce development, digital and built infrastructure, neighborhood revitalization/placemaking**, etc

THE HOW

July - September



ORGANIZE & EDUCATE

- Knowledge of evolving issues among local stakeholders
- Buy-in from multiple partners representing multiple sectors

August - November



DISCOVERY

- Tailored community assessment (qualitative and quantitative) diagnosing economic and community performance, assets and opportunities
- Community input

November - March



STRATEGY & GOVERNANCE

- Development of tactical business plans based on data and co-designed with community
- Operational commitment to business plans from key stakeholders
- Governance structure to support business plans

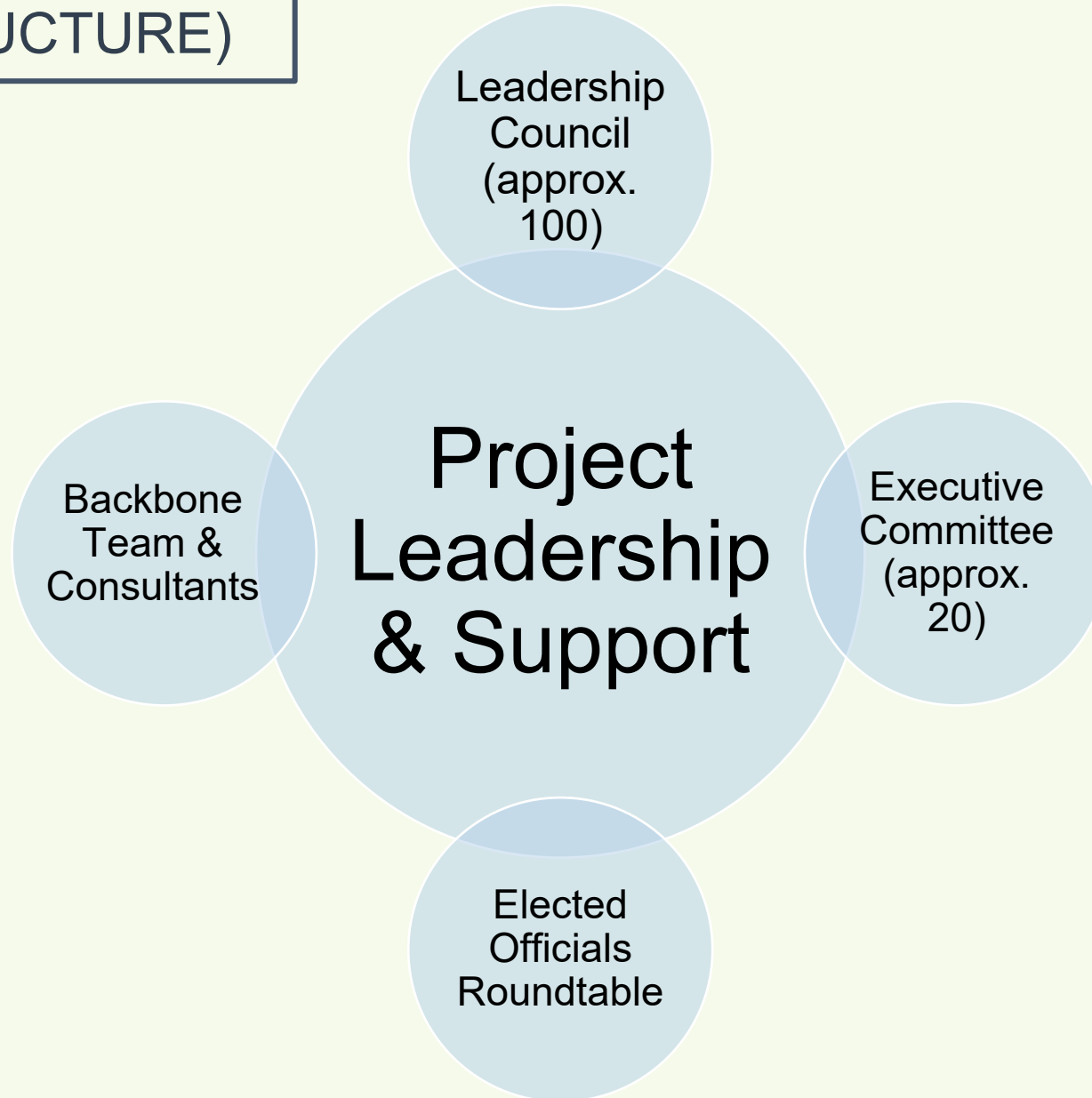
April - June



EXECUTE & REPORT

- Buy in and ownership of investment agenda
- Refinement and delivery of business plans
- Identify and align policy and funding to support priority business plans

THE WHO (STRUCTURE)



LEADERSHIP COUNCIL

Leaders representing the community and areas of expertise

EXECUTIVE COMMITTEE

Key private, public and civic leaders

ELECTED OFFICIALS ROUNDTABLE

City, County, State and Federal
Elected Representatives

BACKBONE TEAM & CONSULTANTS

Stanislaus Community Foundation,
Stanislaus County Chief Executive
Office, Consulting Team (Project
Management, Research & Analysis)₇

EARLY SUPPORT

PARTNERS TO DATE





THE PATH FORWARD

PLEASE JOIN US!

JOIN ELECTED OFFICIALS ROUNDTABLE

Take a seat at the table to help shape our path to a future economy; public meetings open to all elected officials

INCREASE PUBLIC ENGAGEMENT

Use your platform to connect others to the outreach process; consider nominating individuals for the Leadership Council

CITY ENGAGEMENT

Support and encourage City staff to engage through workgroups, data sharing, etc.

FUNDING SUPPORT

All Stanislaus Cities are being asked to help fund this effort, alongside committed funding from private business & the County

QUESTIONS?

PLEASE CONTACT US!

MARIAN KANON

President and CEO
Stanislaus Community
Foundation
mkanon@stanislauscf.org

JODY HAYES

CEO
Stanislaus County
hayesj@stancounty.com



RESTORE, GROW & CATALYZE ECONOMIC OPPORTUNITY STANISLAUS 2030

WHAT

Stanislaus 2030 **brings together a broad coalition** of private, public and civic sector stakeholders to learn about global and socio-economic trends so that we can collectively **prioritize a portfolio of investments** that will grow the local economy to be more inclusive, vibrant and sustainable.

WHY

To **maximize our receipt of investment dollars**, we must work quickly to align our community around a shared understanding and commitment to specific economic development strategies to facilitate the short-term and long-term economic health of Stanislaus County.

NEXT STEPS

Please join us! Engage in the process, encourage City engagement, spread the word, consider funding support.

CONTACT US

Jody Hayes

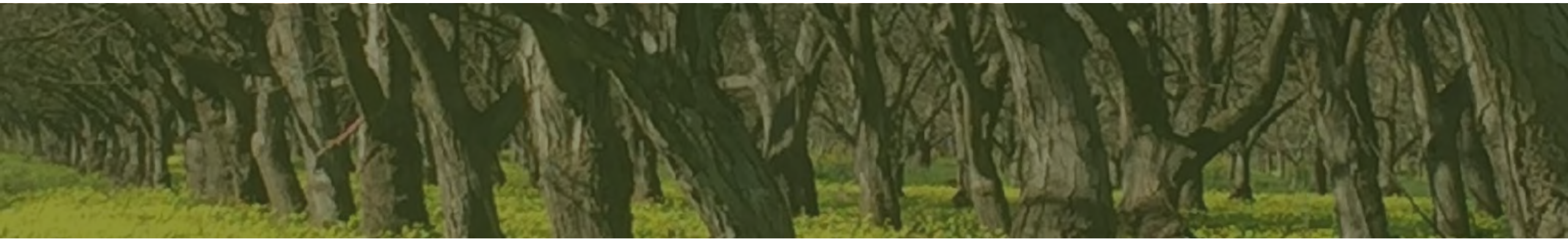
CEO, Stanislaus County

hayesj@stancounty.com

Marian Kaanon

CEO, Stanislaus Community Foundation

mkaanon@stanislauscf.org



RIVERBANK CITY COUNCIL / LRA AGENDA ITEM NO. 9.1

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 28, 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 9: CONSENT CALENDAR

Meeting Date: September 28, 2021

Subject: A **Resolution** Authorizing the City Manager to Execute a Contract with iWorQ Systems to Provide Permit Processing Software for Development Services

From: Sean Scully, City Manager

Submitted by: Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

It is recommended that the City Council authorize the City Manager to enter into a contract with iWorQ Systems (“iWorQ”) to provide LEAP Grant services pursuant to City Council Resolution No. 2020-044.

SUMMARY

Planning staff is requesting authorization from the City Council for the City Manager to sign a five (5) year contract with iWorQ Systems to replace the current Development Services permit processing system with iWorQ Systems to provide a citizen and developer portal to submit applications online, to pay for permits online, and to check the status of permit applications 24/7. The contract will be paid for with funding awarded from a 2020 LEAP Grant.

BACKGROUND

The California Department of Housing and Community Development issued a Notice of Funding Availability (“NOFA”) on January 27, 2020 for its Local Early Action Planning Grants Program (“LEAP”). The goal of the program is to adopt process improvements that accelerate housing production. On June 23, 2020, the Council approved Resolution No. 2020-044 (Attachment 1) authorizing the City Manager to “submit the Application, enter into, execute, and deliver on behalf of the Applicant, a State of California Agreement (Standard Agreement) for the amount of up to \$150,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto.” The LEAP Grant application was signed and submitted to provide a citizen and developer portal to submit applications electronically, to pay for permits online, and to check the status of permit applications 24/7 via the web portal. The iWorQ system is cloud-based so no new servers or similar hardware is required to be purchased.

On November 19, 2020, staff was notified by the Department of Housing and Community Development that the City had received an award in the amount of \$150,000 from the LEAP Grants Program. Staff prepared a Request for Proposals (“RFP”) and distributed it to seven (7) software firms in early June 2021, allowing three weeks response time due to Covid-19 restrictions. Four (4) responses were received. The Planning and Building Manager scheduled a demonstration webinar for the selection panel with each of the four firms that provided an RFP. The top three rated firms were then contacted with clarification questions and given the opportunity to demonstrate additional software features.

After being selected as the top firm, the iWorQ proposal costs were found to have come in lower than expected, allowing staff to negotiate a five (5) year contract and leave enough funding for larger monitors for staff to review plans, a large plan scanner (the City does not currently have one), and to cover grant administration costs.

STRATEGIC PLAN

The acquisition of permit processing software was one strategy of a specific goal of the 2020-2025 Strategic Plan: “Support Economic Development that Promotes a Job-Housing Balance.” Strategy 7.2 directs staff to implement a permit streamlining program to attract businesses to the City. The iWorQ permit processing system will allow our citizens and developers to access a permits portal online 24/7, submit applications, pay for permits, and check the status of their applications without interacting with staff. Specifically, it should streamline the submittal and approval process for our housing developers.

FINANCIAL IMPACT

The LEAP grant award is \$150,000. Of this amount, \$129,000.00 is earmarked for iWorQ’s five (5) year contract. The rest of the grant will be used for any hardware needed by staff and for administration of the grant. Since the iWorQ system is cloud-based and new servers are not necessary, hardware could include larger screens for staff to review submitted applications and plan sets and a scanner for large sets of plans (not all citizens or developers will utilize the online portal).

ATTACHMENTS

1. Resolution
2. Riverbank-iWorQ Systems Contract
Exhibit A – iWorQ Price Proposal
3. City Council Resolution 2020-144

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH IWORQ SYSTEMS TO PROVIDE PERMIT PROCESSING SOFTWARE FOR DEVELOPMENT SERVICES

WHEREAS, the California Department of Housing and Community Development released a Notice of Funding Availability (“NOFA”) under Senate Bill 2 (SB2, 2017) to establish a permanent source of funding intended to increase the affordable housing stock; and

WHEREAS, the City of Riverbank submitted an application to obtain an SB2 grant and was awarded \$150,000; and

WHEREAS, Development Services desires to replace their permit processing software to allow developers and citizens to submit permit applications online, pay for permits online, and use a portal to check the status of their submitted applications 24/7; and

WHEREAS, a Request for Proposals (“RFP”) was released by the City and four proposals to provide services were submitted; and

WHEREAS, the City held interviews and attended online demonstrations before selecting iWorQ Systems as the services provider.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the City Manager to enter into a contract with iWorQ Systems attached hereto as **Exhibit A** to provide permit processing software services.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th 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: Exhibit A – Contract Copy

PROPOSED

Service Agreement for Riverbank, CA

Primary Contact: Marty Smith



Community Development & Public Works Software

1125 W 400 N #102, Logan, UT - 84321

**Table of Contents iWorQ
Pricing Proposal**

Transmittal Letter 3

Project Initiation & Management4

Closing Project Phase. 5

Guidelines and Services. 6

Signature Page. 9

Pricing Information. 11

RFP Checklist 13

iWorQ Systems
1125 West 400 North
Logan Utah 84321

Donna M. Kenney
Planning and Building Manager
City of Riverbank California
6707 Third Street
Riverbank CA 95367

Dear Donna M. Kenney:

Enclosed you will find our response to your RFP:

iWorQ Systems is an outstanding fit for your department and city because of the following reasons. We meet your functional requirements very well as you have outlined in the RFP. We have a proven track record of success. In each of the last 2 calendar years we have added 250 new cities and counties and got them implemented with their new software applications in an average time of under 8 weeks. Our set up team and our ongoing support team are outstanding with top tier response times. The software provides exceptional functionality as well as a very intuitive interface that enables everyone in your department to feel very comfortable using the software and perform their duties at a high level.

We are excited about your team and the opportunity to provide software for your department and city!

Warm Regards,

Marty Smith
iWorQ Systems

Project Initiation and Management

During the planning phase, our project teams meet to analyze how each department operates today, and how you would like your new system to work going forward. Based on our discussions, we create a plan, agree on major milestones, and set a project schedule. The project plan will also address communications and implementation milestones.

Throughout the project, iWorQ will hold regular status meetings in which both teams report on progress, tasks, and timelines, as agreed upon during the planning phase and outlined in the Implementation Guide. The iWorQ project manager acts as your main point of contact during the project and works with your staff to ensure that adequate communication takes place, assuring that the project moves along smoothly.

iWorQ has standard documentation to record decisions made and actions taken during the project found in the Implementation Guides for each corresponding application (i.e. Permit Management, Code Enforcement, Planning Review, etc.). These documents list tasks, person responsibilities, decisions made, etc.

Developing Specific Deliverables for Your Project

The iWorQ team works with your subject matter experts (that you assign) during the initiating and planning phases to determine what deliverables to build for your solution (e.g., reports, documents, templates, and dashboards etc.). After we create a deliverable, we test it to ensure it meets your specifications and then pass it to your team for user acceptance.

Implementation Phases

Your project is configured through a four-phased approach that includes Initiation, Planning, Executing, and Closing phases. Throughout these phases, iWorQ bears the bulk of the project risk. We provide as much training and services as you need to be successful throughout the project.

This section discusses:

- Initiation Phase
- Planning Phase
- Executing Phase
- Closing Phase

Initiation Phase

During this phase, we install your software in our secure, hosted (SaaS) data center utilizing Amazon Web Services Gov Cloud (AWS). During this phase, you should determine what staff members will assist with the project. We ask you to complete initial worksheets that allow us to import data into iWorQ dropdown fields. These worksheets are system-agnostic, and do not require that you understand iWorQ data structures to complete this phase.

Planning Phase

During the Planning phase, the iWorQ project team works with your team to define how processes at Riverbank work today and how you would like your new system to operate going forward. As part of this, your team should analyze the reports and documents you currently have to determine which ones you need to have in iWorQ. Based on our discussions, we create a project plan that includes project timelines, goals, priorities, and responsibilities. Our project team will work with you to set a clear project plan with detailed requirements. Both teams follow this plan during the executing phase.

Executing Phase

During the Executing phase, we train your project team and together configure the solution. Concurrent with your system configuration, our data integration team will work with you to migrate data. After our teams complete these tasks, we train your staff members.

Your success is our highest priority. While each of our training phases has a specific objective and plan, we provide additional or repeat trainings at no additional cost if necessary for a successful implementation. As a customer, we will provide additional training anytime it is desired for no additional cost. The time completion of project phases is often dependent upon Riverbank's go-live goals and staff availability.

Go Live

After the configuration, iWorQ will train each of your staff members. During our training, attendees learn by doing actual data entry. They should come to the training with any materials they regularly use to enter cases (e.g., a stack of permits or code cases to be entered). Instructors will provide the training online. Instructors provide personal assistance to attendees, answer specific questions, and personalize teaching styles to meet the needs of individual attendees.

Closing Phase

During the closing phase, your iWorQ project team continues to work with you to answer any questions and resolve any configuration questions. We hold a project closure meeting to ensure a smooth transition from our project team to our iWorQ customer support team, who will support you going forward and as long as you are a customer.

Training

Your administrator and other individuals you designate receive several different types of training that cover iWorQ's key functionalities.

Our training involves guiding staff to use iWorQ to complete actual work tasks. Instructors provide personal assistance to attendees, answer specific questions, model examples and exercises, and personalize teaching styles to individual attendees. This informal style helps your staff relax and feel comfortable asking and responding to questions.

These trainings are described in further detail below:

Administrator Training: Administrator training teaches your iWorQ administrator(s) how to manage iWorQ going forward. This training covers items such as setting up code tables (options in drop-down lists); security rules; and iWorQ tools.

Configuration Training: During the configuration phase, your administrators make many decisions about configuring iWorQ to make your office its most efficient. During Configuration Training, iWorQ's project team helps trainees understand approaches, methodologies, and best practices for making these decisions and recognizing the ramifications of the decisions they make.

Go-Live Training: Prior to Go-Live, every user on the system will receive training pertinent to their role type on the system. We provide unlimited training during implementation and after Go-Live via conference calls, webinars, or online screen share and we offer an annual, national users' conference to learn new and advanced skills.

IWORQ SERVICE AGREEMENT

For iWorQ applications and services

Riverbank here after known as ("Customer"), enters into THIS SERVICE AGREEMENT ("Agreement") with iWorQ Systems Inc. ("iWorQ") with its principal place of business 1125 West 400 North, Suite 102, Logan, Utah 84321.

1. SOFTWARE AS A SERVICE (SaaS) TERMS OF ACCESS:

iWorQ grants Customer a non-exclusive, non-transferable limited access to use iWorQ service(s), application(s) on iWorQ's authorized website for the fee(s) and terms listed in Appendix A. This agreement will govern all application(s) and service(s) listed in the Appendix A.

2. CUSTOMER RESPONSIBILITY:

Customer acknowledges that they are receiving only a limited subscription to use the application(s), service(s), and related documentation, if any, and shall obtain no titles, ownership nor any rights in or to the application(s), service(s), and related documentation, all of which title and rights shall remain with iWorQ. Customer shall not permit any user to reproduce, copy, or reverse engineer any of the application(s), service(s) and related documentation.

iWorQ is not responsible for the content entered into iWorQ's database or uploaded as a document or image. Access to iWorQ cannot be used to record personal or confidential information such as driver license numbers, social security numbers, financial data, credit card information or upload any images or documents considered personal or confidential.

3. TRAINING AND IMPLEMENTATION:

Customer agrees to provide the time, resources, and personnel to implement iWorQ's service(s) and application(s). iWorQ will assign a senior account manager and an account management team to implement service(s) and application(s). Typical implementation will take less than 60 days. iWorQ account managers will call twice per week, provide remote training once per week, and send weekly summary emails to the customer implementation team. iWorQ can provide project management and implementation documents upon request.

iWorQ will do ONE import of the Customer's data. This import consists of importing data, sent by the Customer, in an electronic relational database format.

Customer must have clear ownership of all forms, letters, inspections, checklists, and data sent to iWorQ. Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

4. CUSTOMER DATA:

Customer data will be stored on AWS GovCloud. iWorQ will use commercially reasonable efforts to backup, store and manage Customer data. iWorQ does backups twice per week and offsite backups twice per week. The subscription will renew each year on the anniversary date of this Agreement unless terminated (see 7. TERMINATION).

Customer can run reports and export data from iWorQ application(s) at any time.

Customer can pay iWorQ for additional data management service(s), onsite backups, application(s) and other service(s).

Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

5. CUSTOMER SUPPORT:

Customer support and training are FREE and available Monday-Friday, from 6:00 A.M. to 5:00 P.M. MST, for any authorized user with a login. iWorQ provides unlimited remote Customer training (through webinars), phone support, help files, and documentation. Basic support request is typically handled the same day. iWorQ provides "Service NOT Software".

6. BILLING:

iWorQ will invoice Customer on an annual basis. iWorQ will send invoice by mail and by email to the address(s) listed in Appendix A. Terms of the invoice are net 30 days. Any billing changes will require that a new Service(s) Agreement be signed by Customer.

Any additional costs imposed by the Customer including business licenses, fees, or taxes will be added to the Customer's invoice yearly.

7. TERMINATION:

Either party may terminate this agreement, after the initial 5-YEAR TERM, without cause if the terminating party gives the other party sixty (60) days written notice. Should Customer terminate any application(s) and or service(s) the remaining balance will immediately become due. Should Customer terminate any part of the application(s) and or service(s) a new Service(s) Agreement will need to be signed.

Upon termination (6. TERMINATION), iWorQ will discontinue all application(s) and or service(s) under this Agreement; iWorQ will provide customer with an electronic copy of all of Customer's data, if requested by the Customer (within 3-5 business days).

During the term of the Agreement, the Customer may request a copy of all of Customer's data for a cost of no more than \$2,500; and all provisions of this Agreement will continue.

8. ACCEPTABLE USE:

Customer represents and warrants that the application(s) and service(s) will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, and policies, terms and procedures. iWorQ may restrict access to users upon misuse of application(s) and service(s).

9. MICELLANEOUS PROVISIONS:

This Agreement will be governed by and construed in accordance with the laws of the State of Utah.

10. CUSTOMER IMPLEMENTATION INFORMATION:

Primary Implementation Contact _____ Title _____

Office Phone _____ Cell _____

Email _____

Secondary Implementation Contact _____ Title _____

Office Phone _____ Cell _____

Email _____

11. CUSTOMER BILLING INFORMATION:

Billing Contact _____ Title _____

Billing Address: _____

Office Phone _____ Cell _____

Email _____

PO# _____ (if required) Tax Exempt ID # _____

12. ACCEPTANCE:

The effective date of this Agreement is listed below. Authorized representative of Customer and iWorQ have read the Agreement and agree and accept all the terms.

Signature _____

Effective Date: _____

Printed Name _____

Title _____

Office Number _____

Cell Number _____

iWorQ Service(s) Agreement

APPENDIX A

iWorQ Price Proposal

Riverbank	Population- 24482
6707 Third Street, Riverbank, CA 95367	Prepared by: Marty Smith & Dalton Mickelsen

Annual Subscription Fees

<u>Application(s) and Service(s)</u>	<u>Package Price</u>	<u>Billing</u>
Community Development (Enterprise Package) *Permit Management *Code Enforcement *Portal Home Quarterly upload of parcel information to iWorQ's GIS Map Track contractors, inspections, property information Track code violations, fees, and activities Unlimited reports and ad-hoc reporting Unlimited letters and documents configured through iWorQ's template library and 3 custom letters 3 custom forms for Portal Home Premium Data (25MB Uploads & 100GB Storage) Online credit/debit card processing integrated with iWorQ. GIS REST Services - iWorQ will publish your agency's WMS layers in iWorQ Community Development applications. iWorQ will update parcel information monthly from the published service. Note: If GIS configurations change (FTP location, name format, field changes, etc.) iWorQ will charge a minimum \$500 fee to accommodate new configuration adjustments (subject to additional hourly charges)	\$18,000	Annual
License Management - Available on any computer, tablet, or mobile device using Chrome browser - Licensing for business, alcohol, liquor, rentals, etc. - Free letters and / or permits utilizing iWorQ's template library, and up to 3 custom letters. - Reminder letter generation - Online renewal capabilities	\$4,000	

State of California Licensing Board -iWorQ will define a scope of work to provide a link to the license Search and Verification through the Contractor Tab within iWorQ	Included	
Additional Letters/Forms - 6 Additional letters, forms, or other required documents or web forms	\$1,000	
Subscription Fee Total (This amount will be invoiced each year)	\$23,000	Annual

One-Time Setup, GIS integration, and Data Conversion Fees

Service(s)	Full Price Cost	Package Price	Billing
Implementation and Setup cost year 1	\$14,000	\$14,000	Year One
Up to 5 hours of GIS integration and data conversion	\$1,000	Included	Year One
Data Conversion	\$4,900	Included	Year One
One-Time Setup Total (This amount will be added year 1)	\$19,900	Included	Year One
Grand Total Due Year 1	\$42,900	\$37,000	Year One

NOTES AND SERVICE DESCRIPTION

- I. Invoice for the (Annual Subscription Fee Total + One-Time Total) will be sent out 2 weeks after signature and Effective Date
- II. This subscription Fee and Agreement have been provided at the Customer's request and is valid for 25 days
- III. This cost proposal cannot be disclosed or used to compete with other companies.
- IV. Payment for this agreement will be paid upfront to cover the first 5 years of cost. Invoice will be sent out two weeks after signature for a total invoice payment of \$129,000. The next invoice will be sent September of 2026.

RFP Checklist

Please indicate YES or NO with an "x"	YES	NO	Comments
The vendor will provide free unlimited training and support throughout the life of the contract at no additional cost.	X		
The vendor will provide unlimited users at no additional cost.	x		
The vendor will provide software enhancements free of charge whenever released.	x		
System provides GIS access from any device without any additional fees or licensing.	x		
Vendor has more than 15 years of experience in providing fully web-based solutions.	x		
"Read-only" licenses are available for users that will not be creating or editing data without additional licensing costs.	x		
System is hosted in the cloud by the vendor allowing access to users in real-time both in the office and in the field.	x		
Users are able to add multiple photos from field via tablet, laptop, or smart phone of choice (i.e. Android, IOS, Apple, Chrome, Microsoft, etc.).	x		
User-centric design (ability for each user to customize their own screens and layouts with ability to save user custom configured settings)	x		
Requires no client-side installation. Requires no browser plugins (e.g. Silverlight, ActiveX). Requires no changes to local workstation security.	x		
Ability to store, maintain, edit, and populate forms and letters.	x		

System can provide the ability to configure, add new fields, and the ability to immediately run reports against the new fields created without requiring technical support.	x		
Reporting: Software needs to be able to export all reports into an excel, word document, or PDF.	x		
System must provide the ability for end users to easily create saved reports and ad-hoc reports.	x		
Vendor must provide unlimited custom reports as requested at no additional cost.	x		
Functionality: Please indicate with an “x”	S	M	Comments

Functionality	S	M	C	N	Comments
Community Development					
System provides a citizen and contractor portal allowing our customers to see real time status updates on inspections, plan reviews, and other general permit updates.	x				
System provides the ability to apply and pay for a permit online at any time throughout the application process.	x				
System provides each staff member to have custom “dashboards” or summary of all specified permits and their statuses.	x				
System allows citizens to see real-time the status of each reviewer’s progress and status.	x				
System allows customers to set up or request inspections online.	x				
System maintains a contractor table which tracks appropriate certifications and licenses as required for the type of contractor.	x				

Software integrates with GIS application for property verification and display via ESRI.	x				
System generates permits on paper and in PDF form.	x				
System can easily email permits and inspections out of the system.	x				
System allows for sub permits (e.g. building permit with a mechanical permit.)		x			
System can have different fee structures based on the permit. For example, calculations can contain complex calculations including valuation, square footage, factors, and flat fees for different contractors.	x				
Staff can edit, delete, or create new permit processes as needed without technical support from the vendor.	x				
System provides a centralized calendar for scheduling inspections.	x				
System allows inspection to be added, removed, or rescheduled as needed.	x				
System allows multiple staff to be assigned to one complaint. For example, a complaint may involve Code Enforcement for weeds and Building for an illegal structure.	x				
System allows staff to markup plans electronically and email them to the customer.	x				
System tracks the different versions of submittals.	x				We will need a better description of what is meant by different “versions.”
System allows different file formats to be uploaded to the complaint file for tracking (e.g. pdf, jpegs, docx, etc.).	x				
System provides a custom “dashboard” or summary for staff of the different types of complaints received, open, and closed.	x				

System provides staff the ability to see a history of all previous complaints, permits, and inspections on a property.	x				
System allows staff to add, delete, and create new types of complaints.	x				
System allows customers to file a code complaint online and upload photos.	x				
System provides a GIS Map for public access where they can see a parcel map showing any code cases or permits on a selected property.	x				
System integrates code complaints to the GIS interface for mapping capabilities.	x				
System tracks deadlines for follow up and organizes staff comments.	x				

CITY OF RIVERBANK

RESOLUTION NO. 2020-044

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AUTHORIZING AN APPLICATION FOR, AND RECEIPT OF, LOCAL
GOVERNMENT PLANNING SUPPORT GRANT PROGRAM FUNDS**

WHEREAS, pursuant to Health and Safety Code 50515 et. Seq, the Department of Housing and Community Development (Department) is authorized to issue a Notice of Funding Availability (NOFA) as part of the Local Government Planning Support Grants Program (hereinafter referred to by the Department as the Local Early Action Planning Grants program or LEAP); and

WHEREAS, the City Council of Riverbank desires to submit a LEAP grant application package ("Application"), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment; and

WHEREAS, the Department has issued a NOFA and Application on January 27, 2020 in the amount of \$119,040,000 for assistance to all California Jurisdictions; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Riverbank does declare as follows:

1. The Assistant City Manager is hereby authorized and directed to apply for and submit to the Department the Application package;
2. In connection with the LEAP grant, if the Application is approved by the Department, the Assistant City Manager of the City of Riverbank is authorized to submit the Application, enter into, execute, and deliver on behalf of the Applicant, a State of California Agreement (Standard Agreement) for the amount of up to \$150,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant's obligations related thereto, and all amendments thereto; and
3. The Applicant shall be subject to the terms and conditions as specified in the NOFA, and the Standard Agreement provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full

as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreement. Pursuant to the NOFA and in conjunction with the terms of the Standard Agreement, the Applicant hereby agrees to use the funds for eligible uses and allowable expenditures in the manner presented and specifically identified in the approved Application.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 23rd day of June, 2020; motioned by Vice Mayor (CM-D1) Luis Uribe; seconded by Councilmember District 4 Darlene Barber-Martinez, and upon roll call was carried by the following City Council vote of 5-0:

AYES: Barber-Martinez, Campbell, Fosi, Uribe, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAINED: None

ATTEST:


Annabelle H. Aguilar, CMC
City Clerk

APPROVED:


Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 9.3

SECTION 9: CONSENT CALENDER

Meeting Date:	September 28, 2021
Subject:	A Resolution to Approve the 2021-2022 Fees Schedule for Park Amenity Rentals, Recreation Programs, and Facility Rentals for the City of Riverbank
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution to approve the 2021-2022 fees for Park Amenity Rentals, Recreation Programs and Facility Rentals.

SUMMARY

The schedule of Park Amenity Rentals, Recreation Programs and Facility Rental Fees for the 2021-2022 Fiscal year is attached as Exhibit A for the City Council consideration.

BACKGROUND

The City Parks and Recreation Department periodically conduct an analysis of the City Park and Recreation Programs; the costs of providing those programs; the beneficiaries of those programs, as well as the revenues and expenses incurred with those programs. One-hundred percent (100%) cost recovery is the goal for most of the programs offered. We strive toward this goal through managing expenses as well as revenue. While active cost recovery does occur through most facility, park reservations, and special events; other programs struggle to achieve cost recovery while remaining affordable for the community. The aquatics program is a key example. While the swim team and swim lessons pay for a portion of the associated costs, the aquatics program recovers only about 60% of the annual operational costs. The Teen Center also requires General Fund support. In the past, the City Council has determined that these programs provide public safety benefits and serve as an investment in the City's youth and general public welfare thus ongoing General Fund subsidies have helped fund these programs.

SPECIFIC FEE INCREASES

The fee increases reflected in this report include an increase in the parking fee for non-residents who attend Jacob Myers Park on Friday, Saturday during the busy season (April through September). This fee would increase from \$7.00 per vehicle to \$10.00 per

vehicle. There would **be no increase** for Riverbank residents. The primary justification for this increase relates to the increased security and staffing costs for Jacob Meyers during the summer months when the park is filled to capacity most days. Additionally, a recent survey of park attendees generally indicates that non resident visitors make up a substantial majority of park visitors.

The Community Center rental is proposed to increase \$200 for both residents and non-residents due to the recent improvements made at the center while still remaining much lower than surrounding areas for facility rentals.

Aquatic fees have been adjusted as well as some park reservation fees to reflect an increase in staffing costs and supplies/equipment.

It is proposed that these fee increases be in effect beginning January 1, 2022 as this is when the next minimum wage increase occurs and staffing wages will be updated with new personnel action forms.

FINANCIAL IMPACT:

The Financial Impact is reflected within the 2021-2022 Budget. Many programs are now self-sufficient with 100% recovery of costs with the exception of the Teen Center, the Aquatics Program, the Christmas Parade and a few minor programs that offered throughout the year.

The Enterprise Fund is supplemented by the General Fund to help support the Community Center and Scout Hall Building operation and maintenance as well as fee waivers that have been approved by the City Council.

The General Fund supports the operations of the Recreation and Park Program operations and maintenance.

The fee adjustments recommended at this time are predominately related to the past and upcoming minimum wage increases. Other fee adjustments are to streamline costs or to adjust costs to cover updated expenses (increased power costs, materials, supplies, facility maintenance, park maintenance etc). Scholarships are available for those who cannot afford to pay and meet the low- income criteria.

STRATEGIC PLAN

This report has been prepared to accomplish the following Goal established at the 2022-2027 Strategic Planning Session:

“Ensure Financial Stability” and “Maintain Quality of Life”

ATTACHMENTS

- 1) Resolution
- 2) Exhibit A: Schedule of Fees

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, TO APPROVE THE 2021-2022 FEE SCHEDULE FOR PARK AMENITY
RENTALS, RECREATION PROGRAMS, AND FACILITY RENTALS FOR THE CITY
OF RIVERBANK**

WHEREAS, the City of Riverbank has conducted an analysis of its Parks and Recreation Programs, the costs of providing those Programs, the beneficiaries of those Programs and the revenues and expenses incurred for those programs; and

WHEREAS, the specific fees to be charged for programs is annually reviewed and adopted by the City of Riverbank City Council; and

WHEREAS, any new program fees or fee increases proposed will be presented to the City Council for consideration as needed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approve and establishes the 2021-2022 Fees Schedule attached hereto as Exhibit A for the Park Amenity Rentals, Recreation Programs, and Facility Rentals effective January 1, 2022.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th 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

Attachments: Exhibit A – 2021-2022 Fees Schedule

Exhibit A

CITY OF RIVERBANK 2021-2022 PARKS, RECREATION, AND FACILITIES FEES

PARKS - DESCRIPTIONS		
Park Rental (all parks with gazebos):	Current fee	New Fee
Resident	\$100.00	-
Nonresident	\$125.00	-
Silva Park	Current fee	New Fee
Resident	\$50.00	\$75.00
Non-resident	\$125.00	
Park Rental (small areas at Jacob Myers Park (JMP)):	Current fee	New Fee
Resident	\$50.00	\$75.00
Non-resident	\$100.00	\$125.00
Wedding Gazebo @Jacob Myers Park	\$500.00	-
Electricity (Jacob Myers/Pavilion)	\$20.00	-
Bounce House permit (except JMP)	\$25.00	-
Parking Fee (April– September, Fri. Sat. Sun, Holidays)	\$7.00	\$10.00 for non-residents
Castleberg Park – Ball Diamonds	Current fee	New Fee
Lights (2 hour minimum)	\$25.00/hour	-
Park Aide/Site Monitor	\$18.00	-
Field Use (Exception RYBSA)	\$25 per hour	-
Tournament (per field- includes maintenance)	\$150.00	-
PROGRAM - DESCRIPTIONS		
Camps	Current Fee	New Fee
	\$115-\$125.00 (2 ND Child)	-
All Day Summer Camps (8 am to 5 pm)	\$105.00-\$110	
Half Day Camps (9 am to 12 noon)	\$65.00	-
Mini Camps (ages 3 to 5)	\$35	-
Classes	Current Fee	New Fee
Tot Time	\$100.00/session	-
Ballet Folklorico (70/30)	\$35.00/session	-
Zumba Gold	\$2.00	-
Pound Fitness (70/30)	\$5.00 drop-in	

PROGRAM – DESCRIPTIONS		
Classes	Current Fee	New Fee
First Friday Paint Night	\$18 per person	
Open Gym @ Cardozo	\$2.00 drop in	
Drum Circle	\$5.00 per session	
Yoga (70/30)	\$5.00	
Parent's Night Out	\$30-35	
Aquatics	Current Fee	New Fee
Aqua Fit	\$5.00 drop in	
Recreational Swim	\$2.00	\$3.00
Lap Swim	\$3.00	
Swim Lessons (Resident)	\$60.00/session	\$70.00 /session
Swim Lessons (Non-resident)	\$65.00/session	\$75.00 /session
Sharks & Mermaids (Per 6 week session with scholarships available)	\$100/6-weeks	-
Private Swim Lessons	\$200.00 per child	-
Swim Team	\$125.00	-
Swim Team (2 nd Child)	\$115.00	-
Pool Parties (Resident – with 1-60 guests)	\$100.00/hour	-
Pool Parties (Nonresident – with 1-60 guests)	\$120.00/hour	-
Pool Parties (Resident – with 61-90 guests)	\$120.00/hour	-
Pool Parties (Nonresident – with 61-90 guests)	\$140.00/hour	-
Pool Parties (Resident – with 91-120 guests)	\$140.00/hour	-
Pool Parties (Nonresident – with 91-120 guests)	\$160.00/hour	-
Pool Pass (per individual)	\$80.00	-
Pool Pass (Family of 4)	\$150.00 \$20 each added person	-
Special Events	Current Fee	New Fee
Halloween Haunted Hayride	\$12.00	-
Children (ages 3-12)	\$6.00	-
Christmas Parade Entry Fee	\$20.00	
Christmas Craft Faire Booth Fee	\$50.00	-
FACILITY RENTALS – DESCRIPTIONS		
Community Center	CURRENT FEE	NEW FEE
Resident	\$1,300.00	\$1,500
Non-resident	\$1,600.00	\$1,800

FACILITY RENTALS – DESCRIPTIONS		
Community Center	CURRENT FEE	NEW FEE
Service Group (Includes set up/take down)	\$600.00	-
Custodial Only (Grandfathered- in service groups) Now includes set up and take down of tables/chairs	\$200.00	-
Memorial Service (3 hours maximum)	\$400.00	-
Options:		-
Stage	\$150.00	-
Sound system	\$100.00	-
Set up the day before (4 hour max; prior to 10pm; NOT available Saturdays)	\$200.00	\$300.00
Meeting Fee (2 hrs.)	\$50.00	-
Scout Hall	Current Fee	New Fee
Resident	\$350.00	-
Non-resident	\$400.00	-
Service Group	\$100.00	-
Custodial only (w/waiver)	\$60.00	-
Meeting Fee (2 hrs.)	\$25.00	-
Memorial Service (3 hrs. max.)	\$200.00	-
Teen Center		
Resident (per hour)	\$100.00	-
Non-resident (per hour)	\$125.00	-
Meeting fee: NO FOOD (2 hrs. max)	\$25.00	\$50.00
Gym Rental	Current Fee	New Fee
Refundable Deposit	\$250.00	-
Profit Groups	\$200.00/day	-
School/Non-profit (3 hours)	\$50.00/day	-
Additional hours after 3	25.00/hour	-
Staff fee	\$18.00	-
Scoreboard	\$50.00	-
Sports Complex	Current Fee	New Fee
Deposit	\$250.00	-
Field Use Per Field (East/West)	\$25 hour	-
Tournament	\$400/day	\$500.00/day
Rec Soccer (Non-profit)	\$10.00/hour	\$20.00/hr
Staff	\$18.00/hour	-
Lights	\$30.00/hour	-
Scoreboard Rental	\$50.00/day	-
Snack Bar Rental	\$200.00/day	-

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 9.4

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 28, 2021
Subject:	Approval of the August 10, 2021, Special City Council Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

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

SUMMARY

The Draft Minutes of the August 10, 2021, special City Council meeting have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. August 10, 2021, Special City Council Meeting Minutes

CITY COUNCIL / LRA BOARD

Mayor Richard D. O'Brien
Vice Mayo (CM-D1) Luis Uribe
Council Members:
District 2 Rachel Hernandez
District 3 Cal Campbell
District 4 Darlene Barber-Martinez



SPECIAL RIVERBANK CITY COUNCIL STRATEGIC PLANNING SESSION (In-Person Meeting)

located at the Riverbank Teen Center
3600-A Santa Fe Street
Riverbank, CA 95367



MINUTES

TUESDAY, AUGUST 10, 2021– 9:00 A.M.

1. CALL TO ORDER – *This meeting was opened at 9:06 a.m. with Mayor Richard D. O'Brien presiding.*

2. ROLL CALL – *All Members of the City Council were present. Councilmember District 2 Rachel Hernandez arrived at 9:06 a.m.*

Staff Present: City Manager Sean Scully, Assistant City Manager/ASD Marisela Garcia, City Attorney Tom Hallinan (arrived at 12:00 p.m.), City Clerk Annabelle Aguilar, Police Chief Ed Ridenour, Public Works Dir./Interim LRA Dir. Michael Riddell, Development Services Administration Manager Kathleen Cleek, Planning and Building Manager Donna Kenney, Senior Management Analyst Norma Torres-Manriquez, Parks and Recreation Director Sue Fitzpatrick, Human Resources Analyst Cheryl Stefani, and Confidential Administrative Assistant Gaby Hernandez.

3. 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. Individual comments will be limited to a **maximum of 3 minutes (or as stated by the presiding Officer)**. Under State Law, matters presented during the public comment period cannot be discussed or acted upon.

There were no public oral or written comments.

4. BUSINESS

Item 4.1. **Discussion and Update of the City's Strategic Plan** – It is recommended that the City Council consider the City's Strategic Plan and provide direction and/or comments to guide Management Staff on the implementation and accomplishment of the Plan's goals.

Mayor O'Brien made an opening statement.

City Manager Sean Scully provided an update on the strategic plan's achieved goals and improved services.

Facilitator Kendal Flint proceeded with the strategic planning process. City Council reviewed and considered the current eight goals: 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; and Maintain a High

Quality of Life. Council Members provided their desired changes or additions to the strategies and/or tactics of each goal, with Staff's input as needed.

Mayor O'Brien called for a brief recess for lunch at 11:30 a.m.

Mayor O'Brien reconvened the session at 12:00 p.m.

The strategic planning session continued until all goals had been considered and reviewed by Council.

The revised strategic plan would be presented to Council for approval at a future meeting.

5. ADJOURNMENT OF THE REGULAR MEETING

There being no further business, Mayor O'Brien adjourned the special meeting at 1:14 p.m.

ATTEST: (Adopted 09/28/2021)

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 28, 2021

Subject: A **Resolution** Approving the Updated Compensation Plan for Part-Time/Temporary/Seasonal Positions for Use Before the State of California Minimum Wage Increase Effective January 1, 2022

From: Sean Scully, City Manager

Submitted by: Cheryl Stefani, Human Resources Analyst

RECOMMENDATION

It is recommended the City Council consider adopting the City of Riverbank Compensation Plan for Part-Time/Temporary/Seasonal Positions for use before the State of California minimum wage increase effective January 1, 2022.

BACKGROUND

According to the U.S. Department of Labor, from 2017 to 2023, the State of California minimum wage will increase by one dollar per hour annually to \$15.00/hour effective January 1, 2022 for employers with 26 employees or more.

The City of Riverbank has been utilizing the Compensation Plan for Part-Time/Temporary/Seasonal Positions Effective January 1, 2019 when the minimum wage rate was \$12.00/hour. As a result, there are six position classifications in the Parks & Recreation Department that haven't been able to be appointed since they fall below the current minimum wage rate of \$14.00/hour. By accepting the updated Compensation Plan for Part-Time/Temporary/Seasonal Positions at this time rather than waiting until January 1, 2022, newly hired part-time employees can be appointed the appropriate classification and pay rate; and will also allow for a pay differential to compensate part-time staff who may have more service time with the City and/or have earned a higher rate of pay. In addition, the pay rates for the rest of the part-time classifications were adjusted accordingly to eliminate any salary compaction issues.

SUMMARY

By adopting the City of Riverbank Compensation Plan Effective September 28, 2021 for Part-Time/Temporary/Seasonal Positions rather than waiting until the State of California minimum wage increase becomes effective on January 1, 2022, all position classifications and pay rates listed on the Compensation Plan will be available for use and be in compliance in 2022.

FINANCIAL IMPACT

The cost to implement the required minimum wage increase at this time is minimal and can be absorbed in each departments' operating budgets for Fiscal Year 2021-2022. The six part-time positions not able to be appointed are in the Parks & Recreation Department. The financial impact of the minimum wage increase to future fiscal years can be supported by updating program and facility fees to be presented by Sue Fitzpatrick, Parks & Recreation Director.

ATTACHMENT

1. Resolution
2. City of Riverbank Compensation Plan Effective September 28, 2021 for Part-Time/Temporary/Seasonal Positions

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, APPROVING THE UPDATED COMPENSATION PLAN FOR PART-TIME/TEMPORARY/SEASONAL POSITIONS FOR USE BEFORE THE STATE OF CALIFORNIA MINIMUM WAGE INCREASE EFFECTIVE JANUARY 1, 2022

WHEREAS, according to the U.S. Department of Labor, from 2017 to 2023, the State of California minimum wage will increase by one dollar per hour annually to \$15.00/hour effective January 1, 2022 for employers with 26 employees; and

WHEREAS, the City of Riverbank has been utilizing the Compensation Plan for Part-Time/Temporary/Seasonal Positions Effective January 1, 2019 when the minimum wage rate was \$12.00/hour. As a result, there are six position classifications in the Parks & Recreation Department that haven't been able to be appointed since they fall below the current minimum wage rate of \$14.00/hour; and

WHEREAS, the cost to implement the required minimum wage increase at this time is minimal and can be absorbed in each departments' operating budgets for Fiscal Year 2021-2022. The six part-time positions not able to be appointed are in the Parks & Recreation Department. The financial impact of the minimum wage increase to future fiscal years can be supported by updating program and facility fees to be presented by Sue Fitzpatrick, Parks & Recreation Director; and

WHEREAS, by accepting the updated Compensation Plan for Part-Time/Temporary/Seasonal Positions at this time rather than waiting until January 1, 2022, newly hired part-time employees can be appointed the appropriate classification and pay rate; it will allow for a pay differential to compensate part-time staff who may have more service time with the city and/or have earned a higher rate of pay; and all position classifications and pay rates listed on the Compensation Plan will be available for use and be in compliance in 2022.

NOW, THEREFORE, be it resolved that the City Council of the City of Riverbank hereby adopts and approves use of the City of Riverbank Compensation Plan for Part-Time/Temporary/Seasonal Positions at this time instead of waiting until the State of California minimum wage becomes effective on January 1, 2022.

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:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment: Updated Compensation Plan for Part- Time/Temporary/Seasonal Positions

PROPOSED

**CITY OF RIVERBANK
COMPENSATION PLAN
EFFECTIVE SEPTEMBER 28, 2021**

PART-TIME/TEMPORARY/SEASONAL POSITIONS

TITLE	RANGE	HOURLY SALARY STEP				
		A	B	C	D	E
Recreation Leader I	1	15.00	15.25	15.50	15.75	16.00
Recreation Leader II	5	16.00	16.25	16.50	16.75	17.00
Recreation Leader III	9	17.00	17.25	17.50	17.75	18.00
Sr. Recreation Leader	13	18.00	18.25	18.50	18.75	19.00

Lifeguard/Instructor	5	16.00	16.25	16.50	16.75	17.00
Head Lifeguard	9	17.00	17.25	17.50	17.75	18.00
Assistant Pool Manager	13	18.00	18.25	18.50	18.75	19.00
Pool Manager	17	19.00	19.25	19.50	19.75	20.00

Site Monitor	1	15.00	15.25	15.50	15.75	16.00
Program Specialist	9	17.00	17.25	17.50	17.75	18.00

Facilities Maintenance Worker Aide	5	16.00	16.25	16.50	16.75	17.00
Park Maintenance Worker Aide	5	16.00	16.25	16.50	16.75	17.00
Administrative Intern	9	17.00	17.25	17.50	17.75	18.00
Maintenance Worker Aide	13	18.00	18.25	18.50	18.75	19.00
Building/Neighborhood Improvement Aide	17	19.00	19.25	19.50	19.75	20.00
Collections Clerk	17	19.00	19.25	19.50	19.75	20.00
Development Services Clerk	17	19.00	19.25	19.50	19.75	20.00
Water Utility Worker Aide	17	19.00	19.25	19.50	19.75	20.00
Water Conservation Coordinator	17	19.00	19.25	19.50	19.75	20.00
Personnel Clerk/Part-Time	17	19.00	19.25	19.50	19.75	20.00
Neighborhood Improvement Officer - PT	23	22.75	23.88	25.08	26.33	27.65

California Minimum Wage

January 1, 2022 - \$15.00

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 9.6

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 28, 2021
Subject/ Title:	A Resolution Approving Final Map 06-2021 for Narciso and Adela Hernandez at 3625 Kansas Avenue (APN 132-054-034)
From:	Sean Scully, City Manager
Submitted by:	Gabriel R. Salazar, Associate Planner

RECOMMENDATION

Approve the Final Map ("FM") for the Hernandez property based on the required finding that the map is in conformity with the provisions of subdivision law and city code. The project consists of a Final Map to subdivide an existing approximately 18,480 square foot parcel of land into two (2) parcels consisting of Parcel 1 – 9,957.5 square feet and Parcel 2 – 8,522.5 square feet.

BACKGROUND:

On March 16, 2021, the Planning Commission with a 5-0 vote, approved Tentative Parcel Map 02-2017 (Attachment 2 Exhibit A) to subdivide an existing approximately 18,480 square foot parcel of land into two (2) parcels consisting of Parcel 1 – 9,9957.5 square feet and Parcel 2 – 8,522.5 square feet. Parcel 2 contains an existing 1,747 square foot single family residential unit and Parcel 1 is vacant. There were no other entitlements requested. The applicant will continue to live on Parcel 2 and will possibly sell Parcel 1 in the future. The Final Map (Attachment 1 Exhibit A) is attached to the Resolution.

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

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

FISCAL IMPACT:

None.

ATTACHMENTS:

1. Resolution No. 2021-TBD
Exhibit A - Final Map
2. Planning Commission Resolution No. 2021-005
Exhibit A - Tentative Map

CITY OF RIVERBANK

RESOLUTION NO. 2021-TBD

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPROVING FINAL MAP 06-2021 FOR NARCISO AND ADELA
HERNANDEZ AT 3625 KANSAS AVENUE (APN 132-054-034)**

Whereas, Narciso and Adela Hernandez is the property owner and applicant for the Hernandez Final Map 06-2021 (approximately 18,840 square foot parcel into two lots); and

Whereas, on March 16, 2021, the Planning Commission with a 5:0 vote, approved Tentative Parcel Map 02-2017 to subdivide an existing approximately 18,840 square foot parcel into two lots consisting of Parcel 1- 9,957.5 square feet and Parcel 2 – 8,522.5 square feet at 3625 Kansas Avenue; and

Whereas, the City has now received a Final Parcel Map application which is consistent with the Tentative Parcel Map; and

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

Whereas, pursuant to Riverbank Municipal Code Section §152.074 (C)(2), the City Council shall, at the meeting at which it receives the map or at its next regular meeting after the meeting at which it receives the map, approve the map if it is determined to be in conformity with the provisions of law and of this chapter.

Now, Therefore, Be It Resolved that the City Council of the City of Riverbank hereby authorizes the City Engineer to record Final Map 06-2021 attached hereto as **Exhibit A** for Narciso and Adela Hernandez upon determination that the map is in conformity with the provisions of state law.

Passed and adopted this 28th day of September 2021 by the following vote:

Ayes: Councilmembers

Noes:

Absent:

Abstain:

Attest:

Approved:

Annabelle Aguilar,
City Clerk

William O'Brien,
Mayor

MONUMENTATION NOTE:

PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ON THIS SITE, IT IS ADVISED THAT ALL INVOLVED PARTIES REVIEW SECTION 8771 AND SECTION 8725 OF THE BUSINESS AND PROFESSIONS CODE AND SECTION 605 OF THE CALIFORNIA PENAL CODE TO ENSURE THAT MONUMENT CONSERVATION HAS BEEN PROPERLY ADDRESSED

LEGEND:

- FOUND MONUMENT AS NOTED
- SET 3/4" IRON PIPE, L.S. 5443, UNLESS OTHERWISE NOTED
- FOUND MONUMENT IN MONUMENT WELL

- (BOB) BASIS OF BEARINGS
(M) MEASURED ON THIS SURVEY
D.N. DOCUMENT NUMBER
FD. FOUND
MON. MONUMENT
PM PARCEL MAPS
C.R. CORNER RECORD
(calc) CALCULATED FROM RECORD

REFERENCES:

- (A) VOLUME 7, MAPS, PAGE 31
- (B) BOOK 54, PARCEL MAPS, PAGE 48
- (C) BOOK 9, PARCEL MAPS, PAGE 66
- (D) BOOK 32, PARCEL MAPS, PAGE 148
- (E) BOOK 48, PARCEL MAPS, PAGE 80
- (G) GRANT DEED D.N. 2012-0053659

GENERAL NOTES:

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

RESOLUTION 2017-008 PARCEL MAP FOR NARCISO HERNANDEZ

BEING A DIVISION OF THE SOUTH ONE-HALF OF LOT 178 OF RIVERBANK TOWNSITE ACRES AS SHOWN ON VOLUME 7 OF MAPS, PAGE 31, STANISLAUS COUNTY RECORDS, LYING IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 9 EAST, MOUNT DIABLO MERIDIAN.

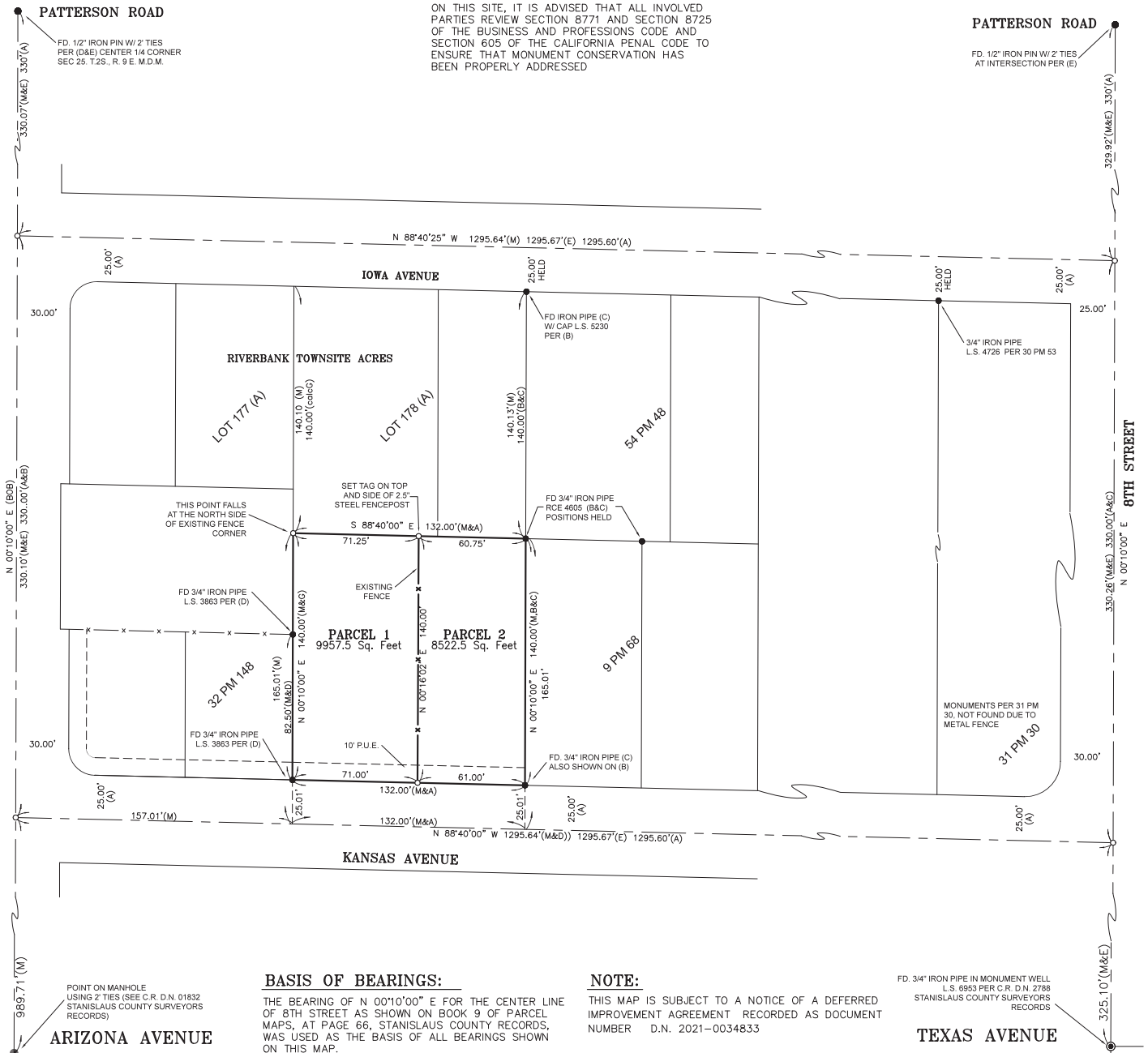
JULY 26, 2021

ASPEN SURVEY
COMPANY
1121 OAKDALE RD. SUITE 6, MODESTO, CA. 95355
PH: (209) 526-9724 FX: (209) 526-0472

ASPEN JOB No. 2016-052

SHEET 2 OF 2

TERMINAL AVENUE



BASIS OF BEARINGS:

THE BEARING OF N 00°10'00" E FOR THE CENTER LINE OF 8TH STREET AS SHOWN ON BOOK 9 OF PARCEL MAPS, AT PAGE 66, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS OF ALL BEARINGS SHOWN ON THIS MAP.

NOTE:

THIS MAP IS SUBJECT TO A NOTICE OF A DEFERRED IMPROVEMENT AGREEMENT RECORDED AS DOCUMENT NUMBER D.N. 2021-0034833

FD. 3/4" IRON PIPE IN MONUMENT WELL
L.S. 6953 PER C.R. D.N. 2788
STANISLAUS COUNTY SURVEYORS
RECORDS

TEXAS AVENUE

**City of Riverbank
Planning Commission
Resolution No. 2021-005**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
RIVERBANK APPROVING THE REQUEST OF NARCISCO AND ADELA
HERNANDEZ FOR TENTATIVE PARCEL MAP 02-2017 AND A
CERTIFICATE OF COMPLIANCE TO SUBDIVIDE ONE (1) 18,840
SQUARE FOOT PARCEL INTO TWO (2) PARCELS, LOCATED AT
3625 KANSAS AVENUE (APN 132-054-034)**

WHEREAS, an application has been received from Narciso and Adela Hernandez for a Tentative Parcel Map to divide one (1) 18,840 square foot parcel into two (2) parcels, specifically sized as follows:

Parcel 1: 9,957.5.4 square feet

Parcel 2: 8,522.5 square feet; and

WHEREAS, in addition to the map approval, the applicants request the City waive the requirement for a Final Parcel Map and issue a Certificate of Compliance for PM 02-2017; and

WHEREAS, the proposed tentative map is consistent with General Plan Conservation Element Policy 8.6, which states: "The City will encourage compact development to achieve more efficient use of resources and provision of public facilities and services"; and

WHEREAS, Parcel Map 02-2017 was reviewed by the Riverbank Planning Commission in public hearing at a regular meeting held on March 16, 2021 in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider a proposed Exemption pursuant to the California Environmental Quality Act and considers this to be the appropriate level of environmental review in this case. The Planning Commission finds that the proposed project meets the conditions prescribed in Section 15315 (Class 15, Minor Land Divisions) of the State CEQA Guidelines; and

WHEREAS, the Riverbank Planning Commission approves Parcel Map 02-2017, prepared by David L. Harris of Aspen Survey Company and dated April 20, 2017, presented by Narciso and Adela Hernandez as depicted in attached Exhibit "A", 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 in that the project directly implements General Plan Conservation Policy 8.6. During the Planning Commission public hearing of March 16, 2021, the City found the proposed project to be consistent because it

encourages more compact development.

- B. Notice to the general public and adjoining neighbors in the time and in the manner required by State Law and City Code.
- C. According to the California Environmental Quality Act, the proposed project is exempt pursuant to Section 15315 (Class 15, Minor Land Divisions) of the State CEQA Guidelines. The proposed Project meets all conditions prescribed by CEQA Section 15315.
- D. The approval of Parcel Map 02-2017 for the establishment of subdivision of one (1) 18,480 square foot parcel into two (2) parcels will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood in that proposed are similar to, and compatible with, neighboring uses in the area.

WHEREAS, the request for a Parcel Map is approved by the Planning Commission of the City of Riverbank, subject to the following conditions:

1. The 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 subject property; and
2. All accessory structures within five (5) feet of the new shared property line shall be removed; and
3. All overhead utilities shall be undergrounded to each parcel and along the project frontage. The undergrounding of electrical facilities shall be deferred until a larger project develops. The property owners shall submit a fair-share cost towards the undergrounding when requested by the City. The applicants shall enter into a Deferred Improvement Agreement with the City; and
4. When developed, Parcel 1 shall be graded to conform to the City's storm drainage ordinance and shall meet the MS4 post construction standards; and
5. An encroachment permit is required for all work in the public right of way; and
6. Submittals of all materials to be used within the public right of way shall be submitted and approved prior to construction.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission approves Parcel Map 02-2017, subject to those conditions established by Resolution 2021-005 and attached as Exhibit "A" to this Resolution for Narcisco and Adela Hernandez dated March 16, 2021.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a meeting held on the 16th of March, 2021; motioned by Commissioner Basso, seconded by Commissioner Fenrich, and upon roll call was carried by the following vote of 5-0:

AYES: Commissioners: Dinan, Basso, Fenrich, Link and Stewart

NOES: None

ABSENT: None

ABSTAIN: None

Attest:

Donna M. Kenney

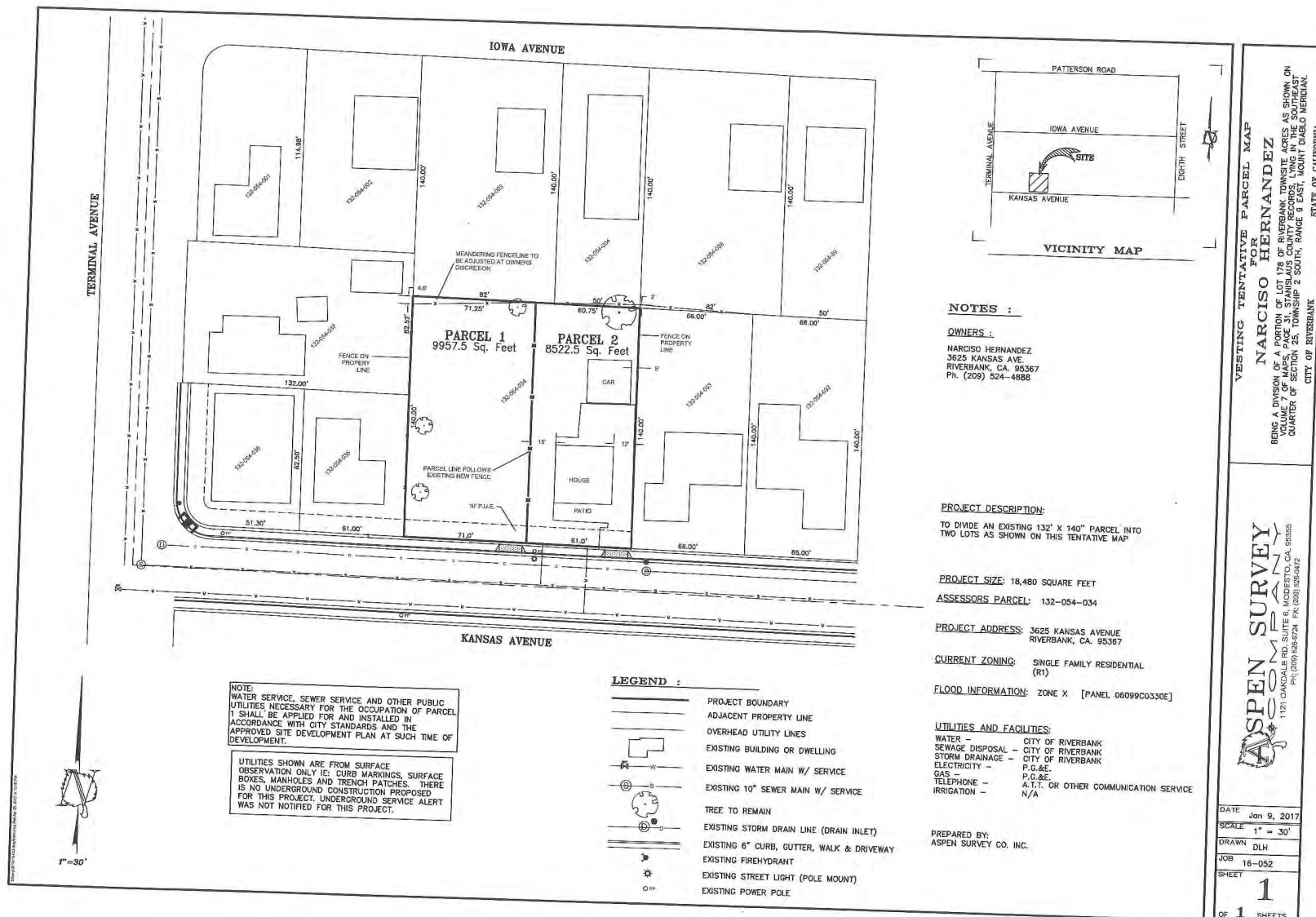
Donna M. Kenney
Secretary, Planning Commission

Approved:

Joan Stewart

Joan Stewart
Chair, Planning Commission

Exhibit A - Parcel Map 02-2017



RECEIVED
APR 20 2017

BY:

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 10.1

SECTION 10: UNFINISHED BUSINESS

Meeting Date: September 28, 2021

Subject/ Title: Second Reading by Title Only of Proposed **Ordinance No. 2021-005** 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

From: Sean Scully, City Manager

Submitted by: Gabriel R. Salazar, Associate Planner

RECOMMENDATION

It is recommended that the City Council conduct the second reading of Ordinance No. 201-005 and consider its adoption by roll call vote. At their regular meeting of August 17, 2021, the Planning Commission voted 5-0 to recommend to the City Council the adoption of the draft ordinance and approval of the vesting tentative map resolution. They then voted 5-0 to approve the project's Architecture and Site Plan Review.

SUMMARY

The project consists of a Rezone and Tentative Map application to subdivide approximately 4.56 acres into 22 single-family detached residential lots (overall residential density of 5.48 du/acre), an interim storm drain basin (on three lots), associated street improvements. The City Council on September 14, 2021, considered and approved the first reading of the ordinance for Rezone 01-2020 and approved the resolution for Vesting Tentative Map 03-2020 for Countryside III, contingent on the approval of the second reading of the ordinance on September 28, 2021.

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 zoned Single Family Residential (R-1). The applicant applied 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.

REZONE

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 proposed 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 than 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 approved the first reading of the rezone ordinance because the project met the following 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.*

VESTING TENTATIVE MAP

A rezone to Planned Development must be approved by the City Council before a vesting tentative map on that property can be approved, hence the contingency.

Vesting Tentative Map Findings

Vesting Tentative Map 03-2020 was approved by the City Council, contingent upon the approval of the second reading of the ordinance, since it could make 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.*

ENVIRONMENTAL DETERMINATION

The proposed Project 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.

ATTACHMENTS

1. City Council Ordinance No. 2021-005 Rezone
2. Copy of Resolution No. 2021-083 Vesting Tentative Map
Exhibit A – VTM 03-2020

CITY OF RIVERBANK

ORDINANCE NO. 2021-005

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, 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 City Council 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 28th day of September, 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. 2021-083

**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. 2021-005.

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

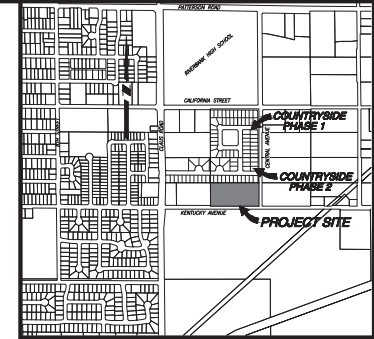
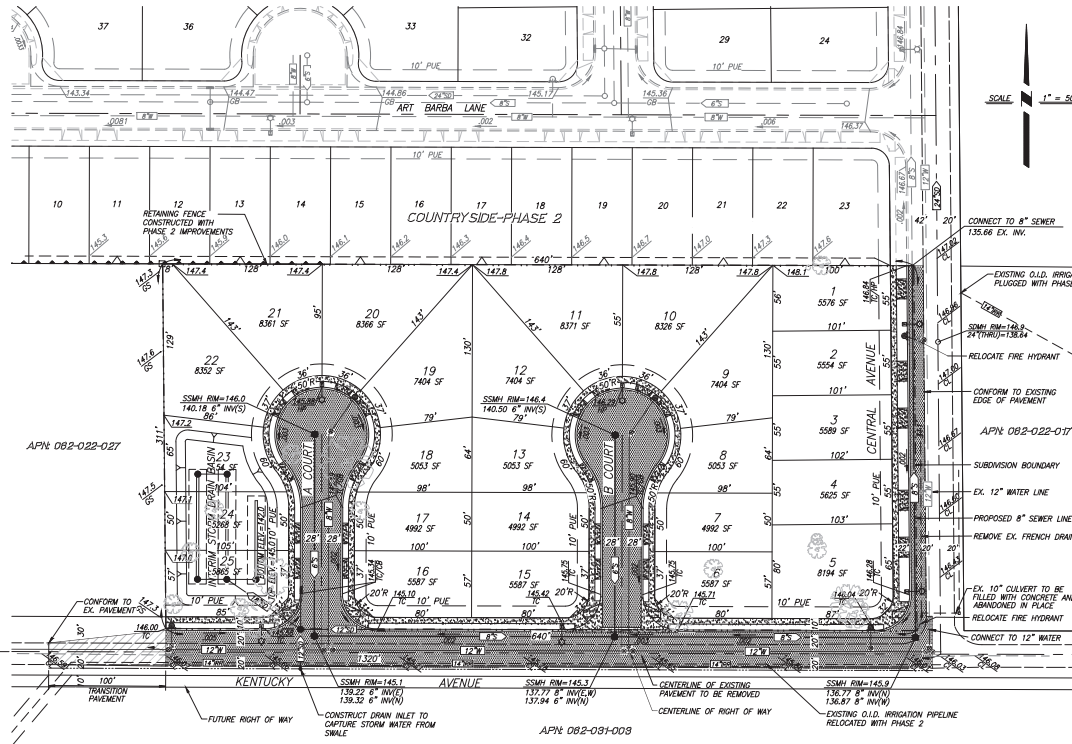
COPY

LEGEND

EXISTING	PROPOSED
WATER VALVE	
FIRE HYDRANT	
BLOWOFF VALVE	
DRAIN INLET	
STANDARD MANHOLE	
WATER LINE	8" W
SANITARY SEWER	8" S
STORM DRAIN	18" SD
TYPICAL STREET LIGHT	
STANDARD DRIVEWAY	
DIRECTION OF FLOW	N/A
TOP OF CURB ELEVATION	68.34
ORIGINAL GROUND	N/A
CURB, GUTTER AND SIDEWALK	

VESTING TENTATIVE SUBDIVISION MAP COUNTRYSIDE - PHASE 3

BEING SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER
OF THE SOUTHWEST QUARTER OF SECTION 30, T.25S., R.10E.,
MOUNT DIABLO BASE AND MERIDIAN
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



VICINITY MAP
N.T.S.

OWNERS
PRIME SONGSTERN
BRYAN AND CATLIN ROTTI
162 SOUTH SPRING STREET
MOUNTAIN HOUSE, CA 95131

SUBDIVIDER
MURPHY-WILSON COMMUNITIES, INC.
2909 COFFEE ROAD, SUITE 12A
MODESTO, CA 95355
(209) 491-5450

STATEMENT OF SUBDIVIDER

- ASSESSORS PARCEL NO: 062-022-020
- EXISTING ZONING: R-1
- PROPOSED ZONING: PD
- EROSION CONTROL PER CITY OF RIVERBANK ORDINANCES AND STANDARDS.
- FRONT YARD DEPTHS AND BUILDING LINES PER CITY OF RIVERBANK ORDINANCES AND STANDARDS.
- WATER SUPPLY: CITY OF RIVERBANK.
- SEWAGE DISPOSAL: CITY OF RIVERBANK.
- STORM DRAINAGE: CITY OF RIVERBANK.
- EROSION CONTROL PER CALIF. STANDARDS AND CITY OF RIVERBANK ORDINANCES AND STANDARDS.
- TREE TYPE AND LOCATION SHALL BE DETERMINED BY CITY OF RIVERBANK.
- ALL IMPROVEMENTS AND PUBLIC UTILITIES SHALL 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.
- A GENERAL PLAN AMENDMENT (GPA) AND REZONE APPLICATION HAS BEEN FILED CONCURRENTLY WITH THIS MAP.

NOTES:

- STREET IMPROVEMENTS SHALL BE INSTALLED PER CITY OF RIVERBANK STANDARD SPECIFICATIONS.
- ALL EXISTING WELLS AND SEPTIC TANKS SHALL BE REMOVED AND/OR ABANDONED AS PER STANISLAUS COUNTY ENVIRONMENTAL RESOURCES DEPT. STANDARDS.
- ALL BUILDINGS, STRUCTURES AND TREES SHALL BE REMOVED PRIOR TO DEVELOPMENT.
- OUTLAIN AND ABANDONMENT OF DOD'S PIPELINES WILL BE CONSIDERED BY DOD ONLY AFTER THE PROPOSED PRIVATE IRRIGATION PIPELINE ALONG THE SOUTH SIDE OF KENTUCKY AVENUE IS INSTALLED.
- THE SITE IS BASICALLY FLAT WITH SOME MOUNDING.
- EXISTING IMPROVEMENTS SHOWN WERE ACQUIRED FROM RECORD INFORMATION AND SHALL BE VERIFIED IN THE FIELD.
- TOTAL AREA OF THIS SUBDIVISION IS 4.56 ACRES (5.48 UNITS/NET ACRES) CONTAINING 25 RESIDENTIAL LOTS WITH 3 LOTS BEING UTILIZED FOR AN INTERIM STORM DRAINAGE BASIN.
- THE SUBDIVIDER HEREBY 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.) = 0.47/12
C = 0.45
A = 5.32 ACRES R = 2.88 IN
V = (0.45 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.

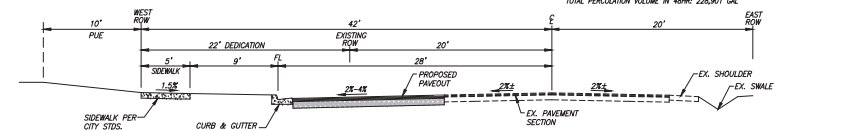
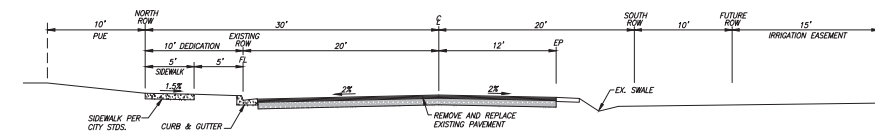
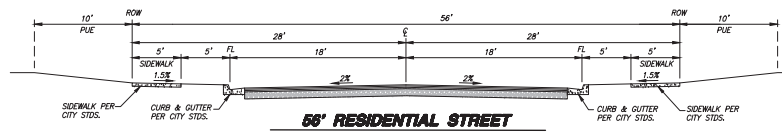
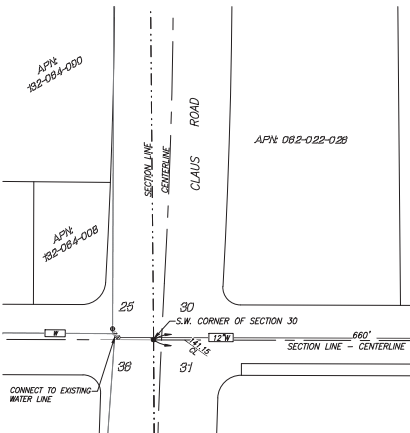
BASIN CAPACITY CALCULATION:

TOTAL VOLUME REQUIRED: V = 30,590 C.F. = 228,810 GAL
BASIN VOLUME: (8,459 S.F. BOTTOM + 10,448 S.F. HW) / 2 = 8,454 S.F. (HW)
1.8454 S.F. X 2' DEPTH = 10,807 C.F.
HORIZONTAL DRAIN VOLUME: 1271 L.F. PIPE TRENCH X 15" WIDE X 8" DEEP = 32,520 C.F.
GROSS 24" PIPE = 314 X 17' X 24" I.F. = 778 C.F. FROM 32,520 C.F. = 31,744 C.F.
DRAIN ROOF CAPTURE VOLUME: 31,744 C.F. X 0.50 (ROOF PITCH) = 15,872 C.F.
HORIZONTAL DRAIN SYSTEM CAPTURE VOLUME = 17,866 C.F.
TOTAL CAPTURE VOLUME = 30,793 C.F. = 229,332 GAL

BASIN PERCOLATION CALCULATION:

TOTAL VOLUME REQUIRED: V = 228,810 GAL
PERCOLATION RATE: 12.82 GAL/SQ.F./DAY (BASED ON)
A = 6.41 GAL/SQ.F./DAY (SAFETY FACTOR OF 2)
BASIN VOLUME PERCOLATION: 6.41 GAL/SQ.F./DAY X 9,454 S.F. = 60,600 GAL/DAY
DRAIN ROOF AREA: A₁ = BOTTOM AREA + HALF OF SIDE AREAS
A₁ = [9 L.F. + 15 L.F. + 8 L.F.] X 271 L.F.
A₁ = 6,401 S.F.

HORIZONTAL DRAIN PERCOLATION: 6.41 S.F. X 6.41 GAL/SQ.F./DAY
TOTAL PERCOLATION PER DAY: 114,450 GAL/DAY
TOTAL PERCOLATION VOLUME IN 48HR: 274,608 GAL



NO.	DESCRIPTIONS	DATE	APPROVED

BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
915 17th STREET, MODESTO, CALIFORNIA 95354
(209) 546-8800



VESTING TENTATIVE SUBDIVISION MAP
COUNTRYSIDE - PHASE 3
RIVERBANK, CALIFORNIA

JOB NO. 141607
DATE: 06/07/2021
DRAWN: JH/NR
CHECKED: RM
SCALE: AS SHOWN
SHEET NUMBER
1
OF 1 SHEETS

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 10.2

SECTION 10: UNFINISHED BUSINESS

Meeting Date:	September 28, 2021
Subject/ Title:	Second Reading by Title Only of Proposed Ordinance No. 2021-006 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
From:	Sean Scully, City Manager
Submitted by:	Gabriel R. Salazar, Associate Planner

RECOMMENDATION

It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2021-006 and consider its adoption by roll call vote. At their regular meeting of August 17, 2021, the Planning Commission voted 5-0 to recommend to the City Council the adoption of the draft ordinance and approval of the vesting tentative map resolution. They then voted 5-0 to approve the project's Architecture and Site Plan Review.

SUMMARY

The 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 zoned General Commercial (C-2). The applicant applied 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. Only half of the property is being rezoned. Half of the property is a remained lot which will have a future commercial project.

REZONE

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 and can be rezoned.

The developer is requesting relief from Single Family Residential (R-1) standards through rezoning the property as Planned Development ("PD") (Attachment 1). 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. 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.

Rezone Findings

The City Council approved the first reading of the rezone ordinance because the project met the following 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. It could 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.

TENTATIVE MAP

A rezone to Planned Development must be approved by the City Council before a vesting tentative map on that property can be approved, hence the contingency in the resolution.

Tentative Map Findings

Tentative Map 01-2021 (Attachment 2 Exhibit A) 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.*

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.

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.

ATTACHMENTS

1. City Council Ordinance No. 2021-006 Rezone
2. Resolution No. 2021-084 TM
Exhibit A – TM 01-2021

CITY OF RIVERBANK

ORDINANCE NO. 2021-006

**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).

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 (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. 2021-084

**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
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 MWEL 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. 2021-006.

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

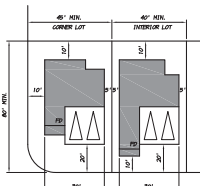
Attachment: Exhibit A – Tentative Map 01-2021

TYPICAL LOT SIZE

INTERIOR LOT: 40'x80' MIN.
CORNER LOT: 45'x80' MIN.

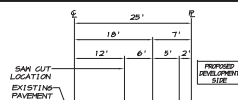
PROPOSED SETBACKS

FRONT (GARAGE): 10' MIN.
FRONT (HOUSE): 20' MIN.
SIDE (INTERIOR): 5' MIN.
SIDE (CORNER): 10' MIN.
REAR: 10' MIN.



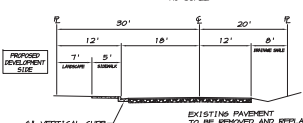
TYPICAL LOT LAYOUT

NO SCALE



SIERRA STREET

NO SCALE



CENTRAL AVENUE

NO SCALE

STATEMENT OF SUBDIVIDER

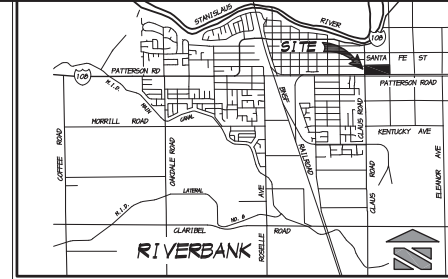
- ALL IMPROVEMENTS SHALL BE CONSTRUCTED AS PER THE CITY OF RIVERBANK STANDARD SPECIFICATIONS.
- STORM DRAINAGE: CITY OF RIVERBANK, CONNECT TO FUTURE REGIONAL STORM DRAINAGE BASIN, BASIN AND OFF-SITE FACILITIES TO BE CONSTRUCTED PRIOR TO SUBDIVISION.
- SEWAGE DISPOSAL: CITY OF RIVERBANK SYSTEM.
- WATER SUPPLY: CITY OF RIVERBANK SYSTEM.
- NO PUBLIC AREAS ARE PROPOSED.

OWNERS & SUBDIVIDERS

SCM HEARTHSTONE LLC
1920 STANDFORD AVENUE, SUITE 1
MODESTO, CA 95350

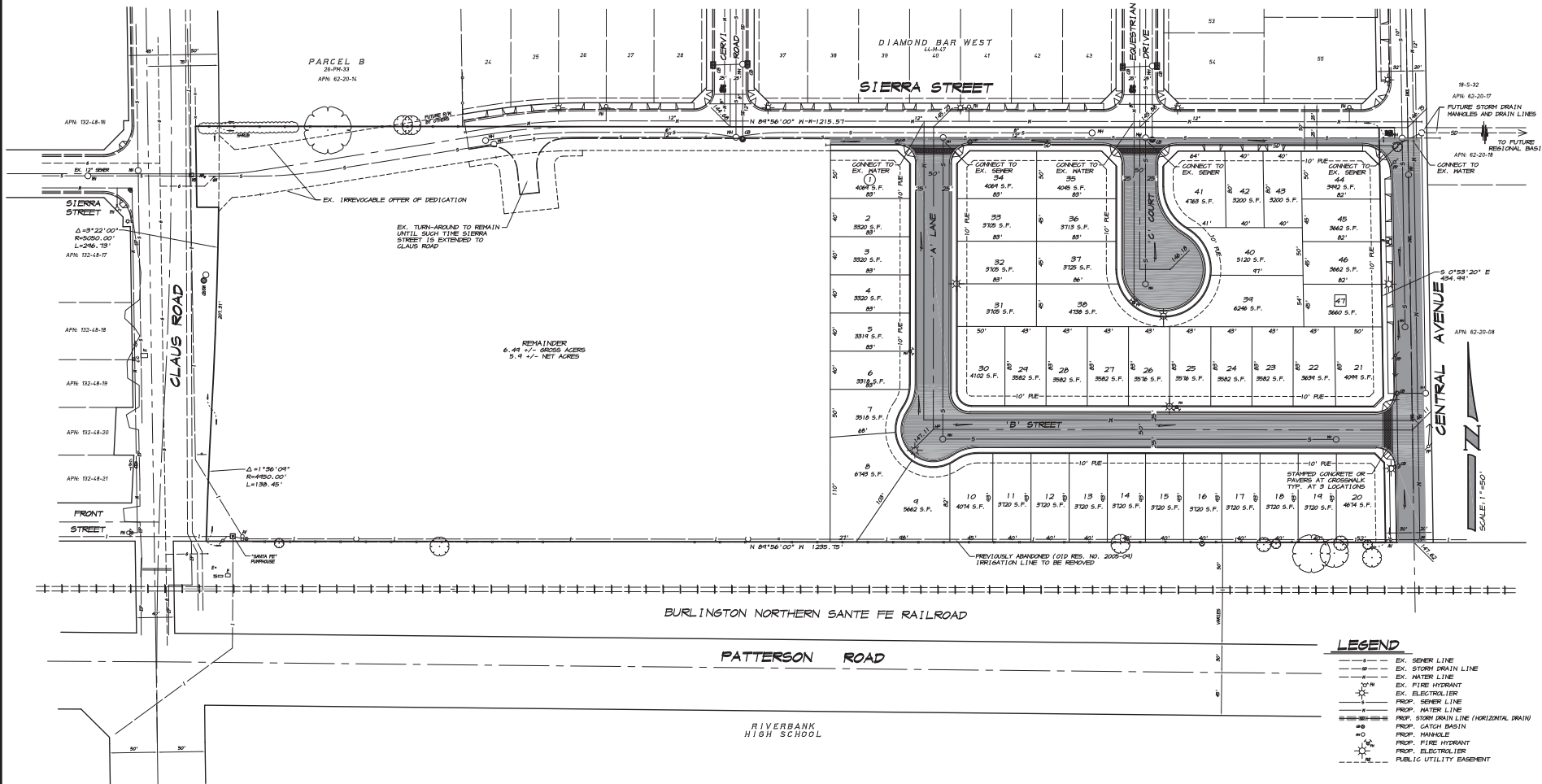
GENERAL NOTES

- ASSESSOR'S PARCEL NUMBER: 062-020-001
- ZONING: COMMERCIAL
- GENERAL PLAN: MEDIUM DENSITY RESIDENTIAL
- SITE SUMMARY: TOTAL PROJECT SITE = 12.27 ACRES BEING DIVIDED INTO 47 SINGLE-FAMILY LOTS AND A REMAINDER. SUBDIVISION = 5.18 +/- GROSS ACRES. REMAINDER PARCEL = 6.44 +/- GROSS ACRES.
- 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.
- PURSUANT TO SECTION 66463.1 OF THE SUBDIVISION MAP ACT, THE OWNER-SUBDIVIDER HEREBY RESERVES THE RIGHT TO FILE MULTIPLE SUBDIVISION MAPS.
- 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.
- 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

- EX. SEWER LINE
- EX. STORM DRAIN LINE
- EX. WATER LINE
- EX. FIRE HYDRANT
- EX. ELECTROLITER
- PROP. SEWER LINE
- PROP. WATER LINE
- PROP. STORM DRAIN LINE (HORIZONTAL DRAIN)
- PROP. CATCH BASIN
- PROP. MANHOLE
- PROP. FIRE HYDRANT
- PROP. ELECTROLITER
- PUBLIC UTILITY EASEMENT

ASSOCIATED ENGINEERING GROUP
4200 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95350
PHONE (209) 448-1800 FAX (209) 448-1815 www.aegmod.com

TENTATIVE SUBDIVISION MAP
THE HERITAGE COLLECTION
AT SIERRA STREET
RIVERBANK, CALIFORNIA

BY: [Signature]
DATE: 6/15/21 3:51
SCALE: 1"=50'
DWG: 383-TSM-REV
CHECKED: 383-21
JOB #: 383-21
SHEET 1
OF

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 11.1

SECTION 11: WORKSHOPS

Meeting Date:	September 28, 2021
Subject:	Centennial Celebration 2022 - Workshop
From:	Sean Scully, City Manager
Submitted by:	Gaby Hernandez, Administrative Assistant Confidential

RECOMMENDATION

It is recommended that the City Council hear the presentation on the proposed preliminary plans and budget for the Centennial Celebration and provide direction and feedback on the plan.

SUMMARY

The City will be celebrating its 100th anniversary from the date of its incorporation on August 23, 2022. The City Council proposed that a Centennial Celebration should occur in order to commemorate this grandiose, once in a lifetime event. A Centennial Committee was formed and made up of about ten members including City Staff and City Residents. The Committee has had several meetings in which brainstorming ideas, events, themes, logos, budget, community involvement and historical background have been discussed to create a memorable celebration.

The Committee has established four major quarterly events, mini events, and celebratory items as follows:

1. 1920's Dinner
2. Founder's Day Carnival
3. "No Dance, Dance" Picnic & Car Show
4. Centennial Celebration
5. Scavenger Hunt
6. Promotional Video
7. Historical Booklets
8. Historical Pictures for Public Display
9. Centennial Art Mural

Staff will provide in depth explanations of the ideas for each event at the time of the Council meeting. Staff is seeking feedback so that feedback can be communicated to the committee.

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

Staff has performed a very basic and preliminary analysis of anticipated budget based on the events developed by the committee. The cost of the proposed events and components of the celebration is approximately \$42,500. The Centennial Committee is requesting the allocation of \$50,000 to allow the committee to proceed with the preparations of the celebration.

ATTACHMENT

1. Tentative Budget Proposal

Centennial Celebration 2022

Preliminary Budget



Estimated

NON-SALE PROMOTIONAL MATERIALS

\$5,000

Pins, Coins, Banners, etc.

FOR SALE PROMOTIONAL MATERIALS

\$5,000

Shirts, Hats, Bags, etc.

1920's DINNER

\$5,000

Dinner, Music, Decorations

Tickets for sale

FOUNDERS DAY CARNIVAL

\$5,000

Carnival Games, Vendors,

NO DANCE, DANCE- CAR SHOW & PICNIC

\$3,000

Food, Decorations

DOWNTOWN CELEBRATION

\$10,000

Food, Music Band, Parade, Fireworks Show,

Decorations, etc.

CENTENNIAL MURAL

\$3,000

Local Artist

OTHER ASSORTED MINI EVENTS

\$6,500

Scavenger Hunt, historical booklets, historical pictures
for public buildings display, promotional video, etc.

TOTAL EXPENSES

\$42,500

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 12.1

SECTION 12: NEW BUSINESS

Meeting Date:	September 28, 2021
Subject:	Consideration of a Resolution Approving a New Franchise Agreement with Gilton Solid Waste Management Inc.
Submitted by:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council consider the resolution which approves the attached proposed updated Solid Waste Franchise Agreement with Gilton Solid Waste for contracted solid waste services and added services designed to ensure compliance with SB1383 or provide direction on desired edits and amendment to the contract.

SUMMARY:

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.

On August 24th the City Council conducted a workshop on SB 1383 and Gilton's proposed strategy for obtaining compliance with this legislation. At that Council meeting, Council was requested to provide direction on three key matters:

1. Whether or not to support the High Diversion MRF strategy to comply with AB1383.

2. Authorization to initiate the proposition 218 process to analyze and consider future rate increases for solid waste services.
3. Direction to negotiate an extension to Gilton's contract to provide garbage services to Riverbank. The extension would only apply depending on the outcome of the proposition 218 process. This contract would return at a meeting in September.

At the August 24th meeting Council provided the following direction of the afore mentioned three matters. 1. Expressed support for the High Diversion MRF strategy as proposed by Gilton; 2. Directed staff to initiate 218 rate analysis studies (Council approved the rate study analysis contract on the 14th of September); 3. Directed staff to negotiate a contract extension with Gilton Solid Waste.

Based on that direction staff has held a number of meeting with Gilton to negotiate the terms of an extended and updated contract. The contract has been reviewed by the City Attorney and a redline tracking changes is attached for review (a clean version of the contract with minor language edits suggested by the City Attorney is attached to the resolution). The substantive and key changes to the contract are as follows:

1. Term – The term is for a 6-year period beginning January 1, 2022. The term automatically extends for an additional year beginning each January unless either the City or Gilton provide notice to terminate the agreement. If such notice is provided (by either party) the agreement will terminate 5 years from the effective date of the anniversary (January 1st). This added term and lengthy termination procedure are requested by Gilton to ensure a long-term commitment by the City which is important given the level of investment Gilton intends to carry forth related to AB1383 compliance on behalf of the City of Riverbank. Additionally, a lengthy termination term allows a significant period of time for both parties to prepare for moving the service contract on to another waste hauler (or renegotiate the contract with Gilton if that is the direction from Council).
2. Consumer Price Index (CPI) Changes – Gilton has requested that the Council consider amendments to the CPI. The CPI adjustment cap in the previous agreement was capped at 2.5%, Gilton has requested this cap be increased to 5% as CPI priced changes have occasionally exceeded 2.5% in the past which has not allowed Gilton to adjust for CPI cost increases that exceed the capped amount 2.5%. Regardless, under the proposed updated terms Gilton could request CPI adjustments to the contract for any amount over the actual CPI adjustment (up to a ceiling of 5%).
3. SB 1383 – Compliance Language and Detail –The agreement represents updated language more clearly defining various SB1383 requirements.
4. Updated Anticipated Rates (subject to 218 process) – The rates contained in the attachment to the agreement are the requested amended increase to service

costs which will be studied and review during the proposition 218 process. If the Council does not approve the rates at the conclusion of the proposition 218 process or if a majority of the rate payers protest the rates under the proposition 218 process the rates would not be instituted. The rate sheets generally indicate the general residential cost per month as was discussed at the last workshop on this matter, the rate sheets also include increases to additional services, as well as commercial rates. (Rate sheets are both attached to the franchise agreement as an exhibit and also attached to this staff report for ease of reference).

5. Updated Additional Service Cost as it relates to SB 1383 components – SB 1383 not only requires a reduction of organic waste currently going to landfills, it also has specific procurement requirements for each jurisdiction to procure a specific amount of compost on a yearly basis. Gilton has provided additional optional service costs for those services in addition to service costs for monitoring, reporting, route reviews, waste audits, as well as outreach and education. Staff feels it is most appropriate to opt in for the provision of these additional services by Gilton to completely verify compliance with SB 1383. (Additional Service Costs are both attached to the franchise agreement as an exhibit and also attached to this staff report for ease of reference).

Staff has included a provision within the resolution that would only allow execution of this agreement if the proposition 218 analysis is completed and the proposed rates are adopted by the City Council. If one of those two components are not completed the City will remain on it's current agreement with Gilton. A provision has been added to the resolution stating that the agreement will not be executed until the completion of the 218 and Council adoption of proposed rates.

FISCAL IMPACT:

Regardless of which strategy the City Council chooses to employ to comply with SB 1383 it is clear that there will be an increased cost to the rate payer as a result. Those specific amounts are detailed in the attachments to the proposed contract and will be reviewed in detail during the proposition 218 process. Additionally, it should be noted that deciding to not comply with SB 1383 comes with potential costs to the utility. The legislation establishes significant fines to jurisdictions who do not comply with this State of California mandate, those fines would be assessed to the utility/City.

ATTACHMENTS:

1. Resolution – 2021-XXXX
2. Redline – Draft Agreement
3. New Residential and Commercial Proposed Rates
4. SB 1383 – Additional Service Costs

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING A NEW FRANCHISE AGREEMENT WITH GILTON SOLID WASTE MANAGEMENT INC.

WHEREAS, the City of Riverbank has contracted with Gilton Solid Waste for solid waste, and street sweeping services for over 40 years; and

WHEREAS, the City Council has heard multiple presentations by City Staff and Gilton Management on upcoming organic and solid waste regulations signed into law under Senate Bill 1383; and

WHEREAS, SB 1383 requires that each community in the state significantly reduce the amount of organic materials going into the landfill; and

WHEREAS, Gilton has developed a specific method and associated plan to help the City comply with these new requirements; and

WHEREAS, the City Council has endorsed this method and strategy for SB 1383 compliance and has begun the proposition 218 rate analysis process; and

WHEREAS, Gilton has requested that the City Council consider a new franchise agreement extending the term, as well as a number of other contractual details to create a new long-term agreement to address compliance with this legislation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the attached Franchise Agreement subject to the following conditions;

1. The agreement will only be executed and in full force and effect if:
 - a. The City of Riverbank completes the rate analysis under proposition 218
AND the rates are adopted by the City Council.
2. If the rate process is subject to a majority protest and is not able to be adopted the agreement will not be executed and the City will remain under it's current Franchise Agreement. Alternatively, if Council chooses to not adopt the proposed rates the agreement will not be executed and the City will remain under it's current Franchise Agreement.

3. The Council authorizes the City Attorney's office to make minor non substantive changes to the agreement based on any subsequent legal review and formatting that may be required in advance of execution.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th 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: Draft Franchise Agreement

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2021 (the "Effective Date") by and between the City of Riverbank ("City"), a municipal corporation of the State of California, and Gilton Solid Waste Management, Inc., a California corporation ("Collector"). The parties to this Agreement may each be referred to individually as a "Party" or collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. The California State Legislature enacted the California Integrated Waste Management Act of 1989 ("AB 939") which authorizes local jurisdictions to make adequate provisions for solid waste handling within their jurisdictions; and

B. B. On October 6, 2011, the Legislature passed Assembly Bill 341 ("AB 341"), amending the California Public Resources Code (the "Public Resources Code") therein requiring cities to encourage and document commercial solid waste recycling programs; and

C. On September 28, 2014, the Legislature passed Assembly Bill 1826 ("AB 1826"), approved by the Governor of the State of California which added Chapter 12.9 (commencing with Section 42649.8) therein requiring cities to require businesses to separate their organic waste from the municipal waste stream for composting.

D. On November 10, 2020, the Legislature passed Senate Bill 1383, Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions ("SB 1383"), establishing a statewide target to decrease methane emissions at landfills by reducing the disposal of organic waste by 50% below 2014 levels by 2022 and by 75% below 2014 levels by 2025. SB 1383 establishes regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets and requires Jurisdictions to implement collection programs, meet processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements.

E. The collection and disposition of garbage, refuse and waste is governed and regulated by applicable provisions set forth in Chapter 50 of the Riverbank Municipal Code (the "Code"), which may be amended from time to time and is incorporated herein by this reference; and

F. The City previously entered into a franchise agreement with Collector on September 4, 2014 (the "2014 Agreement") wherein the City selected Collector to provide services for the collection, recycling, and disposal of solid waste within the City.

G. The 2014 Agreement provides that the term of the agreement may be extended by mutual agreement of the Parties; and

H. The City and Collector now desire to update and extend the term of the 2014 Agreement. The term of this Agreement shall commence on the Effective Date and shall be in force for six (6)

calendar years. On each anniversary of the Effective Date, the term will automatically be extended one (1) additional year pursuant to Section 7. Term of Agreement. and

I. It is the City's objective to continue to engage Collector to provide refuse collection and disposal services for residential and commercial collection. By entering into this Agreement Collector shall assist City in meeting its ~~SB-1383~~, AB 939 and AB 341, AB 1826 and SB 1383 requirements; and

J. The City's refuse program shall be consistent with the County Solid Waste and Integrated Waste Management Plan and comply with all regulations promulgated by the local Stanislaus County enforcement agency and the Department of Resources Recycling and Recovery; and

K. The Parties desire to rescind the 2014 Agreement which shall be fully replaced and superseded by this Agreement as of the Effective Date.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and sufficient consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above (the "Recitals") are incorporated herein by this reference and made a part of this Agreement. In the event any inconsistencies arise as between the Recitals and Sections 1 through 34 of this Agreement, Sections 1 through 34 shall prevail.

Section 2. Definitions. Unless otherwise noted in this Agreement, capitalized terms herein shall have the meanings set forth in **Exhibit A**. Whenever any term used in this Agreement has been defined by Division 30, Part 1, Chapter 2 of the Public Resources Code or the City's Code, those definitions shall apply unless the term is otherwise defined in **Exhibit A**. In the event there is a discrepancy between the definitions contained in the Public Resources Code and the City's Code, the definitions set forth in the Public Resources Code shall supersede all other definitions.

Section 3. Termination of 2014 Agreement. This Agreement hereby supersedes and replaces the 2014 Agreement by mutual agreement and consent of the Parties as of the Effective Date of this Agreement. Hereafter all previous agreements shall terminate and be of no further force and effect except with respect to covenants therein for acts and omissions occurring prior to the Effective Date.

Section 4. Franchise Area.

4.1. Franchise Area Defined. The franchise area granted by this Agreement shall be all residential and commercial premises located within city limits of City, as more particularly shown on **Exhibit B** ("Franchise Area"). As provided below, the Franchise Area may be changed by annexation, deannexation or re-organization.

4.2. Annexation Covered by Existing Franchise. All territories annexed during the Term of this Agreement shall be subject to this Agreement. However, properties served by another collector at the time of annexation, shall continue to be served by that source until the end of such collector's franchise agreement or service contract with the subject landowner or five (5) years, whichever is sooner. Collector agrees to defend, indemnify and hold the City harmless against any claims by such other collector regarding its right to continue to serve the annexed area.

Section 5. Waste Collection and Disposal.

5.1. Scope of Services. Except as set forth in Section 5.4, the City hereby grants Collector the exclusive franchise, right and privilege to collect all Solid Waste, Organic Waste and Recyclables within the Franchise Area and to transport the same to a High Diversion Organic Waste Processing Facility, sanitary landfill, transfer station, compost/mulching site, or waste-to-energy facility outside the City, which has been approved by the governmental agency having jurisdiction of the territory in which said site is located (the "Services"). City may designate alternative processing facilities if public health, safety, or fiscal interest requires, or compliance with applicable law necessitates the alternative. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide residential and commercial refuse collection Services for Customers within the Franchise Area of City. Collector shall perform its obligations under this Agreement in accordance with all applicable local, state, or federal laws and in a manner that maximizes the City's Solid Waste diversion rate to the extent possible.

5.2. Residential Service. Collector shall provide Solid Waste and Organic Waste collection services to all residential premises within the City. Collector may provide Recyclables collection services to residential premises within the City. If the City elects to make residential Recyclables collection service mandatory, Collector shall provide such service to all residential premises and shall charge rates that do not exceed those listed in **Exhibit C**, as amended for such services.

5.3. Commercial Service. Collector shall provide Solid Waste collection services to all commercial premises within the City. In addition, pursuant to the requirements set forth in AB 341 and AB 1826, Collector shall provide recycling collection services and/or organic collection service to any business that meets the mandatory threshold of each legislation.

5.4. Excepted Services. Collector's exclusive franchise in this Agreement shall not include governmental entities if and to the extent the City has no legal power to require such entities to use Collector's Services. The provisions of this franchise shall not preclude or prohibit the City or any officer or employee thereof or any employee of the State, or any governmental subdivision thereof, from collecting, removing, and disposing of Solid Waste, Recyclables, or Organic Waste from the City or State facilities.

Section 6. Collection and Bins.

6.1. Provision of Receptacles. Collector agrees to continue to provide and maintain all Carts, Bins and Roll-Off Boxes for the proper and secure storage of Solid Waste, Organic Waste or Recyclables for all residential and commercial Customers. All residential Cart Customers shall be serviced once per week and commercial Bin Customers shall be serviced from one (1) to six (6) times per week as requested by the Customer. Roll-Off Box Customers will be serviced as arranged between the Customer and Collector.

6.2. Hours of Collection. Collection service of all Carts, Bins, and Roll-Off Boxes in residential areas and from commercial premises adjacent to residential areas shall not start before 6:00 a.m. or continue after 6:00 p.m., subject to change by resolution of the Riverbank City Council ("City Council"). However, the hours of collection may be extended temporarily as a result of extraordinary circumstances or conditions with the prior consent of the Riverbank City Manager ("City Manager").

6.3. Receptacle Replacement. Collector, without expense to City or any Customer, and within seventy-two (72) hours after notice, shall provide one replacement every four (4) years of lost or stolen Carts. Collector shall clean, paint over or replace, at its discretion, graffiti-tagged Carts as needed. Collector shall replace Carts damaged due to normal wear and tear within the time frame of one collection cycle. Collector shall maintain records of lost, stolen, damaged and graffiti-tagged Carts by specific address. Collector may charge for additional replacement Carts based on the actual cost of the Carts and their delivery.

Section 7. Term of Agreement.

The term of this Agreement shall commence on the Effective Date and shall be in force for six (6) calendar years. On each anniversary of the Effective Date, the term will automatically be extended one (1) additional year, until such time as either the City or the Collector submits in writing to the other that their intent is to terminate said Agreement. If such notice is provided, the Agreement shall be terminated five (5) years from the next Effective Date anniversary, notwithstanding the remaining term that would otherwise be in effect, and the City may in its discretion advertise for competitive bids for solid waste collection services with such services to commence after the expiration of the contract term of this Agreement. Nothing herein shall be deemed or construed to impair the right of the City to immediately terminate the Agreement with Collector due to Collector's substantial failure to perform the services and responsibilities specified and agreed to in this Agreement.

Section 8. Acceptance; Waiver. Collector agrees to be bound by and comply with all the requirements of this Agreement. Collector waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code.

Section 9. Rates and Fees.

9.1. Rates. The maximum rates to be charged by Collector are set forth in **Exhibit C** (“Rate” or “Rates”) and may be adjusted by the City Council by ordinance or resolution. For the first year of the Agreement, Collector shall charge rates that are no greater than the maximum rates as provided in **Exhibit C**. In year two, three, four and five of the Agreement Term, the City will adjust the maximum charges made to Customers under this Agreement to reflect annual changes in the Consumer Price Index for All Urban Consumers (“CPI”) published by the U.S. Department of Labor for the San Francisco-Oakland-San Jose, CA statistical area. Such adjustments shall not exceed five percent (5%) per year. The adjustment shall become effective on the anniversary of the Effective Date and be based on the previous twelve-month index analysis from May to April. In all subsequent years, the Collector may request, and the City Council shall consider, rate adjustments based on the above referenced CPI index, in addition to any other adjustments provided for under subsections 9.3. and 9.4.

9.2. Reimbursement for Notices. Collector shall be responsible for providing, or reimbursing the City for providing all required notices of any rate changes or increases expressly including, but not limited to, notices required under Proposition 218 and any law or regulations adopted to implement Proposition 218. City reserves the right to specify the form and content of any such notice required by law or by the Code. City shall determine when a notice of a Rate change is required in its sole and complete discretion.

9.3. Tipping Fees. The Parties acknowledge and agree that the maximum Rates include compensation to Collector for tipping, gate or other disposal fees charged by any applicable disposal facilities. Notwithstanding any provision in this Agreement to the contrary, Collector, except in the case of Roll-Off Box Customers, shall not be entitled to receive from City, or any Customer, a separate or additional payment for tipping or gate fees. In addition to any other rate adjustments to which Collector may be entitled, Collector may request to increase its rates to the extent necessary to recover increased landfill, waste-to-energy facility, transfer station, and material recovery facility tipping or gate fees, provided that the landfill, waste-to-energy facility, transfer station, or material recovery facility is not owned or operated by Collector. Collector shall provide City with notice of the proposed new rates within thirty (30) days of such notice being received from Stanislaus County or other applicable authority, and shall provide the City with a copy of any notice regarding an increase in landfill or waste-to-energy facility tipping or gate fees. Collector shall not increase the Rates to recover increased tipping or gate fees, without prior written approval from City.

9.4. Extraordinary Cost Increases. Collector may petition City for an extraordinary rate adjustment or adjustments at any time during the Term of this Agreement, provided that such petition may be made based only upon increases in fuel costs or increased costs as a result of federal, state, or county mandates, or other documented impacts, which require changes in Collector’s Services or operations under this Agreement. Collector shall include in its petition a financial presentation which demonstrates the extraordinary increase in operating costs. Any petition shall be heard by the City Council at a public hearing held after providing any required notices pursuant to this Section and applicable law. The City Council may grant or reject any such petition in its sole and complete discretion.

Section 10. Additional Services. In exercising the right and privilege to collect Solid Waste, Organic Waste or Recyclables within the boundaries of City as herein granted, Collector agrees to act in accordance with the following:

Collector agrees to provide without additional charge to the City or its customers:

10.1. Curbside Bulky Item Collection Program. Collector shall collect and dispose of bulky item wastes, as defined in **Exhibit D**, from residential Customers up to two (2) times per calendar year. Such collections will be made by appointment as arranged between Customer and Collector.

10.2. Residential CRT Disposal/Recycling Program. Collector will provide vouchers to residential Customers, upon request, for the free disposal/recycling of up to two (2) Cathode Ray Tube ("CRT") containing appliances per calendar year.

10.3. Commercial CRT Disposal/Recycling Program: Collector will provide vouchers to commercial Customers, upon request, for the free disposal/recycling of up to four (4) CRT containing appliances per calendar year.

10.4. Curbside E-Waste Collection Program: Collector shall collect, recycle or dispose of specified E-Wastes (as defined in **Exhibit F**) from residential Customers up to four (4) times per calendar year. Such collections will be made by appointment as arranged between the Customer and Collector.

10.5. Christmas Tree Program. Collector will provide a residential Christmas tree collection and recycling program. Each year, during the first two (2) full weeks of January, Collector will pick-up Christmas trees from the front of residential properties in the City. Collections will be scheduled to coincide with the normal waste collection days.

10.6. City Facilities. Collector shall provide Solid Waste and Organic Waste collection services to all City owned and operated facilities at no additional charge to the City. This does not include C&D Debris generated from City owned and operated facilities.

10.7. Community Events. At the City's request, Collector will provide waste containers, plus Solid Waste, Organic Waste and Recyclables removal and disposal services for four (4) community events per year.

10.8. Promotional/Educational Support. No less than twice per year, if requested by City, Collector will distribute informational flyers or brochures to City Customers regarding the importance of recycling and separating wastes in order to achieve greater waste diversion, as well as the applicable commercial recycling requirements set forth in AB 341, AB 1826 and SB 1383. In addition, Collector will provide technical support and assistance to City Staff in preparation of articles or newsletters related to waste reduction, reuse and recycling.

10.9. Commercial Recycling Programs. Collector will fully cooperate with, and assist the City with the implementation of any State mandated commercial recycling programs.

10.10. AB 939 Data. Collector agrees to continue to assist City in data collection and reporting pertaining to compliance with the Integrated Waste Management Act (AB 939), including any State required waste composition studies.

10.11. C&D Diversion Policy. When properly notified, Collector will assist City customers in their compliance with the City's C&D Debris Diversion Policy, attached at **Exhibit E**, as it may be amended. In addition, Collector shall comply with the City's C&D Debris Diversion Policy as applicable.

10.12 SB 1383 Services. Collector agrees to assist the City in meeting SB 1383 mandates by performing the additional services as detailed in Exhibit G.

Section 11. Specific Service Requirements.

11.1. Collector Duty of Care and Diligence. Collector and Collector's employees, contractors, sub-contractors, operators, officers, directors, supervisors, owners, board members, representatives, and agents ("Collector's Agents") shall exercise all reasonable care and diligence in performing their obligations under this Agreement. Every effort will be made to prevent spilling, scattering or dropping Refuse during the collection or transportation process. However, in the event that Refuse is spilled, scattered or dropped, the truck operator shall immediately clean up the material and place it in the truck. Every Cart, Bin and Roll-Off Box (collectively, "Container") must be replaced in an upright position. If a Container falls over, the operator must immediately set the Container in an upright position. It shall be further noted that Refuse collection easements are frequently co-located with other utility easements. Particular attention must be given to the location of water meters, transformers, guy wires, utility poles and irrigation structures. Authorization to use the easement does not abrogate Collector's responsibility to exercise caution to not infringe upon, damage, or trespass the property rights of other authorized users or property owners. Collector shall be familiar with, and operate within the guidelines set forth by the Occupational Safety Health Act (29 U.S.C. section 651 *et. seq.*). Collector is granted the right to use dedicated streets, alleys and refuse collection easements for the purpose of performing the Services, but this right is not exclusive. The Collector shall handle the Services in a manner that will cause the least inconvenience or annoyance to the general public and to property owners. Whenever the Collector's operations create a condition hazardous to traffic or to the public, Collector shall furnish, erect, and maintain such fences, barricades, lights, signs, and other devices, structures, or warnings and take any other protective measures as are necessary to prevent accidents or damage or injury to the public. Any barricade, lights, signs or other devices erected must conform to the requirements of the City Engineer and the Code.

11.2. Hazardous Waste. Under no circumstance shall Collector's employees knowingly collect Hazardous Waste or remove unsafe or poorly containerized Hazardous Waste from Customer premises. If Collector determines that material placed in a container for collection is Hazardous Waste, Excluded Waste, or other material that may not be legally accepted at an approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility or that presents a hazard to Collector employees, Collector shall have the right to refuse to accept such material. Collector shall leave, at the time of non-collection,

a non-collection notice with Customers indicating the reason for refusing the material. Collector shall contact the generator and request that the generator arrange for proper disposal service. If the Hazardous Waste, Excluded Waste, or other objectionable material is identified at time of delivery to the approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility and the generator cannot be identified, Collector shall be solely responsible for handling and arranging transport and disposition of the Hazardous Waste, Excluded Waste, or other objectionable material.

11.3. Force Majeure. Collector shall not be in default under this Agreement in the event that the collection transportation, recycling and disposal services of Collector are temporarily interrupted or discontinued due to a “Force Majeure” event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods earthquakes, landslides and fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Collector. Force Majeure does not include: Collector’s financial inability to perform; Collector’s failure to obtain any necessary permits or licenses from other governmental agencies; or Collector’s failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Collector.

11.4. Independent Contractor. Collector is an independent contractor and not an officer, agent, servant or employee of City. Collector is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and sub-grantees. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Collector. Neither Collector nor its officers, employees, agents or sub-grantees shall obtain any right to retirement or other benefits or right, which accrue to City employees.

11.5. Property Damage. Collector shall be responsible for any damage to City’s driving surfaces, whether or not paved, resulting from vehicles providing Services under this Agreement. Collector shall be responsible for repairing or replacing any private or public property which is damaged due to the acts or omissions of employees, contractors, or agents of Collector to private or public property shall be repaired or replaced.

11.6 Right of Entry. Collector shall have the right, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Refuse pursuant to this Agreement. This right of entry shall last until the sooner of the termination of this Agreement or receipt by Collector of a written notice from City revoking Collector’s right of entry. This right of entry is limited to carrying out the Services required by this Agreement.

Section 12. Customer Service Requirements.

12.1 Availability of Representatives. A responsible representative of Collector who is qualified to respond to public inquiries shall be available at Collector’s office during office hours, excluding lunchtime closure, for communication with City, Customers or the public.

12.2. Employees. Collector shall exercise reasonable care to hire responsible employees, to supervise the work of such employees, and to discipline and, if necessary, discharge an employee failing to meet reasonable standards for performance of work set forth in this Agreement.

Collector shall comply with applicable state and federal law pertaining to employment, including, but not limited to, applicable equal opportunity employment and affirmative action requirements.

12.3. Enforcement and Clean-up of Illegal Dumps. Collector and City shall cooperate to eliminate illegal dumping within the City. When illegal dumps are found on public property the City will attempt to identify the responsible party and advise them to clean-up the wastes or utilize the Bulky Item Collection Program to eliminate the problem. If no responsible party is identified, the City will request for Collector to remove any such waste. Collector will have three (3) working days following the notification by the City to remove the illegally dumped material.

12.4. Manner of Collection. Collector shall perform all collection services in a quiet and courteous manner and ensure that all Carts are placed on the premises from which they were removed in an upright position, with lids closed, and within five (5) feet of where they were originally placed before collection.

12.5. Office Hours. Collector's office hours shall be, at a minimum, from 8 a.m. to 5 p.m. daily, except for a lunch hour and closed on Saturdays, Sundays, and federal or State recognized holidays. A representative of Collector shall be available during office hours for communication with the public at Collector's principal place of business.

12.6. Service Complaints. All Service complaints shall be directed to Collector. Collector shall respond to all complaints, other than missed pickups, within twenty-four (24) hours if the twenty-four (24) hour period ends during the office hours specified in subsection 12.5, otherwise on the next business day. Collector shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all complaints and shall use its best efforts to resolve any complaints within the two (2) business days following the date on which such complaint is received. Complaints that cannot be reasonably resolved may be appealed to the City Manager or designee for final resolution.

12.7. Complaint Log. Collector agrees to maintain a log of all oral and written service complaints registered with Collector from Customers or the public within the City ("Complaint Log"). Collector shall record in the log all written and oral complaints, noting the name and address of the complainant, date and time of complaint, nature of complaint, and method and date of resolution. Such log shall be kept so that representatives of the City, upon request, may conveniently inspect it. Collector shall deliver, along with the quarterly reports specified in Section 13 or otherwise upon request of the City, a summary of complaints by number and type and excerpts from the log reflecting action to date.

12.8. Missed Pickups. In the event of a missed pickup, Collector shall complete the pickup the same day if the complaint is received by 12:00 p.m. or by 12:00 p.m. the following business day if the complaint is received after 12:00 p.m.

Section 13. Reports.

Collector shall provide the City with quarterly reports detailing Collector's operations within City during that time. Reports will contain the information required by the City for compliance with SB

~~1383 and~~ AB 939 and SB 1383 and for City to measure Collector's performance of items in this Agreement. Collector agrees to provide additional reports regarding its collection services as may be reasonably requested by the City to meet future reporting requirements of the City or the State. City or a consultant to City, on request, shall have the right to review the collection records of Collector at reasonable times and upon reasonable notice.

Section 14. Vehicles.

14.1. Compliance with Applicable Regulations. Collector shall at all times comply with all applicable rules, statutes, orders, and requirements adopted by any governmental agency with jurisdiction over air quality, including, but not limited to, the California Air Resources Board and the San Joaquin Valley Air Pollution Control District. In addition to any indemnification obligations set forth in this Agreement, Collector shall defend, indemnify, and hold harmless the City against any fines, penalties, losses, or claims arising out of Collector's failure to comply with this Section. All vehicles used by Collector under this Agreement shall be registered with the Department of Motor Vehicles of the State of California, be kept clean and in good repair, shall be uniformly painted, and shall be washed at least once every seven (7) calendar days. Collector's name, phone number, and vehicle number shall be prominently displayed on its vehicles.

14.2. Fluids and Waste. Collector shall immediately clean up any fluids or waste spilled from collection vehicles, and shall deploy and remove absorbent materials to the extent necessary to absorb all fluids. Collector shall provide the City with a copy of any spill report that Collector is required to provide, and at the same time it is provided, to the State Office of Spill Prevention and Response. When necessary, Collector shall apply a suitable cleaning agent to the street surface or shall employ hydraulic steam cleaning to provide adequate cleaning. Collector shall comply at all times with all recommendations or limitations concerning laden weight of collection vehicles established by the State or any government agency, or the vehicle manufacturer.

Section 15. Collector's Employees.

15.1. Prohibition of Drugs or Alcohol. Collector will prohibit use of intoxicating substances by Collector's Agents, including its drivers and crewmembers, while on duty or in the course of performing the Services. Upon request by City, Collector will demonstrate compliance with the federal alcohol and drug testing statutes and regulations.

15.2. Employee Uniform. Collector's employees shall be required to wear a clean uniform bearing Collector's name. Employees who normally and regularly come into direct contact with Customers, including drivers, shall bear some means of individual identification such as a name tag or identification card.

15.3. Identification Required. Collector shall provide every employee, contractor, grantees, or sub-grantees that are in contact with the public with identification cards and badges. Upon request of City, Collector shall notify all Customers of the form of identification that each employee shall be carrying or displaying so that all Customers may easily identify one of Collector's employees. Collector shall provide City with a list of current employees, contractors, grantees, and sub-contractors to City upon request.

15.4. Valid Driver's License. Employees driving Collector's vehicles shall at all times possess and carry a valid and appropriate vehicle operator's license issued by the State of California, including a commercial driver's license, if required.

15.5. No Employment Relationship with City. Collector's Agents are not and shall not identify themselves as being employees of the City at any time, for any reason.

15.6. Employee Behavior. All contact by Collector with Customers will be done with courtesy and respect. Any incident with a Customer must be reported immediately to the City.

15.7. Employee Conduct. All superintendents, foremen and workers, or contractors employed by the Collector shall be capable and safety conscious workers, skilled in their respective trades. Collector shall not employ any person who is incapable or negligent in the due and proper performance of his or her duties. Collector shall furnish such supervision, labor and Equipment as is considered necessary for the fulfillment of the Services in an acceptable manner at a satisfactory rate of progress. City reserves the right to request for any worker of Collector to be prohibited from providing Services to City without cause for any reason.

15.8. Supervision. It is the Collector's responsibility to supervise the Services rendered and to provide direction to its employees and agents in the field. While City employees may suggest possible solutions to problems or unusual situations, Collector retains the responsibility for all Services and how the Services will be delivered and conducted to the City and the Customers.

Section 16. Franchise Fees, Billing and Reports.

16.1. Franchise Fees. Collector and the City agree that for the privilege herein granted to Collector, City shall retain a sum equal to twelve point eight five (12.85%) percent of the gross revenues from residential accounts and the Collector shall pay the City fifteen (15%) percent of the gross revenues from commercial accounts received by Collector for the removal of Solid Waste, Organic Waste or Recyclables from within the boundaries of City during the Term, or any extension thereof (the "Franchise Fees"). The Franchise Fees shall be paid by Collector to City on or before the last day of the month following the previous calendar quarter that the monies are collected by Collector.

16.2. Billing. Collector shall provide regular billing statements to commercial or industrial customers for which Collector provides billing service covering the monthly period in which services are rendered.

16.3. City and Collector Billing. As of the commencement of this Agreement, the Parties acknowledge that City is responsible for billing residential and commercial customers. Then within ninety (90) days after the commencement of this Agreement, the Collector will become responsible for billing commercial customers. City may request to audit the Collector's records for proper commercial service billing, franchise fee computation and franchise fee payment. If upon request and completion of an audit the City determines that Collector's billing

practices do not meet reasonable standards, City may take over the billings and collection for Collector's service to commercial customers under the terms of this Agreement at any time hereafter upon giving Collector ninety (90) days notice of its intention to do so. The City shall be entitled to retain fifteen percent (15%) of the amounts collected from any commercial Customer for which City is providing billing service. City shall pay eighty-five percent (85%) of the monies collected by City to Collector for such services when the amount has been determined and approved by the City at the first meeting of the City Council following the monthly period in which Services are rendered.

Section 17. Collector's Books and Records: Audits. The books and records of Collector shall be subject to audit and inspection for the purpose of reviewing billing operations, accounts receivable and customer service, by City, its auditors or agents. Collector shall maintain all records relating to the Services, including, but not limited to, Customer lists, billing records, maps, AB 939 compliance records, AB 341 compliance records, and Customer complaints (collectively, the "Records"), for no less than three (3) years after the termination or expiration of the Term, or as may or any longer period required by applicable law. City shall have the right, upon five (5) business days advance notice, to inspect all Records, and other like materials of Collector which reasonably relate to Collector's compliance with the provisions of this Agreement.

Collector's Records shall be made available to City at a City facility, if reasonably practicable, or at Collector's regular place of business during regular business hours. The City shall initially bear the cost of such audit. If such audit discloses an underpayment of the Franchise Fees or other sums due under this Agreement in excess of three percent (3%) of the amount which should have been paid, Collector shall promptly tender to the City the amount of such underpayment, together with interest at the rate of ten percent (10%) computed from the date of underpayment, and shall further reimburse the City for the entirety of its audit costs, including, without limitation, auditor's costs and expenses, internal costs and expenses, and legal and other third party expenses. If such audit discloses an underpayment of less than three percent (3%), Collector shall promptly tender to City the amount of such underpayment, together with interest at the rate of ten percent (10%) per annum computed from the date of underpayment, and City shall bear the costs of the audit. If such audit discloses an overpayment, the City shall promptly repay such underpayment to Collector and the City shall bear the costs of the audit.

Section 18. Indemnification.

18.1. Indemnification of City. Collector agrees that it shall protect, defend, indemnify and hold harmless City, its elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("City's Agents") from and against any claim, action or proceeding that arises from this Agreement or any Services performed pursuant to or in connection with this Agreement ("Claim"), including but not limited to all losses, liabilities, fines, penalties, claims, damages, liabilities, judgments, attorney's fees, costs incurred for staff time, court costs, other expenses of litigation, or expenses of litigation awarded to the prevailing Party or Parties. This indemnification does not include gross negligence or willful acts of the City, or City's Agents. At City's discretion, Collector shall satisfy the obligation of this Section by reimbursing City for tendering its own defense. If Collector undertakes the defense of a Claim by providing City-approved representation, City may, participate in the defense of any such Claim.

To the extent permitted by Public Resources Code Section 40059.1, and to the extent noncompliance is caused by Collector's breach of or noncompliance with a provision of this Agreement, Collector agrees to protect and defend City or City's Agents, with counsel selected by the City, and to indemnify and hold harmless City or City's Agents from and against all fines or penalties imposed by the State if the waste diversion goals specified in the Public Resources Code are not met by the City with respect to the Solid Waste collected by Collector under this Agreement. Collector shall indemnify, defend with counsel acceptable to the City, protect and hold harmless the City and City's Agents from and against all claims, damages (including but not limited to special, consequential, and natural resources damages), injuries, response mediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and attorney and expert fees for the adverse party and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the City or City's Agents arising from or attributable to the negligence or willful misconduct of Collector or its affiliates and their respective officers, directors, employee and shareholders in handling Hazardous Waste either knowingly or under circumstances in which a reasonable person would or should have known that Hazardous Waste was being handled. The foregoing indemnity is also intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(c) and California Health and Safety Code Section 25364, to defend, insure, protect, hold harmless and indemnify the City from liability.

18.2. Indemnification of Collector. City shall indemnify, defend and hold Collector, its affiliates and their respective officers, directors, employees and shareholders harmless from and against any and all liabilities, losses, damages, claims, actions and causes of action, costs and expenses (including reasonable attorney's fees) arising from or in any manner arising out of City's obligations in this Agreement as well as the grossly negligent or willful acts of City or City's Agents. Subject to this indemnification, and upon demand of Collector, made by and through Collector's counsel, City shall appear in defense of Collector, and its officers, employees and agents in any claims or actions, whether judicial, administrative or otherwise arising out of the exercise of this Agreement.

Section 19. Insurance. Collector will continue to carry insurance, which shall be placed with insurers with a current A M Best's rating of no less than A VII, and which shall include all of the following:

19.1. Required Insurance.

19.1.1 Worker's Compensation. Collector shall obtain and maintain in full force and effect throughout the Term, worker's compensation insurance in accord with the provisions and requirements of the California Labor Code. Endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the Term. The policy providing coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The policy shall also be amended to waive all rights of subrogation against the City, its

elected or appointed officials, employees, agents or representatives for losses which arise from the Services performed by the Collector pursuant to this Agreement.

19.1.2. General Commercial Liability Insurance. Collector shall carry commercial or comprehensive general liability insurance with a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence / aggregate for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form GG 00 01 11 88).

19.1.3. Automobile Liability Insurance. Collector shall carry automobile insurance with a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence for bodily injury, personal injury, and property damage, and which shall provide coverage for rented and non-owned vehicles. Coverage shall be at least as broad as Insurance Service form number CA 00 01 06 92 covering Automobile Liability, code 1 (any auto).

19.1.4. Public Liability Insurance. Collector shall carry public liability insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage.

19.1.5. Pollution or Environmental Liability Insurance. Collector shall carry Environmental or Pollution liability coverage appropriate for the waste activity contemplated in this Agreement, including sudden and accidental upset pollution liability for the amount of One Million Dollars (\$1,000,000.00) per claim or occurrence and One Million Dollars (\$1,000,000.00) in the aggregate.

19.2. Additional Insurance Requirements. Within five (5) days of the Effective Date, Collector shall provide City with certificates of insurance for all of the policies required under this Section 19 ("Certificates"), excluding the required worker's compensation insurance. With the exception of the worker's compensation insurance, all of the insurance policies required in this Section 19 shall: 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, or ten (10) days' in the case of non payment of premium by Collector (as per insurance industry standard), to City of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; name City, and City's Agents as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Collector or operations performed by or on behalf of the Collector to perform the Services including materials, parts, or Equipment furnished in connection with the Services or operations by endorsement; 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 excess of Collector's insurance and shall not contribute to it; and contain standard separation of insured provisions.

19.3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to City and City's Agents, or Collector shall provide a financial guarantee satisfactory to City guaranteeing payment of loss related investigations, claim administration and defense expenses.

19.4. Verification of Coverage. Before the Services commence, Collector shall furnish City with original Certificates and endorsements effecting coverage required by this Section 19. The endorsements shall be on forms approved by the City which contain all of the information required in this Section 19.

19.5. Subcontractors. Collector shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Section 19.

Said insurance shall protect Collector and City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from the Services, whether such operations be by Collector itself, or by its agents, employees, contractors or sub-grantees. Copies of the policies or endorsements evidencing the above insurance coverage shall be filed with the City Clerk. All of the following endorsements are required to be made a part of the insurance policies required by this Agreement.

19.6. Increase in Coverage Requirements. The limits for the insurance coverage required under this Section 19 and the ratings required for insurance companies shall be subject to review and approval by the City Attorney every year and may be increased at that time, at the City Attorney's discretion, to match the coverage provided by the City's own liability insurance policy.

Section 20. Collector Liability for Damage to Street.

Any physical damage caused by the negligent or willful acts or omissions of employees of Collector to public or private property shall be repaired or replaced by Collector at Collector's sole expense. Collector shall be responsible for damage to City's driving surfaces, whether paved or not paved, beyond normal wear and tear.

Section 21. Title to Solid Waste.

All Solid Waste, Recyclables, and Organic Waste collected pursuant to this Agreement shall remain the property of the Customer until such time as it is collected for disposal. It is expressly understood that all Solid Waste, Recyclables, and Organic Waste collected under this Agreement becomes the property of Collector upon collection, subject to the requirement of delivery to an appropriate disposal site. Collector is hereby granted the right to retain, dispose of, and otherwise use such Solid Waste, Recyclables, and Organic Waste, or any part thereof, in any fashion or for any lawful purpose desired by Collector, and to retain any benefit or profit resulting therefrom. Solid Waste which is disposed of at a disposal site shall become the property of the owner or operator of the disposal site once deposited there by Collector.

Section 22.

Rights of City to Perform During an Emergency. Should Collector, for any reason whatsoever, excluding a Force Majeure as defined in Section 11.2, be unable to perform any of the Services required by this Agreement, for a period of more than seventy-two (72) hours, and the City

Manager reasonably finds that the resulting accumulation of Refuse in City endangers or menaces the public health, safety or welfare, then, City shall have the right to temporarily take possession of and use Collector's Equipment to carry out Collector's obligations under this Agreement, upon twenty-four (24) hour prior written notice to Collector. Collector agrees that in such event it will fully cooperate with City to affect such a transfer of possession for City's use.

Collector agrees that, in such event, City may take temporary possession of and use all of said Equipment and facilities without paying Collector any rental or other charge, provided that when City takes possession of Collector's Equipment and facilities under this Section 22, City shall assume complete responsibility for the proper and normal use of such Equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above-mentioned property to Collector upon receipt of written notice from Collector stating it is able to resume its normal responsibility under this Agreement.

Section 23. Customer Confidentiality.

Collector shall strictly observe and protect the right of privacy of the Customers. Information identifying individual Customers, or the composition or contents of a Customer's Refuse, shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude Collector from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by ~~SB 1383~~ or AB 939 or SB 1383..

Collector shall not market or distribute, without City's advance written consent, which City may withhold in its sole and absolute discretion, mailing lists with the names or addresses of Customers.

The rights accorded Customers pursuant to this Section shall be in addition to any other privacy right accorded Customers pursuant to federal or state law.

Section 24. Reports and Adverse Information.

24.1. Reports. Within ninety (90) days after the close of Collector's fiscal year, Collector shall submit a written annual report, in a form approved by City, including, but not limited to, the following information:

24.1.1. A report on City's progress in meeting and maintaining its ability to meet its goals under ~~SB 1383~~ and AB 939 and SB 1383 as applied to the Franchise Area, along with any recommended changes. Collector shall also provide the City's Public Works Director with quarterly reports on the quantity (by weight) of all Commercial Solid Waste, Residential Solid Waste, Recyclables, Compostables, and Organic Waste collected.

24.1.2. A list of Collector's officers and member of its board of directors.

24.1.3. A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in Collector and any subsidiaries.

24.1.4. The most current annual audited financial statement, upon request. To the extent permitted by the Public Records Act, this document shall remain confidential.

24.1.5. A current financial statement, upon request.

24.2. Adverse Information. Collector shall provide City two (2) copies of all reports, or other material adversely affecting this Agreement, which Collector submits to: the State or federal Environmental Protection Agency; the Department of Resources Recycling and Recovery; or any other federal, State, or local agency. Copies shall be submitted to City simultaneously with Collector's filing of such matters with said agencies. Collector's routing correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

Collector shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Collector to any federal, state and local courts, regulatory agencies and other government bodies relating to Collector's performance of Services pursuant to this Agreement, as well as copies of all decisions, correspondence and actions by such agencies. Any confidential data exempt from public disclosure shall be retained in confidence by City or its authorized agents and shall only be made available for public inspections, as required by law.

Collector shall submit to City such other information or reports in such forms and at such times as City may reasonable request or require.

All reports and records required under this or any other section herein shall be furnished to City at the sole expense of Collector.

24.3. Failure to Report. The refusal, failure, or neglect of Collector to file any report required, or the inclusion of any materially false or misleading statement or representation made intentionally, willfully, or knowingly by Collector in such report, may be deemed a material breach of this Agreement, and may subject Collector to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

Section 25. Bonds and Security.

25.1 Performance Bonds. Contemporaneously with the execution of this Agreement, Collector shall secure and execute a performance bond to be held by the City (the "Performance Bond") to ensure performance of Collector for the total amount of Twenty-five Thousand and No/100 Dollars (\$25,000.00). The Performance Bond shall be on terms and in a form acceptable to the City Attorney and shall be issued by a California admitted insurer. The Performance Bond shall serve as security for the faithful performance by Collector of all the provisions and obligations of this Agreement.

Thirty (30) days following Collector's failure to pay City an amount owed under this Agreement, if ever, the Performance Bond may be assessed by City upon five (5) days prior written notice to Collector for purposes including, but not limited to:

A. Failure of Collector to pay City any sums due under the terms of the Agreement.

B. Reimbursement of costs borne by City to correct violations of this Agreement, after five (5) days' advance written notice to Collector.

C. Monetary remedies or damages assessed against Collector due to a breach of this Agreement.

25.2. Replenishment of Bond. Collector shall restore the bond to its original amount of Twenty-five Thousand Dollars (\$25,000.00), within thirty (30) days receipt of notice from the City that any amount has been withdrawn from or assessed against the Performance Bond

Section 26. Breach of Agreement.

26.1. Determination of Breach. If the City Manager reasonably determines that Collector's performance pursuant to this Agreement has not been in conformity with reasonable industry standards obtained in similar cities in Central California, the provisions of this Agreement, the requirements of the Department of Resources Recycling and Recovery, including, but not limited to, requirements for source reduction and recycling (as to the waste stream subject to this Agreement) or any other applicable federal, state or local law or regulation, including but not limited to the laws governing transfer, storage or disposal of Hazardous Waste, the City Manager may advise Collector in writing of such deficiencies. If Collector commits a material breach of this Agreement ("Breach"), City may terminate this Agreement, impose Liquidated Damages, or avail itself of any and all remedies set forth in Section 27 of this Agreement, in addition to all other remedies available to the City in law or equity.

26.2. Events that Constitute a Breach. A Breach includes but is not limited to the following:

26.2.1. Misrepresentation. Collector commits, or attempts to commit, any fraud, intentional material misrepresentation or deceit upon the City in relation to this Agreement or in the statements or materials submitted to City by Collector in connection with this Agreement as of the time the representation or disclosure is made.

26.2.2. Seizure or Attachment of Equipment. There is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating Equipment of Collector, including without limit its vehicles, maintenance or office facilities, or any part thereof of such proportion as to impair Collector's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and City-approved holidays.

26.2.3. Collector Bankruptcy. Collector files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Collector or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator, or similar official of Collector for a part of Collector's operating assets or any substantial part of Collector's property, or shall make any general assignment for the benefit of Collector's creditors, or shall fail generally to pay Collector's debts as they become due.

26.2.4. Court Order or Decree. Any court having jurisdiction enters a decree or order for relief with respect to Collector, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Collector consents to or fails to oppose any such proceeding, or any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of Collector or for any part of Collector's operating equipment or assets, or order the winding up or liquidation of the affairs of Collector.

26.2.5. Failure to Notify City. Collector fails to notify City in a timely manner of any receipt of notice of violation or official communication from those regulatory agencies regulating Solid Waste, Recyclables, and Organic Waste collection, transport, processing, or disposal activities.

26.2.6. Lapse of Financial Requirement. If Collector fails to provide or maintain in full force and in effect, the following: any of the insurance policies required pursuant to Section 16 herein; the full amount of the Performance Bond required under Section 25.1 herein; or the full amount of the Payment Bond required under Section 25.2 herein.

26.2.7. Regulatory Violation. Collector violates any orders or filings of any regulatory body having jurisdiction over Collector relative to this Agreement, provided Collector may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred.

26.2.8. Cessation of Services. Collector ceases to provide collection, transportation, processing, or recycling services as required under this Agreement for a period of three (3) consecutive business days or more, for any reason within the control of Collector.

26.2.9. Failure to Meet Payment or Reporting Requirements. Collector fails to make any payment required under this Agreement or refuses to provide City with required information, reports, or records in a timely manner as provided for in the Agreement.

26.2.10. Violation of ~~SB 1383~~ or AB 939 or SB 1383. Any other act or omission by Collector, which materially violates the terms, conditions or requirements of ~~SB 1383~~ AB 939 and SB 1383 as may be amended from time to time; or any other directive rule or regulation issued thereunder; unless the violation is corrected or remedied within the time set on the written notice of violation; or if Collector cannot reasonably correct or remedy the violation within the time set

forth in such notice, Collector commences to correct or remedy such violation within the time set forth in such notice and diligently and in good faith continues to cure, correct, or remedy such violation thereafter.

26.2.11. Unremedied Acts or Omissions. Collector commits any act or omission which violates the terms, conditions, or requirements of this Agreement, or any other applicable laws and which is not corrected or remedied within the time set in the written notice of the violation or, if Collector cannot reasonably correct or remedy the breach within the time set forth in such notice, Collector should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

26.2.12. Failure to Correct Breach. Collector fails to correct any Breach within the applicable Cure Period.

26.3. Cure Rights. Notwithstanding any other provision of this Section 26 to the contrary, City shall provide Collector with reasonable notice of and a reasonable opportunity to cure any Breach of this Agreement during the time periods set forth below (the “Cure Period”). Collector shall begin cure of any Breach as soon as it becomes aware of the Breach, whether discovered by Collector or through notice from the City. Upon becoming cognizant of the Breach, Collector shall proceed to cure such Breach as follows:

26.3.1. Immediately, if the City determines the Breach endangers the health, safety, or welfare of the public; or

26.3.2. Within thirty (30) days of giving or receiving notice of the Breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, Collector shall have such additional time as is reasonably needed, no longer than sixty (60) days to expeditiously complete a cure. During any Cure Period, Collector shall provide City weekly written status updates informing City of Collector’s progress curing the Breach.

26.4 Right to Appeal. Collector may submit a response to claims of Breach contained in any written notice from the City within thirty (30) days of receipt of such notice. The City Manager shall review Collector’s response and refer the matter to the City Council or decide the matter and notify Collector of that decision, in writing. A decision or order of City Manager shall be final and binding on Collector, if the Collector fails to file a “Notice of Appeal” with the Council within thirty (30) days of receipt of the City Manager’s decision. Within ten (10) working days of receipt of a Notice of Appeal, the City Manager shall refer any Collector Notice of Appeal timely received to the City Council for proceedings in accordance which shall be conducted as follows:

Upon receiving a Notice of Appeal the City Council, shall set the matter for hearing within a reasonable time. City shall give Collector and any other person requesting the same, fourteen (14) days written notice of the time and place of the City Council hearing on the appeal. At the hearing, the City Council shall consider the report of the City Manager indicating the deficiencies, and shall give the Collector, or its representatives and any other interested person a reasonable opportunity to be heard. Based upon the evidence presented at the public hearing, the City Council shall determine whether the decision or order of the City Manager should be upheld. If, based

upon the record, the City Council determines that the performance of Collector is in breach of any material term of this Agreement or any material provision of any applicable federal, state or local statute of regulation, the City Council has sole and absolute discretion to terminate this Agreement or impose damages as set forth herein. The decision of the City Council shall be final and conclusive, and there shall be no appeal of the City Council decision. Collector's performance under this Agreement is not excused during the period of time prior to the Council's final determination as to whether such performance is deficient.

Section 27. Termination, Liquidated Damages and other Remedies.

27.1. Termination. In the event Collector commits a Breach of this Agreement, City shall have the right to terminate this Agreement ("Termination").

27.2. Liquidated Damages.

27.2.1. City finds, and Collector agrees, that as of the Effective Date of this Agreement, it is impractical, if not impossible to reasonably ascertain the extent of damages which will be incurred by City as a result of a Breach by Collector of its obligations under this Agreement. Some reasons for the impracticability of ascertaining damages include, but are not limited to: the difficulty in estimating the substantial damage that results to Customers who are denied Solid Waste disposal services or denied quality or reliable service; and the difficulty valuing the damage caused from the inconvenience, anxiety, frustrations and deprivation of the benefits provided under the Agreement to individual members of the general public for whose benefit this Agreement exists. The Parties agree that these damages manifest in subjective ways and in varying degrees of intensity, and are incapable of measurement in precise monetary terms. The Parties agree that any remedy for such breaches, including the termination of this Agreement are, at best, a means of future correction and not remedies, which can adequately make the public whole for past breaches.

27.2.2. The City Council may, at its discretion, assess liquidated damages not to exceed the sum of Two Thousand Dollars (\$2,000) per day, for each calendar day that the Services are not provided by Collector in accordance with this Agreement for a period not to exceed forty-five (45) days ("Liquidated Damages"). In addition, the City Council may order assessment against the Performance Bond and Payment Bonds required by Section 25 as set forth herein, the termination of this Agreement, or both.

27.2.3. The City finds, and Collector acknowledges and agrees that the above-described liquidated damages provision represent a reasonable sum in light of all of the circumstances. Said liquidated damage sums shall be applicable to each calendar day of delay during which Collector has been found by the City Council to be in Breach pursuant to Section 26. Collector shall pay any Liquidated Damages assessed by the City Council within thirty (30) days after they are assessed. If they are not paid within the thirty-day (30) period, City may withdraw said amount from the Performance Bond or Payment Bond, as appropriate, pursuant to Section 25, order the Termination of the Franchise granted by this Agreement, or both.

27.3. Remedies Not Exclusive. The right of Termination or to impose Liquidated Damages are in addition to all other rights of City upon a failure of Collector to perform its obligations under this Agreement, including but not limited to the rights provided in Section 28.

Section 28. City's Additional Remedies. In the event Collector commits a Breach of this Agreement, and the City has terminated this Agreement, in addition to the remedies set forth in Section 27, City shall have the following rights:

28.1. Rental of Collector Equipment. Notwithstanding the provisions set forth in Section 22 of this Agreement, City shall have the right to rent or lease Equipment from Collector for the purpose of collecting, transporting and disposing of Refuse which Collector is obligated to collect, transport and dispose of pursuant to this Agreement, for a period not to exceed six (6) months. If such Equipment is not owned by Collector, Collector shall assign to City, to the extent possible, the right to possess the Equipment. If City exercises its rights under this Section, City shall pay to Collector the reasonable rental value of the Equipment so taken for the period of City's possession thereof.

28.2. Right to License others to Provide Disposal Services for the City. City shall have the right to license others to perform the Services otherwise to be performed by Collector hereunder, or to perform such Services itself.

28.3. Right to Other Damages. City shall have the right to obtain damages or injunctive relief. The Parties recognize and agree that in the event of Breach by Collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement by Collector and to enjoin the Breach thereof.

Section 29. Compliance with Applicable Law.

Collector agrees that it shall comply with all applicable federal, state, and local laws and regulations, expressly including the provisions set forth in the Code which are applicable to the work or business in which it is herein franchised, and with any and all amendments to such applicable provisions during the Term.

Section 30. Assignment.

The Franchise granted by this Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except Collector, either by act of the Collector or by operation of law, without the prior written consent of City expressed by a resolution or ordinance approved by the City Council, which may be withheld for any reason, conditioned or granted in the City's sole discretion. Any attempt by Collector to assign this Franchise without the consent of City shall be null and void.

If Collector attempts to transfer the Franchise prior to obtaining City consent, all of the profits or twenty-five percent (25%) of the gross revenues received pursuant to the Services

provided under this Agreement, from the date of attempted transfer until the date of City consent, whichever is greater, shall be returned to City.

Section 31. Franchise Transfer: Fees.

Any application for a Franchise transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in an amount to be set by the City by resolution or ordinance of the City Council, to cover the cost of all direct and indirect administrative expenses, including consultants and attorneys, necessary to adequately analyze the application and to reimburse City for all direct and indirect expenses. In the event that City's actual costs exceed the amount of the transfer fee, Collector shall reimburse City for all additional costs which are not covered by the transfer fee, up to, but not exceeding Five Thousand Dollars (\$5,000.00). Bills shall be supported with evidence of the expense or cost incurred. The applicant, for any such transfer, shall pay such bills within thirty (30) days of receipt. The Franchise transfer fees detailed in this Section are over and above any franchise fees specified in the other portions of this Agreement.

Section 32. City Must Approve Change in Control of Collector.

City consent is required for any change in control of Collector. Collector is a corporation, and any acquisition of more than twenty-five percent (25%) of Collector's voting stock by a person, or group of persons acting in concert shall be deemed a change in control. Any change in control of the Collector occurring without prior City approval shall constitute a material breach of this Agreement.

Section 33. Amendment to Agreement.

This Agreement is intended to carry out City's obligations to comply with the provisions of ~~SB 1383~~ and AB 939 and AB 1383, and implemented by regulations of the Department of Resources Recycling and Recovery ("Regulations"), as they may from time to time be amended. In the event that ~~SB 1383~~, AB 939, SB 1383 or other state or federal laws or regulations enacted after the Effective Date, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except for Rate adjustments made pursuant to Section 9, this Agreement may be amended or modified only by a written agreement duly authorized and executed by both the City and Collector.

Section 34. General Provisions.

34.1. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of California. Venue for all legal proceedings arising from this Agreement shall be in the Superior Court for the County of Stanislaus in the State of California. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Eastern District of the State of California.

City of Riverbank and Gilton Solid Waste Management, Inc.
Franchise Agreement
Page 24 of 27

Tel: (209) 527-3781
Fax: (209) 527-3781

With courtesy copy to: Bart Barringer
Mayol & Barringer
1327 J Street
Modesto, CA 95354

34.3. Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

34.4. Exhibits Incorporated. The following "Exhibits" are attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Exhibit Title</u>
Exhibit A	Definitions
Exhibit B	Franchise Area
Exhibit C	Rates
Exhibit D	Bulky Item Collection Program
Exhibit E	C&D Debris Diversion Policy
Exhibit F	Specified E-Waste
Exhibit G	SB 1383 Additional Services

34.5. Time of Essence. Time is of the essence for the Agreement and each provision contained within and each provision is made and declared to be a material, necessary and essential part of the Agreement.

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

34.7. Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of the Agreement.

Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

34.8. Entire Agreement. This Agreement, together with its specific references, attachments and Exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

34.9. Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement, including the 2014 Agreement.

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

34.11. Mandatory and Permissive. "Shall" and "will" and "agrees" are mandatory. "May" and "can" are permissive.

34.12. Successors and Assigns. All representations, covenants, and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of, any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns.

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

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

34.15. Necessary Acts and Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of the Agreement.

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

[SIGNATURES ON FOLLOWING PAGE.]

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

CITY:

City of Riverbank, a municipal corporation of the State of California

By: _____
Richard O'Brian, City Mayor

Date Signed: _____

Approved as to Form:

By: _____
Tom Hallinan, City Attorney

Attest:

By: _____
Annabelle Aguilar, City Clerk

GILTON:

Gilton Solid Waste Management, Inc., a California Corporation

By: _____
Richard Gilton, President

Date Signed: _____

EXHIBIT A

Definitions

Capitalized words in the Agreement shall have the following meanings:

1. “AB” shall mean an Assembly Bill of the California Legislature.
2. “AB 341” shall mean the amendments to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), Chapter 476, as amended, supplemented, superseded, and replaced from time to time.
3. “AB 939” shall mean the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.
4. AB 1826 shall mean the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.
5. “Agreement” shall mean this Franchise Agreement between the City and Collector, including all exhibits and future amendments.
6. “Bin” or “Bins” shall mean receptacles provided by Collector for commercial customers which is picked up by Collection trucks by means of a front-loading apparatus.
7. “Bulky Items” shall mean large items of Solid Waste such as appliances, furniture, branches, and other oversize wastes whose large size precludes or complicates their placement in containers or handling by normal collection, processing, or disposal methods, but excluding Excluded Waste; items larger than five cubic yards or heavier than 500 pounds; and items of excessive size or density, such as engine blocks, spas, boats, and trailers. A list of acceptable and unacceptable Bulky Items is attached as **Exhibit D**.
8. “Breach” shall be as defined in Section 26.1 of this Agreement.
9. “Cart” or “Carts” shall mean industry standard receptacles for disposal of residential Solid Waste, Organic Waste, and Recyclables, in a range of sizes. A Cart has wheels, a handle for ease of movement, and a tight-fitting, attached lid and is designed to be dumped manually or mechanically into a Solid Waste collection vehicle.
10. “Certificates” shall be as defined in Section 19.2 of this Agreement.
11. “City” shall mean the City of Riverbank, Stanislaus County, State of California.
12. “City’s Agents” shall be as defined in Section 18.1 of this Agreement.

13. "City Attorney" shall mean the city attorney for the City of Riverbank.
14. "City Council" shall mean the City Council of the City of Riverbank.
15. "City Engineer" shall mean the city engineer for the City of Riverbank.
16. "City Manager" shall mean the city manager for the City of Riverbank.
17. "Claim" shall be as defined in Section 18.1 of this Agreement.
18. "Collector" shall be as defined in the Preamble to this Agreement.
19. "Construction and Demolition Debris" or "C&D Debris" shall mean waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements and on houses, commercial buildings, and other structures, but not including any Excluded Waste.
20. "Container" or "Containers" shall be as defined in Section 11.1 of this Agreement.
21. Contamination Monitoring shall be monitoring for prohibited container contaminants and notifying generators if contamination is found.
22. "Cure Period" shall be as defined in Section 26.3. of this Agreement.
23. "Customer" or "Customers" shall mean an individual(s), entity or entities that receive any services provided by Collector pursuant to this Agreement. Customer shall also mean the person, organization, or corporation receiving services to which billing statements are sent.
24. "Effective Date" shall be as defined in the Preamble to the Agreement.
25. "Electronic Waste" or "E-Waste" shall mean waste containing or consisting of electronic devices and components, such as computers, monitors, terminals, computer cards and components, computer peripheral devices, main frame computers, keyboards, mice, printers and scanners, mini-systems, power supply units, servers, connectors/cables, storage discs, consumer electronics, printed circuit boards, televisions, chips and components, cellular and other phones, telecommunications equipment, and fax machines and copiers, but not including Excluded Waste.
26. "Equipment" shall mean Collector's vehicles, tools, and equipment for the Services for which it is responsible under this Agreement.
27. "Excluded Waste" shall mean Hazardous Waste; Medical and Infectious Waste; liquid wastes; volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material; waste that Collector reasonably believes would, as a result of or upon disposal, be a violation of local, state, or federal law, regulation, or ordinance, including land use restrictions or conditions; waste that cannot be disposed of in Class III landfills; waste that in Collector's reasonable opinion would present a significant risk to human health or the

environment, cause a nuisance, or otherwise create or expose Collector or the City to potential liability. Excluded Waste does not include de minimis volumes or concentrations of waste of a type and amount normally found in residential Solid Waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Wastes in compliance with Sections 41500 and 41802 of the Public Resources Code.

28. "Exhibits" shall be as defined in Section 34.4. of this Agreement.
29. "Force Majeure" shall be as defined in Section 11.2. of this Agreement.
30. "Franchise Area" shall be as defined in Section 4.1. of this Agreement.
31. "Franchise Fees" shall mean both the fees retained by City and paid by Collector to City as defined in Section 16.1.
32. "Hazardous Waste" shall mean a waste, or combination of wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may do either of the following:
 - a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
 - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. (Public Resources Code Section 40141.)
33. "HDPE (High Density Polyethylene)" shall mean a recyclable plastic that includes, but is not limited to, milk jugs.
34. High Diversion Organic Waste Processing Facility shall mean a facility that is in compliance with the reporting requirements of SB 1383 and meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent (50%) between January 1, 2022 and December 31, 2024, and 75 percent (75%) after January 1, 2025 as calculated pursuant to SB 1383 for Organic Waste received from the Mixed Waste.
35. "Household Hazardous Waste" shall maintain the meaning set forth in Title 14, California Code of Regulations, Section 18502 or successor laws and regulations as may be amended from time to time.
36. "Liquidated Damages" shall be as defined in Section 27.2.1 of this Agreement.
37. "Medical and Infectious Waste" shall mean biomedical waste generated at residences in excess of legal limits or at hospitals, public or private medical clinics, dental offices,

research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, and other similar establishments.

38. "Notice of Appeal" shall be as defined in Section 26.4 of this Agreement.
39. "Organic Waste" shall be all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar plant materials, (but not including palm fronds or items longer than five (5) feet or with a diameter greater than six (6) inches), food, food scraps, food-soiled paper, wood waste, paper and cardboard.
40. "Party" or "Parties" shall be as defined in the Preamble to this Agreement.
41. "Payment Bond" shall be as defined in Section 25.2 of this Agreement.
42. "Performance Bond" shall be as defined in Section 25.1 of this Agreement.
43. "PET (Polyethylene, Terephthalate)" PET means a recyclable plastic that includes, but is not limited to, 2-liter soda bottles.
44. "Rates" shall mean the rates charged by Collector or City to Customers within the City as set forth in Section 9.1.
45. "Recitals" shall be as defined in Section 1 of this Agreement.
46. "Records" shall be as defined in Section 13 of this Agreement.
47. "Recyclable Materials" or "Recyclables" shall mean those materials that may be separated on a commercially reasonable basis from Solid Waste and returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Subject to mutually agreed revision by the Parties, Recyclable Materials or Recyclables include, newspaper (including inserts, coupons, and store advertisements), corrugated cardboard, mixed waste paper (including office paper, computer paper, magazines, junk mail, catalogs, Kraft bags and Kraft paper, paperboard, egg containers, phone books, brown paper, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, and cereal and other similar food boxes), glass containers (including colored glass bottles and jars), aluminum (including beverage containers, foil, food containers, and small scrap metal), plastic milk and juice containers, steel or tin cans, small scrap metal, PETE and HDPE plastic containers (natural and colored), used motor oil and oil filters, and any other commercially viable recyclable materials mutually agreed to by Collector and the City.
48. "Refuse" shall mean general term for waste, including Solid Waste.
49. "Regulations" shall be as defined in Section 33 of this Agreement.

50. “Roll-Off Box” shall mean a container, with a minimum capacity of ten cubic yards, designed for mechanical emptying with a vehicle, and used for the storage and transportation of solid waste, Organic Waste, recyclables, and other commodities.
51. Route Review/Waste Audit shall mean inspection and compliance review of a random sample to determine compliance and generate an electronic or written record for each inspection
52. “SB 1383” shall mean Senate Bill 1383, Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions (“SB 1383”), establishing a statewide target to decrease methane emissions at landfills by reducing the disposal of organic waste by 50% below 2014 levels by 2022 and by 75% below 2014 levels by 2025.
53. “Services” shall be as defined in Section 5.1 of this Agreement.
54. “Solid Waste” shall mean and include all forms of residential and commercial waste generated within City limits and intended for disposal. Solid Waste as defined in Public Resources Code, Section 40191 and regulations promulgated thereunder and without limitation includes all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, Refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes. Notwithstanding any provision to the contrary, “Solid Waste” may include de minimis volumes or concentrations of waste of a type and amount normally found in residential solid waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the Resources Code. For the purposes of this Agreement the Collector may, but is not required, to collect, haul, dispose or recycle any liquid wastes, abandoned vehicles, and parts thereof, industrial appliances; dewatered, treated or chemically fixed sewage sludge or manure.
55. “State” shall mean the State of California.
56. “Term” shall be as defined in Section 7 of this Agreement.
57. “Termination” shall be as defined in Section 27.1 of this Agreement.
58. “Universal Waste” shall mean any waste matter which the State of California classifies as 'universal waste,' including, but not limited to, items and materials listed in 22 CCR 66261.9, as it may be amended, as well as any items listed below not classified by the State of California as 'universal waste.' Universal Waste includes, but is not limited to, the following:
- E-Waste;
 - Batteries (except automobile batteries);
 - Thermostats;

- Lamps with fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and other lamps with hazardous waste characteristics;
- Cathode ray tubes;
- Aerosol cans;
- Mercury-containing items, including light switches, pressure gauges, and thermometers;
- Appliances, devices, and other objects containing electronic components, including (but not limited to) computers, computer monitors, cellular telephones, copiers, fax machines, DVD players, VCRs, and televisions; and
- Prescription and non-prescription drugs, not including controlled substances.

EXHIBIT B

Franchise Area

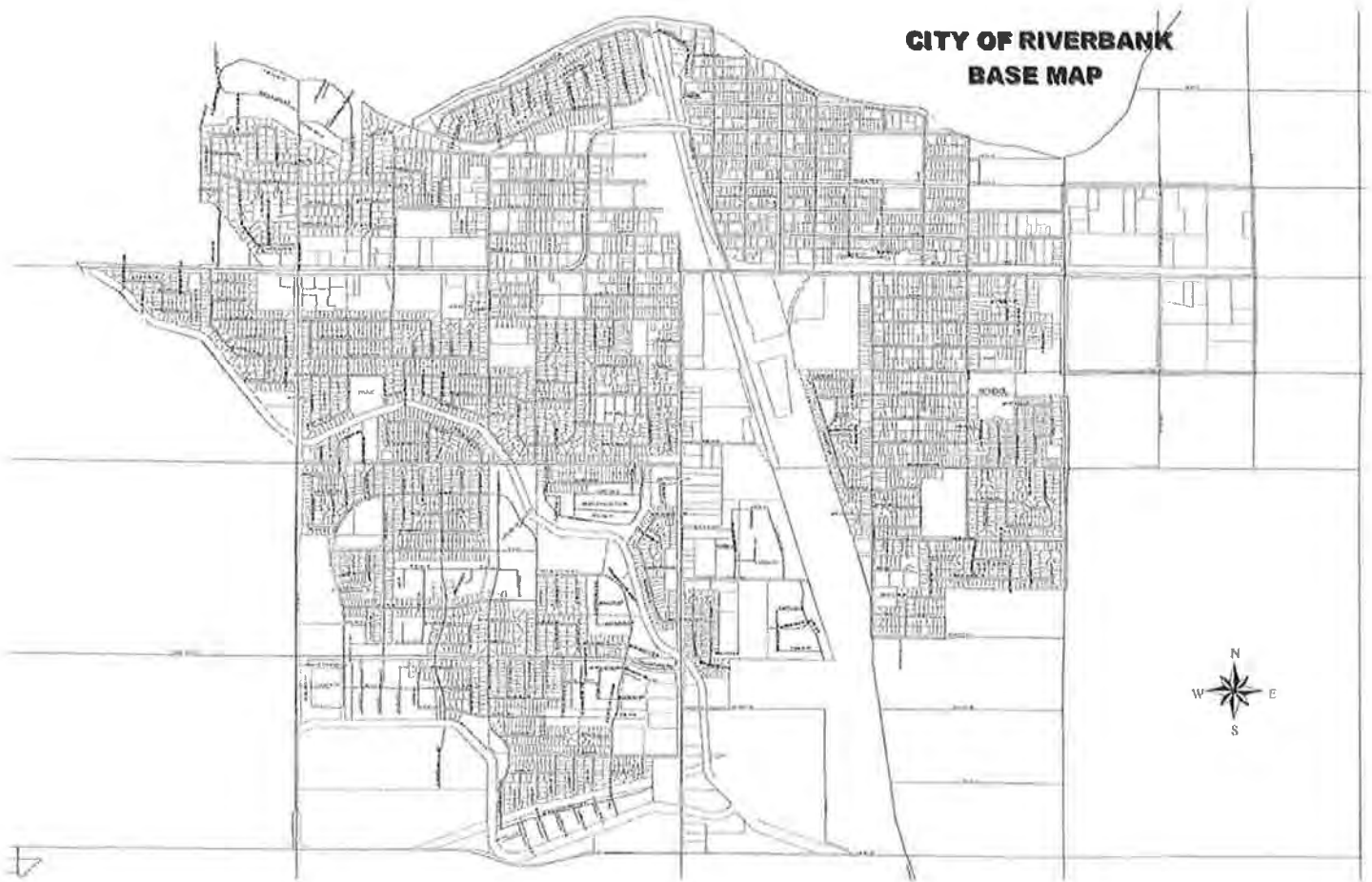


EXHIBIT C
New Rates

City of Riverbank
Monthly Refuse Service Rates
Automated Services
Effective Date January 1, 2022

BASIC CART SERVICE	Current Rates	New Rates
30 Gallon MSW Cart Rate	\$ 20.52	\$ 20.52
90 Gallon - MSW Cart Rate	\$ 23.40	\$ 23.40
90 Gallon - Organics Cart Rate	\$ -	\$ 11.85
Additional 90 Gallon Cart- (Any Type)	\$ 7.45	\$ 15.45

Senior Citizen	Current Rates	New Rates
30 Gallon MSW Cart Rate	\$ 15.44	\$ 15.44
90 Gallon - MSW Cart Rate	\$ 17.55	\$ 17.55
90 Gallon - Organics Cart Rate	\$ -	\$ 11.85
Additional 90 Gallon Cart- (Any Type)	\$ 5.85	\$ 13.42

ADDITIONAL SERVICES

Go Back	\$ 7.50	\$ 15.00
Extra Dump on Cart	\$ 10.00	\$ 18.75
Wash on Cart	\$ 12.50	\$ 21.00

EXHIBIT C
New Rates

City of Riverbank
Monthly Refuse Service Rates
Front Loader Bins
Effective January 1, 2022

Number of Accounts	Size of Bin	Collection Frequency	Current Rate	New Rate
1	1 Cubic Yard	1	\$57.06	\$69.41
50	2 Cubic Yard	1	\$90.63	\$115.33
6	2 Cubic Yard	2	\$165.31	\$214.71
24	2 Cubic Yard	3	\$240.12	\$314.22
13	3 Cubic Yard	1	\$124.70	\$161.75
7	3 Cubic Yard	2	\$226.16	\$300.26
0	3 Cubic Yard	3	\$316.53	\$427.68
0	3 Cubic Yard	4	\$426.25	\$574.45
45	4 Cubic Yard	1	\$162.75	\$212.15
27	4 Cubic Yard	2	\$299.42	\$398.22
20	4 Cubic Yard	3	\$417.55	\$565.75
10	4 Cubic Yard	4	\$500.99	\$698.59
4	4 Cubic Yard	5	\$615.93	\$862.93
2	4 Cubic Yard	6	\$739.42	\$1,035.82
9	6 Cubic Yard	1	\$223.11	\$297.21
8	6 Cubic Yard	2	\$412.35	\$560.55
3	6 Cubic Yard	3	\$593.84	\$816.14
0	6 Cubic Yard	4	\$693.32	\$989.72
0	6 Cubic Yard	5	\$833.35	\$1,203.85
1	6 Cubic Yard	6	\$867.31	\$1,311.91

\$2.85 per yard per week

Additional Charges:

Go-Back	\$15.00	\$55.00	Per Event
Extra Dump	\$20.00	\$45.00	Per Event
Lock Installation	\$30.00	\$60.00	Locking Bar (One time charge)
	\$25.00	\$25.00	Master Lock
	\$35.00	\$35.00	Disk Lock

EXHIBIT D
City of Riverbank
Bulky Item Collection Program

- The Bulky Item Collection Program is available to all residential customers within the City of Riverbank.
- Customers are allowed to request up to two (2) collections per calendar year.
- To arrange collection, the customer must contact Collector and set up an appointment.
- Appointments will be scheduled by Collector and will occur within two (2) weeks of the customer's request.
- Bulky Items are limited to those items that will not fit within the customer's existing garbage container.
- Bulky Items are limited to those items listed below as "Acceptable", or to those items approved by Collector at the time the appointment is requested.
- Customers must place all Bulky Items on the paved street surface in front of their residence without blocking driveways or traffic, and must be easily accessible to Collector's vehicle.
- Customers must place all Bulky Items out for collection no earlier than 6:00 P.M., California time, before the scheduled collection day or no later than 6:00 A.M., California time, on the scheduled collection day.

<u>ACCEPTABLE ITEMS</u>		<u>UNACCEPTABLE ITEMS</u>	
Refrigerators*	Freezers*	Automobile parts	Tires
Water heaters	Air Conditioners	Garbage	Commercial waste
Washers	Dryers	Construction waste	Concrete / Asphalt
Dishwashers	Toilets/Sinks/Tubs	Sheetrock	Hazardous waste
Couches / Sofas	Tables / Chairs	Paints / Solvents	Dirt / Sod
Dressers	Mattresses	Liquid of any kind	Glass
Bed frames	Furniture	Organic Waste	Dead animals
Microwaves	Hot tubs / BBQs	Televisions	Computer monitors
Patio furniture	Doors / ladders		
Lawn mowers	Bicycles		
Exercise	Bundled, Dry		
Equipment	Cardboard		

* Doors must be removed or locked to prevent access by minors

EXHIBIT E
Riverbank Construction & Demolition Debris Policy

The 2013 California Green Building Standards Code (CALGreen) instructs local jurisdictions to require contractors to develop and maintain a waste management plan, among other things, to verify a minimum 50 percent waste diversion. CALGreen further specifies for the WMP to be updated as necessary and shall be available for examination during construction. Sample WMP is provided in the actual CALGreen code publication under the Compliance Forms and Worksheets section. The California Department of Housing and Development's website also provides sample WMP for residential C&D projects.

EXHIBIT F
Acceptable E-Waste
for
Curbside Collection Program

Computers
Printers
Copiers
Scanners
Fax Machines
Telephones
Cellular Telephones
Stereos
DVD / VHS Players

Televisions (Cathode Ray Tubes)
Computer Monitors
Flat Screen Televisions
Lap Top Computers
Networking Equipment
Printed Circuit Boards
Servers
Main Frame Units

EXHIBIT G
SB 1383 Additional Services

City of Riverbank
SB 1383 - Additional Service Costs
Effective Date: January 1, 2022

Residential Customers:

Cost per Residential Customer per Month

Compost Procurement	\$0.13
Contamination Monitoring, Route Reviews & Waste Audits	\$0.10
Outreach & Education	\$0.05

Commercial Customers:

Cost per Commercial Customer per Yard Collected

Compost Procurement	\$0.12
Contamination Monitoring, Route Reviews & Waste Audits	\$0.10
Outreach & Education	\$0.05

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2014~~21~~ (the "Effective Date") by and between the City of Riverbank ("City"), a municipal corporation of the State of California, and Gilton Solid Waste Management, Inc., a California corporation ("Collector"). The parties to this Agreement may each be referred to individually as a "Party" or collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. The California State Legislature enacted the California Integrated Waste Management Act of 1989 ("AB 939") which authorizes local jurisdictions to make adequate provisions for solid waste handling within their jurisdictions; and

A. B. On October 6, 2011, the Legislature passed Assembly Bill 341 ("AB 341"), amending the California Public Resources Code (the "Public Resources Code") therein requiring cities to encourage and document commercial solid waste recycling programs; and

B.

C. On September 28, 2014, the Legislature passed Assembly Bill 1826 ("AB 1826"), approved by the Governor of the State of California which added Chapter 12.9 (commencing with Section 42649.8) therein requiring cities to require businesses to separate their organic waste from the municipal waste stream for composting.

B. D. On November 10, 2020, the Legislature passed Senate Bill 1383, Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions ("SB 1383"), establishing a statewide target to decrease methane emissions at landfills by reducing the disposal of organic waste by 50% below 2014 levels by 2022 and by 75% below 2014 levels by 2025. SB 1383 establishes regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets and requires Jurisdictions to implement collection programs, meet processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements.

C. E. The collection and disposition of garbage, refuse and waste is governed and regulated by applicable provisions set forth in Chapter 50 of the Riverbank Municipal Code (the "Code"), which may be amended from time to time and is incorporated herein by this reference; and

D. F. The City previously entered into a franchise agreement with Collector on ~~July~~September 14, 2003~~14~~ (the "2003~~14~~ Agreement") wherein the City selected Collector to provide services for the collection, recycling, and disposal of solid waste within the City.

E. G. The ~~2003~~2014 Agreement provides that the term of the agreement may be extended by mutual agreement of the Parties; and

Formatted: List Paragraph, Justified, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5", Tab stops: 0.69",

Formatted: Left, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5", Tab stops: Not at 0.69"

Formatted: Font: Bold

Formatted: Left, Indent: Left: 0", Hanging: 0.25", Tab stops: Not at 0.69"

Formatted: Indent: Left: 0", First line: 0.25"

Formatted: Indent: Left: 0.5", No bullets or numbering

F.H. The City and Collector now desire to update and extend the term of the 200314 Agreement. The term of this Agreement shall commence on the Effective Date and shall be in force for six (6) calendar years. On each anniversary of the Effective Date, the term will automatically be extended one (1) additional year for a minimum of five (5) years pursuant to Section 7. Term of Agreement, the terms and conditions set forth herein; and

G.I. It is the City's objective to continue to engage Collector to provide refuse collection and disposal services for residential and commercial collection. By entering into this Agreement Collector shall assist City in meeting its SB 1383, AB 939 and AB 341, AB 1826 and SB 1383 requirements; and

H.J. The City's refuse program shall be consistent with the County Solid Waste and Integrated Waste Management Plan and comply with all regulations promulgated by the local Stanislaus County enforcement agency and the Department of Resources Recycling and Recovery; and

I.K. The Parties desire to rescind the 200314 Agreement which shall be fully replaced and superseded by this Agreement as of the Effective Date.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and sufficient consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above (the "Recitals") are incorporated herein by this reference and made a part of this Agreement. In the event any inconsistencies arise as between the Recitals and Sections 1 through 34 of this Agreement, Sections 1 through 34 shall prevail.

Section 2. Definitions. Unless otherwise noted in this Agreement, capitalized terms herein shall have the meanings set forth in **Exhibit A**. Whenever any term used in this Agreement has been defined by Division 30, Part 1, Chapter 2 of the Public Resources Code or the City's Code, those definitions shall apply unless the term is otherwise defined in **Exhibit A**. In the event there is a discrepancy between the definitions contained in the Public Resources Code and the City's Code, the definitions set forth in the Public Resources Code shall supersede all other definitions.

Section 3. Termination of 200314 Agreement. This Agreement hereby supersedes and replaces the 200314 Agreement by mutual agreement and consent of the Parties as of the Effective Date of this Agreement. Hereafter all previous agreements shall terminate and be of no further force and effect except with respect to covenants therein for acts and omissions occurring prior to the Effective Date.

Section 4. Franchise Area.

4.1. Franchise Area Defined. The franchise area granted by this Agreement shall be all residential and commercial premises located within city limits of City, as more particularly shown on **Exhibit B** ("Franchise Area"). As provided below, the Franchise Area may be changed by annexation, deannexation or re-organization.

4.2. Annexation Covered by Existing Franchise. All territories annexed during the Term of this Agreement shall be subject to this Agreement. However, properties served by another collector at the time of annexation, shall continue to be served by that source until the end of such collector's franchise agreement or service contract with the subject landowner or five (5) years, whichever is sooner. Collector agrees to defend, indemnify and hold the City harmless against any claims by such other collector regarding its right to continue to serve the annexed area.

Section 5. Waste Collection and Disposal.

5.1. Scope of Services. Except as set forth in Section 5.4, the City hereby grants Collector the exclusive franchise, right and privilege to collect all Solid Waste, ~~Green Waste~~Organic Waste and Recyclables within the Franchise Area and to transport the same to a High Diversion Organic Waste Processing Facility, sanitary landfill, transfer station, compost/mulching site, or waste-to-energy facility outside the City, which has been approved by the governmental agency having jurisdiction of the territory in which said site is located (the "Services"). City may designate alternative processing facilities if public health, safety, or fiscal interest requires, or compliance with applicable law necessitates the alternative. Collector shall furnish all labor, supervision, materials, permits, licenses, and ~~E~~quipment necessary to provide residential and commercial refuse collection Services for Customers within the Franchise Area of City. Collector shall perform its obligations under this Agreement in accordance with all applicable local, state, or federal laws and in a manner that maximizes the City's Solid Waste diversion rate to the extent possible.

5.2. Residential Service. Collector shall provide Solid Waste and ~~Green Waste~~Organic Waste collection services to all residential premises within the City. Collector may provide Recyclables collection services to residential premises within the City. If the City elects to make residential Recyclables collection service mandatory, Collector shall provide such service to all residential premises and shall charge rates that do not exceed those listed in **Exhibit C**, as amended for such services.

5.3. Commercial Service. ~~Collector shall provide Solid Waste collection services to all commercial premises within the City. Collector may provide Green Waste~~Organic Waste ~~collection services to commercial premises within the City. Pursuant to the requirements set forth in AB 341, Collector shall offer to provide Recyclables collection services to any business that generates more than four cubic yards of commercial solid waste per week and to any multifamily residential dwelling of five units or more, and may provide Recyclables collection services to other commercial customers and multifamily residential dwellings not meeting these criteria. Collector shall provide Solid Waste collection services to all commercial premises within the City. In addition, pursuant to the requirements set forth in AB 341 and AB 1826, Collector shall provide recycling collection services and/or organic collection service to any business that meets the mandatory threshold of each legislation.~~

5.4. Excepted Services. Collector's exclusive franchise in this Agreement shall not include governmental entities if and to the extent the City has no legal power to require such entities to use Collector's Services. The provisions of this franchise shall not preclude or prohibit the City or any officer or employee thereof or any employee of the State, or any governmental subdivision thereof, from collecting, removing, and disposing of Solid Waste, Recyclables, or ~~Green Waste~~Organic Waste from the City or State facilities.

Section 6. Collection and Bins.

6.1. Provision of Receptacles. Collector agrees to continue to provide and maintain all Carts, Bins and Roll-Off Boxes for the proper and secure storage of Solid Waste, ~~Green Waste~~Organic Waste or Recyclables for all residential and commercial Customers. All residential Cart Customers shall be serviced once per week and commercial Bin Customers shall be serviced from one (1) to six (6) times per week as requested by the Customer. Roll-Off Box Customers will be serviced as arranged between the Customer and Collector.

6.2. Hours of Collection. Collection service of all Carts, Bins, and Roll-Off Boxes in residential areas and from commercial premises adjacent to residential areas shall not start before 6:00 a.m. or continue after 6:00 p.m., subject to change by resolution of the Riverbank City Council ("City Council"). However, the hours of collection may be extended temporarily as a result of extraordinary circumstances or conditions with the prior consent of the Riverbank City Manager ("City Manager").

6.3. Receptacle Replacement. Collector, without expense to City or any Customer, and within seventy-two (72) hours after notice, shall provide one replacement every four (4) years of lost or stolen Carts. Collector shall clean, paint over or replace, at its discretion, graffiti-tagged Carts as needed. Collector shall replace Carts damaged due to normal wear and tear within the time frame of one collection cycle. Collector shall maintain records of lost, stolen, damaged and graffiti-tagged Carts by specific address. Collector may charge for additional replacement Carts based on the actual cost of the Carts and their delivery.

Section 7. Term of Agreement. ~~The term of this Agreement shall commence on the Effective Date and expire on _____, 2019, unless extended by the mutual consent of the Parties (the "Term"). At least sixty (60) days prior to the expiration of this Agreement, Collector may apply to City for an extension of the Term for an additional three (3) years. Upon such application, the City may grant or deny such request in its sole discretion. If the application to extend the Agreement is denied by City, the City may in its discretion advertise for competitive bids for Services with such Services to commence after the expiration of the Term of this Agreement. Nothing herein shall be deemed or construed to impair the right of the City to terminate the Agreement with Collector due to Collector's substantial failure to perform the Services and responsibilities specified and agreed to in this Agreement.~~

The term of this Agreement shall commence on the Effective Date and shall be in force for six (6) calendar years. On each anniversary of the Effective Date, the term will automatically be extended one (1) additional year, until such time as either the City or the Collector submits in writing to the other that their intent is to terminate said Agreement. If such notice is provided, the Agreement shall be terminated ~~six~~five (5) years from the next Effective Date anniversary, notwithstanding the remaining term that would otherwise be in effect, and the City may in its discretion advertise for competitive bids for solid waste collection services with such services to commence after the expiration of the contract term of this Agreement. Nothing herein shall be deemed or construed to impair the right of the City to immediately terminate the Agreement with Collector due to Collector's substantial failure to perform the services and responsibilities specified and agreed to in this Agreement.

Formatted: Font: Not Italic

Formatted: Font: Not Italic

Formatted: Font: Not Italic

Section 8. Acceptance; Waiver. Collector agrees to be bound by and comply with all the requirements of this Agreement. Collector waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code.

Section 9. Rates and Fees.

9.1. Rates. The maximum rates to be charged by Collector are set forth in **Exhibit C** ("**Rate**" or "**Rates**") and may be adjusted by the City Council by ordinance or resolution. For the first year of the Agreement, Collector shall charge rates that are no greater than the maximum rates as provided in **Exhibit C**. In year two, three, four and five of the Agreement Term, the City will adjust the maximum charges made to Customers under this Agreement to reflect annual changes in the Consumer Price Index for All Urban Consumers ("**CPI**") published by the U.S. Department of Labor for the San Francisco-Oakland-San Jose, CA statistical area. Such adjustments shall not exceed ~~two and a half~~five percent (~~2.55~~%) per year. The adjustment shall become effective on the anniversary of the Effective Date and be based on the previous ~~twelve month~~twelve-month index analysis from May to April. In all subsequent years, the Collector may request, and the City Council shall consider, rate adjustments based on the above referenced CPI index, in addition to any other adjustments provided for under subsections 9.3. and 9.4.

9.2. Reimbursement for Notices. Collector shall be responsible for providing, or reimbursing the City for providing all required notices of any rate changes or increases expressly including, but not limited to, notices required under Proposition 218 and any law or regulations adopted to implement Proposition 218. City reserves the right to specify the form and content of any such notice required by law or by the Code. City shall determine when a notice of a Rate change is required in its sole and complete discretion.

9.3. Tipping Fees. The Parties acknowledge and agree that the maximum Rates include compensation to Collector for tipping, gate or other disposal fees charged by any applicable disposal facilities. Notwithstanding any provision in this Agreement to the contrary, Collector,

except in the case of Roll-Off Box Customers, shall not be entitled to receive from City, or any Customer, a separate or additional payment for tipping or gate fees. In addition to any other rate adjustments to which Collector may be entitled, Collector may request to increase its rates to the extent necessary to recover increased landfill, waste-to-energy facility, transfer station, and material recovery facility tipping or gate fees, provided that the landfill, waste-to-energy facility, transfer station, or material recovery facility is not owned or operated by Collector. Collector shall provide City with notice of the proposed new rates within thirty (30) days of such notice being received from Stanislaus County or other applicable authority, and shall provide the City with a copy of any notice regarding an increase in landfill or waste-to-energy facility tipping or gate fees. Collector shall not increase the Rates to recover increased tipping or gate fees, without prior written approval from City.

9.4. Extraordinary Cost Increases. Collector may petition City for an extraordinary rate adjustment or adjustments at any time during the Term of this Agreement, provided that such petition may be made based only upon increases in fuel costs or increased costs as a result of federal, state, or county mandates, or other documented impacts, which require changes in Collector's Services or operations under this Agreement. Collector shall include in its petition a financial presentation which demonstrates the extraordinary increase in operating costs. Any petition shall be heard by the City Council at a public hearing held after providing any required notices pursuant to this Section and applicable law. The City Council may grant or reject any such petition in its sole and complete discretion.

Section 10. Additional Services. In exercising the right and privilege to collect Solid Waste, ~~Green Waste~~Organic Waste or Recyclables within the boundaries of City as herein granted, Collector agrees to act in accordance with the following:

Collector agrees to provide without additional charge to the City or its customers:

10.1. Curbside Bulky Item Collection Program. Collector shall collect and dispose of bulky item wastes, as defined in **Exhibit D**, from residential Customers up to two (2) times per calendar year. Such collections will be made by appointment as arranged between Customer and Collector.

10.2. Residential CRT Disposal/Recycling Program. Collector will provide vouchers to residential Customers, upon request, for the free disposal/recycling of up to two (2) Cathode Ray Tube ("CRT") containing appliances per calendar year.

10.3. Commercial CRT Disposal/Recycling Program: Collector will provide vouchers to commercial Customers, upon request, for the free disposal/recycling of up to four (4) CRT containing appliances per calendar year.

10.4. Curbside E-Waste Collection Program: Collector shall collect, recycle or dispose of specified E-Wastes (as defined in **Exhibit F**) from residential Customers up to four (4) times per calendar year. Such collections will be made by appointment as arranged between the Customer and Collector.

10.5. Christmas Tree Program. Collector will provide a residential Christmas tree collection and recycling program. Each year, during the first two (2) full weeks of January, Collector will pick-up Christmas trees from the front of residential properties in the City. Collections will be scheduled to coincide with the normal waste collection days.

10.6. City Facilities. Collector shall provide Solid Waste and ~~Green Waste~~Organic Waste collection services to all City owned and operated facilities at no additional charge to the City. This does not include C&D Debris generated from City owned and operated facilities.

10.7. Community Events. At the City's request, Collector will provide waste containers, plus Solid Waste, ~~Green Waste~~Organic Waste and Recyclables removal and disposal services for four (4) community events per year.

10.8. Promotional/Educational Support. No less than twice per year, if requested by City, Collector will distribute informational flyers or brochures to City Customers regarding the importance of recycling and separating wastes in order to achieve greater waste diversion, as well as the applicable commercial recycling requirements set forth in AB 341, AB 1826 and SB 1383. In addition, Collector will provide technical support and assistance to City Staff in preparation of articles or newsletters related to waste reduction, reuse and recycling.

10.9. Commercial Recycling Programs. Collector will fully cooperate with, and assist the City with the implementation of any State mandated commercial recycling programs.

10.10. AB 939 Data. Collector agrees to continue to assist City in data collection and reporting pertaining to compliance with the Integrated Waste Management Act (AB 939), including any State required waste composition studies.

10.11. C&D Diversion Policy. When properly notified, Collector will assist City customers in their compliance with the City's C&D Debris Diversion Policy, attached at **Exhibit E**, as it may be amended. In addition, Collector shall comply with the City's C&D Debris Diversion Policy as applicable.

10.12 SB 1383 Services. Collector agrees to assist the City in meeting SB 1383 mandates by performing the ~~following additional services as detailed in Exhibit G~~_____.

Formatted: Font: Bold

Section 11. Specific Service Requirements.

11.1. Collector Duty of Care and Diligence. Collector and Collector's employees, contractors, sub-contractors, operators, officers, directors, supervisors, owners, board members, representatives, and agents ("Collector's Agents") shall exercise all reasonable care and diligence in performing their obligations under this Agreement. Every effort will be made to prevent spilling, scattering or dropping Refuse during the collection or transportation process. However, in the event that Refuse is spilled, scattered or dropped, the truck operator shall immediately clean up the material and place it in the truck. Every Cart, Bin and Roll-Off Box (collectively, "Container") must be replaced in an upright position. If a Container falls over, the operator must immediately set the Container in an upright position. It shall be further noted that Refuse collection

easements are frequently co-located with other utility easements. Particular attention must be given to the location of water meters, transformers, guy wires, utility poles and irrigation structures. Authorization to use the easement does not abrogate Collector's responsibility to exercise caution to not infringe upon, damage, or trespass the property rights of other authorized users or property owners. Collector shall be familiar with, and operate within the guidelines set forth by the Occupational Safety Health Act (29 U.S.C. section 651 *et. seq.*). Collector is granted the right to use dedicated streets, alleys and refuse collection easements for the purpose of performing the Services, but this right is not exclusive. The Collector shall handle the Services in a manner that will cause the least inconvenience or annoyance to the general public and to property owners. Whenever the Collector's operations create a condition hazardous to traffic or to the public, Collector shall furnish, erect, and maintain such fences, barricades, lights, signs, and other devices, structures, or warnings and take any other protective measures as are necessary to prevent accidents or damage or injury to the public. Any barricade, lights, signs or other devices erected must conform to the requirements of the City Engineer and the Code.

11.2. Hazardous Waste. Under no circumstance shall Collector's employees knowingly collect Hazardous Waste or remove unsafe or poorly containerized Hazardous Waste from Customer premises. If Collector determines that material placed in a container for collection is Hazardous Waste, Excluded Waste, or other material that may not be legally accepted at an approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility or that presents a hazard to Collector employees, Collector shall have the right to refuse to accept such material. Collector shall leave, at the time of non-collection, a non-collection notice with Customers indicating the reason for refusing the material. Collector shall contact the generator and request that the generator arrange for proper disposal service. If the Hazardous Waste, Excluded Waste, or other objectionable material is identified at time of delivery to the approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility and the generator cannot be identified, Collector shall be solely responsible for handling and arranging transport and disposition of the Hazardous Waste, Excluded Waste, or other objectionable material.

11.3. Force Majeure. Collector shall not be in default under this Agreement in the event that the collection transportation, recycling and disposal services of Collector are temporarily interrupted or discontinued due to a "Force Majeure" event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods earthquakes, landslides and fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Collector. Force Majeure does not include: Collector's financial inability to perform; Collector's failure to obtain any necessary permits or licenses from other governmental agencies; or Collector's failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Collector.

11.4. Independent Contractor. Collector is an independent contractor and not an officer, agent, servant or employee of City. Collector is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and sub-grantees. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Collector. Neither Collector nor its officers, employees, agents or sub-grantees shall obtain any right to retirement or other benefits or right, which accrue to City employees.

11.5. Property Damage. Collector shall be responsible for any damage to City's driving surfaces, whether or not paved, resulting from vehicles providing Services under this Agreement. Collector shall be responsible for repairing or replacing any private or public property which is damaged due to the acts or omissions of employees, contractors, or agents of Collector to private or public property shall be repaired or replaced.

11.6 Right of Entry. Collector shall have the right, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Refuse pursuant to this Agreement. This right of entry shall last until the sooner of the termination of this Agreement or receipt by Collector of a written notice from City revoking Collector's right of entry. This right of entry is limited to carrying out the Services required by this Agreement.

Formatted: Indent: First line: 0.5"

Section 12. Customer Service Requirements.

12.1 Availability of Representatives. A responsible representative of Collector who is qualified to respond to public inquiries shall be available at Collector's office during office hours, excluding lunchtime closure, for communication with City, Customers or the public.

12.2. Employees. Collector shall exercise reasonable care to hire responsible employees, to supervise the work of such employees, and to discipline and, if necessary, discharge an employee failing to meet reasonable standards for performance of work set forth in this Agreement. Collector shall comply with applicable state and federal law pertaining to employment, including, but not limited to, applicable equal opportunity employment and affirmative action requirements.

12.3. Enforcement and Clean-up of Illegal Dumps. Collector and City shall cooperate to eliminate illegal dumping within the City. When illegal dumps are found on public property the City will attempt to identify the responsible party and advise them to clean-up the wastes or utilize the Bulky Item Collection Program to eliminate the problem. If no responsible party is identified, the City will request for Collector to remove any such waste. Collector will have three (3) working days following the notification by the City to remove the illegally dumped material.

12.4. Manner of Collection. Collector shall perform all collection services in a quiet and courteous manner and ensure that all Carts are placed on the premises from which they were removed in an upright position, with lids closed, and within five (5) feet of where they were originally placed before collection.

12.5. Office Hours. Collector's office hours shall be, at a minimum, from 8 a.m. to 5 p.m. daily, except for a lunch hour and closed on Saturdays, Sundays, and federal or State recognized holidays. A representative of Collector shall be available during office hours for communication with the public at Collector's principal place of business.

12.6. Service Complaints. All Service complaints shall be directed to Collector. Collector shall respond to all complaints, other than missed pickups, within twenty-four (24) hours

if the twenty-four (24) hour period ends during the office hours specified in subsection 12.5, otherwise on the next business day. Collector shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all complaints and shall use its best efforts to resolve any complaints within the two (2) business days following the date on which such complaint is received. Complaints that cannot be reasonably resolved may be appealed to the City Manager or designee for final resolution.

12.7. Complaint Log. Collector agrees to maintain a log of all oral and written service complaints registered with Collector from Customers or the public within the City ("Complaint Log"). Collector shall record in the log all written and oral complaints, noting the name and address of the complainant, date and time of complaint, nature of complaint, and method and date of resolution. Such log shall be kept so that representatives of the City, upon request, may conveniently inspect it. Collector shall deliver, along with the quarterly reports specified in Section 13 or otherwise upon request of the City, a summary of complaints by number and type and excerpts from the log reflecting action to date.

12.8. Missed Pickups. In the event of a missed pickup, Collector shall complete the pickup the same day if the complaint is received by 12:00 p.m. or by 12:00 p.m. the following business day if the complaint is received after 12:00 p.m.

Section 13. Reports.

Collector shall provide the City with quarterly reports detailing Collector's operations within City during that time. Reports will contain the information required by the City for compliance with ~~SB 1383~~ and AB 939 and SB 1383 and for City to measure Collector's performance of items in this Agreement. Collector agrees to provide additional reports regarding its collection services as may be reasonably requested by the City to meet future reporting requirements of the City or the State. City or a consultant to City, on request, shall have the right to review the collection records of Collector at reasonable times and upon reasonable notice.

Formatted: Strikethrough

Section 14. Vehicles.

14.1. Compliance with Applicable Regulations. Collector shall at all times comply with all applicable rules, statutes, orders, and requirements adopted by any governmental agency with jurisdiction over air quality, including, but not limited to, the California Air Resources Board and the San Joaquin Valley Air Pollution Control District. In addition to any indemnification obligations set forth in this Agreement, Collector shall defend, indemnify, and hold harmless the City against any fines, penalties, losses, or claims arising out of Collector's failure to comply with this Section. All vehicles used by Collector under this Agreement shall be registered with the Department of Motor Vehicles of the State of California, be kept clean and in good repair, shall be uniformly painted, and shall be washed at least once every seven (7) calendar days. Collector's name, phone number, and vehicle number shall be prominently displayed on its vehicles.

14.2. Fluids and Waste. Collector shall immediately clean up any fluids or waste spilled from collection vehicles, and shall deploy and remove absorbent materials to the extent necessary

to absorb all fluids. Collector shall provide the City with a copy of any spill report that Collector is required to provide, and at the same time it is provided, to the State Office of Spill Prevention and Response. When necessary, Collector shall apply a suitable cleaning agent to the street surface or shall employ hydraulic steam cleaning to provide adequate cleaning. Collector shall comply at all times with all recommendations or limitations concerning laden weight of collection vehicles established by the State or any government agency, or the vehicle manufacturer.

Section 15. Collector's Employees.

15.1. Prohibition of Drugs or Alcohol. Collector will prohibit use of intoxicating substances by Collector's Agents, including its drivers and crewmembers, while on duty or in the course of performing the Services. Upon request by City, Collector will demonstrate compliance with the federal alcohol and drug testing statutes and regulations.

15.2. Employee Uniform. Collector's employees shall be required to wear a clean uniform bearing Collector's name. Employees who normally and regularly come into direct contact with Customers, including drivers, shall bear some means of individual identification such as a name tag or identification card.

15.3. Identification Required. Collector shall provide every employee, contractor, grantees, or sub-grantees that are in contact with the public with identification cards and badges. Upon request of City, Collector shall notify all Customers of the form of identification that each employee shall be carrying or displaying so that all Customers may easily identify one of Collector's employees. Collector shall provide City with a list of current employees, contractors, grantees, and sub-contractors to City upon request.

15.4. Valid Driver's License. Employees driving Collector's vehicles shall at all times possess and carry a valid and appropriate vehicle operator's license issued by the State of California, including a commercial driver's license, if required.

15.5. No Employment Relationship with City. Collector's Agents are not and shall not identify themselves as being employees of the City at any time, for any reason.

15.6. Employee Behavior. All contact by Collector with Customers will be done with courtesy and respect. Any incident with a Customer must be reported immediately to the City.

15.7. Employee Conduct. All superintendents, foremen and workers, or contractors employed by the Collector shall be capable and safety conscious workers, skilled in their respective trades. Collector shall not employ any person who is incapable or negligent in the due and proper performance of his or her duties. Collector shall furnish such supervision, labor and Equipment as is considered necessary for the fulfillment of the Services in an acceptable manner at a satisfactory rate of progress. City reserves the right to request for any worker of Collector to be prohibited from providing Services to City without cause for any reason.

15.8. Supervision. It is the Collector's responsibility to supervise the Services rendered and to provide direction to its employees and agents in the field. While City employees may

suggest possible solutions to problems or unusual situations, Collector retains the responsibility for all Services and how the Services will be delivered and conducted to the City and the Customers.

Section 16. Franchise Fees, Billing and Reports.

16.1. Franchise Fees. Collector and the City agree that for the privilege herein granted to Collector, City shall retain a sum equal to twelve point eight five (12.85%) percent of the gross revenues from residential accounts and the Collector shall pay the City fifteen (15%) percent of the gross revenues from commercial accounts received by Collector for the removal of Solid Waste, ~~Green Waste~~Organic Waste or Recyclables from within the boundaries of City during the Term, or any extension thereof (the “Franchise Fees”). The Franchise Fees shall be paid by Collector to City on or before the last day of the month following the previous calendar quarter that the monies are collected by Collector.

16.2. Billing. Collector shall provide regular billing statements to commercial or industrial customers for which Collector provides billing service covering the monthly period in which services are rendered.

16.3. City and Collector Billing. As of the commencement of this Agreement, the Parties acknowledge that City is responsible for billing residential and commercial customers. Then within ninety (90) days after the commencement of this Agreement, the Collector will become responsible for billing commercial customers. City may request to audit the Collector’s records for proper commercial service billing, franchise fee computation and franchise fee payment. If upon request and completion of an audit the City determines that Collector’s billing practices do not meet reasonable standards, City may take over the billings and collection for Collector’s service to commercial customers under the terms of this Agreement at any time hereafter upon giving Collector ninety (90) days notice of its intention to do so. The City shall be entitled to retain fifteen percent (15%) of the amounts collected from any commercial Customer for which City is providing billing service. City shall pay eighty-five percent (85%) of the monies collected by City to Collector for such services when the amount has been determined and approved by the City at the first meeting of the City Council following the monthly period in which Services are rendered.

Section 17. Collector’s Books and Records: Audits. The books and records of Collector shall be subject to audit and inspection for the purpose of reviewing billing operations, accounts receivable and customer service, by City, its auditors or agents. Collector shall maintain all records relating to the Services-, including, but not limited to, Customer lists, billing records, maps, AB 939 compliance records, AB 341 compliance records, and Customer complaints (collectively, the “Records”), for no less than three (3) years after the termination or expiration of the Term, or as may or any longer period required by applicable law. City shall have the right, upon five (5) business days advance notice, to inspect all Records, and other like materials of Collector which reasonably relate to Collector’s compliance with the provisions of this Agreement.

Collector’s Records shall be made available to City at a City facility, if reasonably practicable, or at Collector’s regular place of business during regular business hours. The City

shall initially bear the cost of such audit. If such audit discloses an underpayment of the Franchise Fees or other sums due under this Agreement in excess of three percent (3%) of the amount which should have been paid, Collector shall promptly tender to the City the amount of such underpayment, together with interest at the rate of ten percent (10%) computed from the date of underpayment, and shall further reimburse the City for the entirety of its audit costs, including, without limitation, auditor's costs and expenses, internal costs and expenses, and legal and other third party expenses. If such audit discloses an underpayment of less than three percent (3%), Collector shall promptly tender to City the amount of such underpayment, together with interest at the rate of ten percent (10%) per annum computed from the date of underpayment, and City shall bear the costs of the audit. If such audit discloses an overpayment, the City shall promptly repay such underpayment to Collector and the City shall bear the costs of the audit.

Section 18. Indemnification.

18.1. Indemnification of City. Collector agrees that it shall protect, defend, indemnify and hold harmless City, its elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("City's Agents") from and against any claim, action or proceeding that arises from this Agreement or any Services performed pursuant to or in connection with this Agreement ("Claim"), including but not limited to all losses, liabilities, fines, penalties, claims, damages, liabilities, judgments, attorney's fees, costs incurred for staff time, court costs, other expenses of litigation, or expenses of litigation awarded to the prevailing Party or Parties. This indemnification does not include gross negligence or willful acts of the City, or City's Agents. At City's discretion, Collector shall satisfy the obligation of this Section by reimbursing City for tendering its own defense. If Collector undertakes the defense of a Claim by providing City-approved representation, City may, participate in the defense of any such Claim.

To the extent permitted by Public Resources Code Section 40059.1, and to the extent noncompliance is caused by Collector's breach of or noncompliance with a provision of this Agreement, Collector agrees to protect and defend City or City's Agents, with counsel selected by the City, and to indemnify and hold harmless City or City's Agents from and against all fines or penalties imposed by the State if the waste diversion goals specified in the Public Resources Code are not met by the City with respect to the Solid Waste collected by Collector under this Agreement. Collector shall indemnify, defend with counsel acceptable to the City, protect and hold harmless the City and City's Agents from and against all claims, damages (including but not limited to special, consequential, and natural resources damages), injuries, response mediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and attorney and expert fees for the adverse party and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the forgoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the City or City's Agents arising from or attributable to the negligence or willful misconduct of Collector or its affiliates and their respective officers, directors, employee and shareholders in handling Hazardous Waste either knowingly or under circumstances in which a reasonable person would or should have known that Hazardous Waste was being handled. The foregoing indemnity is also intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section

9607(c) and California Health and Safety Code Section 25364, to defend, insure, protect, hold harmless and indemnify the City from liability.

18.2. Indemnification of Collector. City shall indemnify, defend and hold Collector, its affiliates and their respective officers, directors, employees and shareholders harmless from and against any and all liabilities, losses, damages, claims, actions and causes of action, costs and expenses (including reasonable attorney’s fees) arising from or in any manner arising out of City’s obligations in this Agreement as well as the grossly negligent or willful acts of City or City’s Agents. Subject to this indemnification, and upon demand of Collector, made by and through Collector’s counsel, City shall appear in defense of Collector, and its officers, employees and agents in any claims or actions, whether judicial, administrative or otherwise arising out of the exercise of this Agreement.

Section 19. Insurance. Collector will continue to carry insurance, which shall be placed with insurers with a current A M Best’s rating of no less than A VII, and which shall include all of the following:

19.1. Required Insurance.

19.1.1 Worker’s Compensation. Collector shall obtain and maintain in full force and effect throughout the Term, worker’s compensation insurance in accord with the provisions and requirements of the California Labor Code. Endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the Term. The policy providing coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The policy shall also be amended to waive all rights of subrogation against the City, its elected or appointed officials, employees, agents or representatives for losses which arise from the Services performed by the Collector pursuant to this Agreement.

19.1.2. General Commercial Liability Insurance. Collector shall carry commercial or comprehensive general liability insurance with a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence / aggregate for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form GG 00 01 11 88).

19.1.3. Automobile Liability Insurance. Collector shall carry automobile insurance with a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence for bodily injury, personal injury, and property damage, and which shall provide coverage for rented and non-owned vehicles. Coverage shall be at least as broad as Insurance Service form number CA 00 01 06 92 covering Automobile Liability, code 1 (any auto).

19.1.4. Public Liability Insurance. Collector shall carry public liability insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage.

Formatted: Indent: First line: 0"

Formatted: Indent: First line: 0"

Formatted: Indent: First line: 0.5"

Formatted: Indent: First line: 0.5"

Formatted: Indent: First line: 0.5"

19.1.5. Pollution or Environmental Liability Insurance. Collector shall carry Environmental or Pollution liability coverage appropriate for the waste activity contemplated in this Agreement, including sudden and accidental upset pollution liability for the amount of One Million Dollars (\$1,000,000.00) per claim or occurrence and One Million Dollars (\$1,000,000.00) in the aggregate.

Formatted: Indent: First line: 0.5"

19.2. Additional Insurance Requirements. Within five (5) days of the Effective Date, Collector shall provide City with certificates of insurance for all of the policies required under this Section 19 ("Certificates"), excluding the required worker's compensation insurance. With the exception of the worker's compensation insurance, all of the insurance policies required in this Section 19 shall: 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, or ten (10) days' in the case of non payment of premium by Collector (as per insurance industry standard), to City of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; name City, and City's Agents as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Collector or operations performed by or on behalf of the Collector to perform the Services including materials, parts, or Equipment furnished in connection with the Services or operations by endorsement; 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 excess of Collector's insurance and shall not contribute to it; and contain standard separation of insured provisions.

19.3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to City and City's Agents, or Collector shall provide a financial guarantee satisfactory to City guaranteeing payment of loss related investigations, claim administration and defense expenses.

19.4. Verification of Coverage. Before the Services commence, Collector shall furnish City with original Certificates and endorsements effecting coverage required by this Section 19. The endorsements shall be on forms approved by the City which contain all of the information required in this Section 19.

19.5. Subcontractors. Collector shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Section 19.

Said insurance shall protect Collector and City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from the Services, whether such operations be by Collector itself, or by its agents, employees, contractors or sub-grantees. Copies of the policies or endorsements evidencing the above insurance coverage shall be filed with the City Clerk. All of the following endorsements are required to be made a part of the insurance policies required by this Agreement.

19.6. Increase in Coverage Requirements. The limits for the insurance coverage required under this Section 19 and the ratings required for insurance companies shall be subject to review and approval by the City Attorney every year and may be increased at that time, at the City Attorney's discretion, to match the coverage provided by the City's own liability insurance policy.

Section 20. Collector Liability for Damage to Street.

Any physical damage caused by the negligent or willful acts or omissions of employees of Collector to public or private property shall be repaired or replaced by Collector at Collector's sole expense. Collector shall be responsible for damage to City's driving surfaces, whether paved or not paved, beyond normal wear and tear.

Section 21. Title to Solid Waste.

All Solid Waste, Recyclables, and ~~Green-Waste~~Organic Waste collected pursuant to this Agreement shall remain the property of the Customer until such time as it is collected for disposal. It is expressly understood that all Solid Waste, Recyclables, and ~~Green-Waste~~Organic Waste collected under this Agreement becomes the property of Collector upon collection, subject to the requirement of delivery to an appropriate disposal site. Collector is hereby granted the right to retain, dispose of, and otherwise use such Solid Waste, Recyclables, and ~~Green-Waste~~Organic Waste, or any part thereof, in any fashion or for any lawful purpose desired by Collector, and to retain any benefit or profit resulting therefrom. Solid Waste which is disposed of at a disposal site shall become the property of the owner or operator of the disposal site once deposited there by Collector.

Section 22.

Rights of City to Perform During an Emergency. Should Collector, for any reason whatsoever, excluding a Force Majeure as defined in Section 11.2, be unable to perform any of the Services required by this Agreement, for a period of more than seventy-two (72) hours, and the City Manager reasonably finds that the resulting accumulation of Refuse in City endangers or menaces the public health, safety or welfare, then, City shall have the right to temporarily take possession of and use Collector's Equipment to carry out Collector's obligations under this Agreement, upon twenty-four (24) hour prior written notice to Collector. Collector agrees that in such event it will fully cooperate with City to affect such a transfer of possession for City's use.

Collector agrees that, in such event, City may take temporary possession of and use all of said Equipment and facilities without paying Collector any rental or other charge, provided that when City takes possession of Collector's Equipment and facilities under this Section 22, City shall assume complete responsibility for the proper and normal use of such Equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above-mentioned property to Collector upon receipt of written notice from Collector stating it is able to resume its normal responsibility under this Agreement.

Section 23. Customer Confidentiality.

Collector shall strictly observe and protect the right of privacy of the Customers. Information identifying individual Customers, or the composition or contents of a Customer's Refuse, shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude Collector from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by ~~SB 1383 or~~ AB 939 ~~or SB 1383.~~

Formatted: Strikethrough

Collector shall not market or distribute, without City's advance written consent, which City may withhold in its sole and absolute discretion, mailing lists with the names or addresses of Customers.

The rights accorded Customers pursuant to this Section shall be in addition to any other privacy right accorded Customers pursuant to federal or state law.

Section 24. Reports and Adverse Information.

24.1. Reports. Within ninety (90) days after the close of Collector's fiscal year, Collector shall submit a written annual report, in a form approved by City, including, but not limited to, the following information:

~~24.1.1.~~ A report on City's progress in meeting and maintaining its ability to meet its goals under ~~SB 1383 and~~ AB 939 ~~and SB 1383~~ as applied to the Franchise Area, along with any recommended changes. Collector shall also provide the City's Public Works Director with quarterly reports on the quantity (by weight) of all Commercial Solid Waste, Residential Solid Waste, Recyclables, Compostables, and ~~Green Waste~~ Organic Waste collected.

Formatted: Strikethrough

24.1.2. A list of Collector's officers and member of its board of directors.

Formatted: Indent: Left: 0"

24.1.3. A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in Collector and any subsidiaries.

Formatted: Indent: First line: 0.5"

24.1.4. The most current annual audited financial statement, upon request. To the extent permitted by the Public Records Act, this document shall remain confidential.

Formatted: Indent: First line: 0.5"

~~24.1.5.~~ A current financial statement, upon request.

24.2. Adverse Information. Collector shall provide City two (2) copies of all reports, or other material adversely affecting this Agreement, which Collector submits to: the State or federal Environmental Protection Agency; the Department of Resources Recycling and Recovery; or any other federal, State, or local agency. Copies shall be submitted to City simultaneously with Collector's filing of such matters with said agencies. Collector's routing correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

Collector shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Collector to any federal, state and local courts, regulatory agencies and other government bodies relating to Collector's performance of Services pursuant to this Agreement, as well as copies of all decisions, correspondence and actions by such agencies. Any confidential data exempt from public disclosure shall be retained in confidence by City or its authorized agents and shall only be made available for public inspections, as required by law.

Collector shall submit to City such other information or reports in such forms and at such times as City may reasonable request or require.

All reports and records required under this or any other section herein shall be furnished to City at the sole expense of Collector.

24.3. Failure to Report. The refusal, failure, or neglect of Collector to file any report required, or the inclusion of any materially false or misleading statement or representation made intentionally, willfully, or knowingly by Collector in such report, may be deemed a material breach of this Agreement, and may subject Collector to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

Section 25. Bonds and Security.

25.1 Performance Bonds. Contemporaneously with the execution of this Agreement, Collector shall secure and execute a performance bond to be held by the City (the "Performance Bond") to ensure performance of Collector for the total amount of Twenty-five Thousand and No/100 Dollars (\$25,000.00). The Performance Bond shall be on terms and in a form acceptable to the City Attorney and shall be issued by a California admitted insurer. The Performance Bond shall serve as security for the faithful performance by Collector of all the provisions and obligations of this Agreement.

Thirty (30) days following Collector's failure to pay City an amount owed under this Agreement, if ever, the Performance Bond may be assessed by City upon five (5) days prior written notice to Collector for purposes including, but not limited to:

- A. Failure of Collector to pay City any sums due under the terms of the Agreement.
- B. Reimbursement of costs borne by City to correct violations of this Agreement, after five (5) days' advance written notice to Collector.
- C. Monetary remedies or damages assessed against Collector due to a breach of this Agreement.

25.2. Replenishment of Bond. Collector shall restore the bond to its original amount of Twenty-five Thousand Dollars (\$25,000.00), within thirty (30) days receipt of notice from the City that any amount has been withdrawn from or assessed against the Performance Bond

Section 26. Breach of Agreement.

26.1. Determination of Breach. If the City Manager reasonably determines that Collector's performance pursuant to this Agreement has not been in conformity with reasonable industry standards obtained in similar cities in Central California, the provisions of this Agreement, the requirements of the Department of Resources Recycling and Recovery, including, but not limited to, requirements for source reduction and recycling (as to the waste stream subject to this Agreement) or any other applicable federal, state or local law or regulation, including but not limited to the laws governing transfer, storage or disposal of Hazardous Waste, the City Manager may advise Collector in writing of such deficiencies. If Collector commits a material breach of this Agreement ("Breach"), City may terminate this Agreement, impose Liquidated Damages, or avail itself of any and all remedies set forth in Section 27 of this Agreement, in addition to all other remedies available to the City in law or equity.

26.2. Events that Constitute a Breach. A Breach includes but is not limited to the following:

26.2.1. Misrepresentation. Collector commits, or attempts to commit, any fraud, intentional material misrepresentation or deceit upon the City in relation to this Agreement or in the statements or materials submitted to City by Collector in connection with this Agreement as of the time the representation or disclosure is made.

26.2.2. Seizure or Attachment of Equipment. There is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating Equipment of Collector, including without limit its vehicles, maintenance or office facilities, or any part thereof of such proportion as to impair Collector's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and City-approved holidays.

Formatted: Indent: First line: 0.5"

26.2.3. Collector Bankruptcy. Collector files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Collector or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator, or similar official of Collector for a part of Collector's operating assets or any substantial part of Collector's property, or shall make any general assignment for the benefit of Collector's creditors, or shall fail generally to pay Collector's debts as they become due.

Formatted: Indent: First line: 0.56"

26.2.4. Court Order or Decree. Any court having jurisdiction enters a decree or order for relief with respect to Collector, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Collector consents to or fails to oppose any such proceeding, or any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of Collector or for any part of

Formatted: Indent: First line: 0.5"

Collector's operating equipment or assets, or order the winding up or liquidation of the affairs of Collector.

26.2.5. Failure to Notify City. Collector fails to notify City in a timely manner of any receipt of notice of violation or official communication from those regulatory agencies regulating Solid Waste, Recyclables, and ~~Green Waste~~Organic Waste collection, transport, processing, or disposal activities.

Formatted: Indent: First line: 0.5"

26.2.6. Lapse of Financial Requirement. If Collector fails to provide or maintain in full force and in effect, the following: any of the insurance policies required pursuant to Section 16 herein; the full amount of the Performance Bond required under Section 25.1 herein; or the full amount of the Payment Bond required under Section 25.2 herein.

26.2.7. Regulatory Violation. Collector violates any orders or filings of any regulatory body having jurisdiction over Collector relative to this Agreement, provided Collector may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred.

26.2.8. Cessation of Services. Collector ceases to provide collection, transportation, processing, or recycling services as required under this Agreement for a period of three (3) consecutive business days or more, for any reason within the control of Collector.

Formatted: Indent: First line: 0.5"

26.2.9. Failure to Meet Payment or Reporting Requirements. Collector fails to make any payment required under this Agreement or refuses to provide City with required information, reports, or records in a timely manner as provided for in the Agreement.

Formatted: Indent: First line: 0.5"

26.2.10. Violation of ~~SB 1383~~ or AB 939 or SB 1383. Any other act or omission by Collector, which materially violates the terms, conditions or requirements of ~~the SB 1383~~ AB 939 and ~~SB 1383~~ as may be amended from time to time; or any other directive rule or regulation issued thereunder; unless the violation is corrected or remedied within the time set on the written notice of violation; or if Collector cannot reasonably correct or remedy the violation within the time set forth in such notice, Collector commences to correct or remedy such violation within the time set forth in such notice and diligently and in good faith continues to cure, correct, or remedy such violation thereafter.

Formatted: Indent: First line: 0.5"

Formatted: Strikethrough

Formatted: Strikethrough

26.2.11. Unremedied Acts or Omissions. Collector commits any act or omission which violates the terms, conditions, or requirements of this Agreement, or any other applicable laws and which is not corrected or remedied within the time set in the written notice of the violation or, if Collector cannot reasonably correct or remedy the breach within the time set forth in such notice, Collector should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

Formatted: Indent: First line: 0.5"

26.2.12. Failure to Correct Breach. Collector fails to correct any Breach within the applicable Cure Period.

Formatted: Indent: First line: 0.5"

26.3. Cure Rights. Notwithstanding any other provision of this Section 26 to the contrary, City shall provide Collector with reasonable notice of and a reasonable opportunity to cure any Breach of this Agreement during the time periods set forth below (the “Cure Period”). Collector shall begin cure of any Breach as soon as it becomes aware of the Breach, whether discovered by Collector or through notice from the City. Upon becoming cognizant of the Breach, Collector shall proceed to cure such Breach as follows:

26.3.1. Immediately, if the City determines the Breach endangers the health, safety, or welfare of the public; or

Formatted: Indent: First line: 0.5"

26.3.2. Within thirty (30) days of giving or receiving notice of the Breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, Collector shall have such additional time as is reasonably needed, no longer than sixty (60) days to expeditiously complete a cure. During any Cure Period, Collector shall provide City weekly written status updates informing City of Collector’s progress curing the Breach.

Formatted: Indent: First line: 0.5"

26.4 Right to Appeal. Collector may submit a response to claims of Breach contained in any written notice from the City within thirty (30) days of receipt of such notice. The City Manager shall review Collector’s response and refer the matter to the City Council or decide the matter and notify Collector of that decision, in writing. A decision or order of City Manager shall be final and binding on Collector, if the Collector fails to file a “Notice of Appeal” with the Council within thirty (30) days of receipt of the City Manager’s decision. Within ten (10) working days of receipt of a Notice of Appeal, the City Manager shall refer any Collector Notice of Appeal timely received to the City Council for proceedings in accordance which shall be conducted as follows:

Upon receiving a Notice of Appeal the City Council, shall set the matter for hearing within a reasonable time. City shall give Collector and any other person requesting the same, fourteen (14) days written notice of the time and place of the City Council hearing on the appeal. At the hearing, the City Council shall consider the report of the City Manager indicating the deficiencies, and shall give the Collector, or its representatives and any other interested person a reasonable opportunity to be heard. Based upon the evidence presented at the public hearing, the City Council shall determine whether the decision or order of the City Manager should be upheld. If, based upon the record, the City Council determines that the performance of Collector is in breach of any material term of this Agreement or any material provision of any applicable federal, state or local statute of regulation, the City Council has sole and absolute discretion to terminate this Agreement or impose damages as set forth herein. The decision of the City Council shall be final and conclusive, and there shall be no appeal of the City Council decision. Collector’s performance under this Agreement is not excused during the period of time prior to the Council’s final determination as to whether such performance is deficient.

Section 27. Termination, Liquidated Damages and other Remedies.

27.1. Termination. In the event Collector commits a Breach of this Agreement, City shall have the right to terminate this Agreement (“Termination”).

27.2. Liquidated Damages.

27.2.1. City finds, and Collector agrees, that as of the Effective Date of this Agreement, it is impractical, if not impossible to reasonably ascertain the extent of damages which will be incurred by City as a result of a Breach by Collector of its obligations under this Agreement. Some reasons for the impracticability of ascertaining damages include, but are not limited to: the difficulty in estimating the substantial damage that results to Customers who are denied Solid Waste disposal services or denied quality or reliable service; and the difficulty valuing the damage caused from the inconvenience, anxiety, frustrations and deprivation of the benefits provided under the Agreement to individual members of the general public for whose benefit this Agreement exists. The Parties agree that these damages manifest in subjective ways and in varying degrees of intensity, and are incapable of measurement in precise monetary terms. The Parties agree that any remedy for such breaches, including the termination of this Agreement are, at best, a means of future correction and not remedies, which can adequately make the public whole for past breaches.

Formatted: Indent: First line: 0.5"

27.2.2. The City Council may, at its discretion, assess liquidated damages not to exceed the sum of Two Thousand Dollars (\$2,000) per day, for each calendar day that the Services are not provided by Collector in accordance with this Agreement for a period not to exceed forty-five (45) days ("Liquidated Damages"). In addition, the City Council may order assessment against the Performance Bond and Payment Bonds required by Section 25 as set forth herein, the termination of this Agreement, or both.

Formatted: Indent: First line: 0.5"

27.2.3. The City finds, and Collector acknowledges and agrees that the above-described liquidated damages provision represent a reasonable sum in light of all of the circumstances. Said liquidated damage sums shall be applicable to each calendar day of delay during which Collector has been found by the City Council to be in Breach pursuant to Section 26. Collector shall pay any Liquidated Damages assessed by the City Council within thirty (30) days after they are assessed. If they are not paid within the thirty-day (30) period, City may withdraw said amount from the Performance Bond or Payment Bond, as appropriate, pursuant to Section 25, order the Termination of the Franchise granted by this Agreement, or both.

Formatted: Indent: First line: 0.5"

27.3. Remedies Not Exclusive. The right of Termination or to impose Liquidated Damages are in addition to all other rights of City upon a failure of Collector to perform its obligations under this Agreement, including but not limited to the rights provided in Section 28.

Section 28. City's Additional Remedies. In the event Collector commits a Breach of this Agreement, and the City has terminated this Agreement, in addition to the remedies set forth in Section 27, City shall have the following rights:

28.1. Rental of Collector Equipment. Notwithstanding the provisions set forth in Section 22 of this Agreement, City shall have the right to rent or lease Equipment from Collector for the purpose of collecting, transporting and disposing of Refuse which Collector is obligated to collect, transport and dispose of pursuant to this Agreement, for a period not to exceed six (6) months. If such Equipment is not owned by Collector, Collector shall assign to City, to the extent possible, the right to possess the Equipment. If City exercises its rights under this Section, City shall pay to

Collector the reasonable rental value of the Equipment so taken for the period of City's possession thereof.

28.2. Right to License others to Provide Disposal Services for the City. City shall have the right to license others to perform the Services otherwise to be performed by Collector hereunder, or to perform such Services itself.

28.3. Right to Other Damages. City shall have the right to obtain damages or injunctive relief. The Parties recognize and agree that in the event of Breach by Collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement by Collector and to enjoin the Breach thereof.

Section 29. Compliance with Applicable Law.

Collector agrees that it shall comply with all applicable federal, state, and local laws and regulations, expressly including the provisions set forth in the Code which are applicable to the work or business in which it is herein franchised, and with any and all amendments to such applicable provisions during the Term.

Section 30. Assignment.

The Franchise granted by this Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except Collector, either by act of the Collector or by operation of law, without the prior written consent of City expressed by a resolution or ordinance approved by the City Council, which may be withheld for any reason, conditioned or granted in the City's sole discretion. Any attempt by Collector to assign this Franchise without the consent of City shall be null and void.

If Collector attempts to transfer the Franchise prior to obtaining City consent, all of the profits or twenty-five percent (25%) of the gross revenues received pursuant to the Services provided under this Agreement, from the date of attempted transfer until the date of City consent, whichever is greater, shall be returned to City.

Section 31. Franchise Transfer: Fees.

Any application for a Franchise transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in an amount to be set by the City by resolution or ordinance of the City Council, to cover the cost of all direct and indirect administrative expenses, including consultants and attorneys, necessary to adequately analyze the application and to reimburse City for all direct and indirect expenses. In the event that City's actual costs exceed the amount of the transfer fee, Collector shall reimburse City for all additional costs which are not covered by the transfer fee, up to, but not exceeding Five Thousand Dollars (\$5,000.00). Bills shall be supported with evidence of the expense or cost incurred. The applicant, for any such transfer, shall pay such bills within thirty (30) days of receipt. The Franchise transfer fees detailed

in this Section are over and above any franchise fees specified in the other portions of this Agreement.

Section 32. City Must Approve Change in Control of Collector.

City consent is required for any change in control of Collector. Collector is a corporation, and any acquisition of more than twenty-five percent (25%) of Collector's voting stock by a person, or group of persons acting in concert shall be deemed a change in control. Any change in control of the Collector occurring without prior City approval shall constitute a material breach of this Agreement.

Section 33. Amendment to Agreement.

This Agreement is intended to carry out City's obligations to comply with the provisions of ~~the SB 1383 and~~ AB 939 ~~and AB 1383~~, and implemented by regulations of the Department of Resources Recycling and Recovery ("Regulations"), as they may from time to time be amended. In the event that ~~SB 1383~~, AB 939, ~~SB 1383~~, or other state or federal laws or regulations enacted after the Effective Date, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except for Rate adjustments made pursuant to Section 9, this Agreement may be amended or modified only by a written agreement duly authorized and executed by both the City and Collector.

Formatted: Strikethrough

Formatted: Strikethrough

Section 34. General Provisions.

34.1. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of California. Venue for all legal proceedings arising from this Agreement shall be in the Superior Court for the County of Stanislaus in the State of California. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Eastern District of the State of California.

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

Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

To City: City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attn.: City Clerk
Tel: (209) 863-7198
Fax: (209) 869-7100

With courtesy copy to: City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attention: City Manager
Tel: (209) 863-7122
Fax: (209) 869-7100

And Churchwell White LLP
1201 K Street, Suite 710
Sacramento, California 95814
Attention: Douglas L. White, Esq.
Tel: (916) 468-0950
Fax: (916) 468-0951

To Collector: Gilton Solid Waste Management, Inc.
755 S. Yosemite Ave.
Oakdale CA 95361
Attention: President
Tel: (209) 527-3781
Fax: (209) 527-3781

With courtesy copy to: Bart Barringer
Mayol & Barringer
1327 J Street
Modesto, CA 95354

34.3. Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

34.4. Exhibits Incorporated. The following “Exhibits” are attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Exhibit Title</u>
Exhibit A	Definitions
Exhibit B	Franchise Area
Exhibit C	Rates
Exhibit D	Bulky Item Collection Program
Exhibit E	C&D Debris Diversion Policy
Exhibit F	Specified E-Waste
<u>Exhibit G</u>	<u>SB 1383 Additional Services</u>

34.5. Time of Essence. Time is of the essence for the Agreement and each provision contained within and each provision is made and declared to be a material, necessary and essential part of the Agreement.

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

34.7. Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of the Agreement. Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

34.8. Entire Agreement. This Agreement, together with its specific references, attachments and Exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

34.9. Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement, including the 2003~~14~~ Agreement.

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

34.11. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” and “can” are permissive.

34.12. Successors and Assigns. All representations, covenants, and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of, any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns.

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

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

34.15. Necessary Acts and Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of the Agreement.

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

[SIGNATURES ON FOLLOWING PAGE.]

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

CITY:

City of Riverbank, a municipal corporation of the State of California

By: _____
~~Jill Anderson~~ Richard O'Brian, City
~~Manager~~ Mayor

Date Signed: _____

Approved as to Form:

By: _____
Tom Hallinan, City Attorney

Attest:

By: _____
Annabelle Aguilar, City Clerk

GILTON:

Gilton Solid Waste Management, Inc., a California Corporation

By: _____
Richard Gilton, President

Date Signed: _____

EXHIBIT A

Definitions

Capitalized words in the Agreement shall have the following meanings:

1. “AB” shall mean an Assembly Bill of the California Legislature.
2. “AB 341” shall mean the amendments to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), Chapter 476, as amended, supplemented, superseded, and replaced from time to time.
3. “AB 939” shall mean the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.
- ~~3-4.~~ AB 1826 shall mean the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.
- ~~4-5.~~ “Agreement” shall mean this Franchise Agreement between the City and Collector, including all exhibits and future amendments.
- ~~5-6.~~ “Bin” or “Bins” shall mean receptacles provided by Collector for commercial customers which is picked up by Collection trucks by means of a front-loading apparatus.
- ~~6-7.~~ “Bulky Items” shall mean large items of Solid Waste such as appliances, furniture, branches, and other oversize wastes whose large size precludes or complicates their placement in containers or handling by normal collection, processing, or disposal methods, but excluding Excluded Waste; items larger than five cubic yards or heavier than 500 pounds; and items of excessive size or density, such as engine blocks, spas, boats, and trailers. A list of acceptable and unacceptable Bulky Items is attached as **Exhibit D**.
- ~~7-8.~~ “Breach” shall be as defined in Section 26.1 of this Agreement.
- ~~8-9.~~ “Cart” or “Carts” shall mean industry standard receptacles for disposal of residential Solid Waste, ~~Green Waste~~Organic Waste, and Recyclables, in a range of sizes. A Cart has wheels, a handle for ease of movement, and a tight-fitting, attached lid and is designed to be dumped manually or mechanically into a Solid Waste collection vehicle.
- ~~9-10.~~ “Certificates” shall be as defined in Section 19.2 of this Agreement.
- ~~10-11.~~ “City” shall mean the City of Riverbank, Stanislaus County, State of California.
- ~~11-12.~~ “City’s Agents” shall be as defined in Section 18.1 of this Agreement.

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

~~12.13.~~ “City Attorney” shall mean the city attorney for the City of Riverbank.

~~13.14.~~ “City Council” shall mean the City Council of the City of Riverbank.

~~14.15.~~ “City Engineer” shall mean the city engineer for the City of Riverbank.

~~15.16.~~ “City Manager” shall mean the city manager for the City of Riverbank.

~~16.17.~~ “Claim” shall be as defined in Section 18.1 of this Agreement.

~~17.18.~~ “Collector” shall be as defined in the Preamble to this Agreement.

~~18.19.~~ “Construction and Demolition Debris” or “C&D Debris” shall mean waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements and on houses, commercial buildings, and other structures, but not including any Excluded Waste.

~~20.~~ “Container” or “Containers” shall be as defined in Section 11.1 of this Agreement.

~~19.21.~~ Contamination Monitoring shall be monitoring for prohibited container contaminants and notifying generators if contamination is found.

~~20.22.~~ “Cure Period” shall be as defined in Section 26.3. of this Agreement.

~~21.23.~~ “Customer” or “Customers” shall mean an individual(s), entity or entities that receive any services provided by Collector pursuant to this Agreement. Customer shall also mean the person, organization, or corporation receiving services to which billing statements are sent.

~~22.24.~~ “Effective Date” shall be as defined in the Preamble to the Agreement.

~~23.25.~~ “Electronic Waste” or “E-Waste” shall mean waste containing or consisting of electronic devices and components, such as computers, monitors, terminals, computer cards and components, computer peripheral devices, main frame computers, keyboards, mice, printers and scanners, mini-systems, power supply units, servers, connectors/cables, storage discs, consumer electronics, printed circuit boards, televisions, chips and components, cellular and other phones, telecommunications equipment, and fax machines and copiers, but not including Excluded Waste.

~~24.26.~~ “Equipment” shall mean Collector’s vehicles, tools, and equipment for the Services for which it is responsible under this Agreement.

~~25.27.~~ “Excluded Waste” shall mean Hazardous Waste; Medical and Infectious Waste; liquid wastes; volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material; waste that Collector reasonably believes would, as a result of or upon disposal, be a violation of local, state, or federal law, regulation, or ordinance, including land use restrictions or conditions; waste that cannot be disposed of in Class III landfills; waste that in Collector’s reasonable opinion would present a significant risk to human health or the

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

environment, cause a nuisance, or otherwise create or expose Collector or the City to potential liability. Excluded Waste does not include de minimis volumes or concentrations of waste of a type and amount normally found in residential Solid Waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Wastes in compliance with Sections 41500 and 41802 of the Public Resources Code.

~~26,28.~~ “Exhibits” shall be as defined in Section 34.4. of this Agreement.

~~27,29.~~ “Force Majeure” shall be as defined in Section 11.2. of this Agreement.

~~28,30.~~ “Franchise Area” shall be as defined in Section 4.1. of this Agreement.

~~29,31.~~ “Franchise Fees” shall mean both the fees retained by City and paid by Collector to City as defined in Section 16.1.

~~30.~~ “Green Waste” shall mean all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar plant materials, but not including Excluded Waste, palm material, or items longer than five (5) feet or with a diameter greater than six (6) inches.

~~31,32.~~ “Hazardous Waste” shall mean a waste, or combination of wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may do either of the following:

- a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
- b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. (Public Resources Code Section 40141.)

~~33.~~ “HDPE (High Density Polyethylene)” shall mean a recyclable plastic that includes, but is not limited to, milk jugs.

~~32,34.~~ High Diversion Organic Waste Processing Facility shall mean a facility that is in compliance with the reporting requirements of SB 1383 and meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent (50%) between January 1, 2022 and December 31, 2024, and 75 percent (75%) after January 1, 2025 as calculated pursuant to SB 1383 for Organic Waste received from the Mixed Waste.

~~33,35.~~ “Household Hazardous Waste” shall maintain the meaning set forth in Title 14, California Code of Regulations, Section 18502 or successor laws and regulations as may be amended from time to time.

~~34,36.~~ “Liquidated Damages” shall be as defined in Section 27.2.1 of this Agreement.

Formatted: Indent: Left: 0.44", No bullets or numbering

~~35-37.~~ “Medical and Infectious Waste” shall mean biomedical waste generated at residences in excess of legal limits or at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, and other similar establishments.

38. “Notice of Appeal” shall be as defined in Section 26.4 of this Agreement.

~~39. “Organic Waste” shall be all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar plant materials, (but not including palm fronds or items longer than five (5) feet or with a diameter greater than six (6) inches), food, food scraps, food-soiled paper, wood waste, paper and cardboard.~~

~~36. Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, yard trimmings, organic textiles and carpets, lumber, wood, paper products, printing and priting Paper.~~

~~37-40.~~ “Party” or “Parties” shall be as defined in the Preamble to this Agreement.

~~38-41.~~ “Payment Bond” shall be as defined in Section 25.2 of this Agreement.

~~39-42.~~ “Performance Bond” shall be as defined in Section 25.1 of this Agreement.

~~40-43.~~ “PET (Polyethylene, Terephthalate)” PET means a recyclable plastic that includes, but is not limited to, 2-liter soda bottles.

~~41-44.~~ “Rates” shall mean the rates charged by Collector or City to Customers within the City as set forth in Section 9.1.

~~42-45.~~ “Recitals” shall be as defined in Section 1 of this Agreement.

~~43-46.~~ “Records” shall be as defined in Section 13 of this Agreement.

~~44-47.~~ “Recyclable Materials” or “Recyclables” shall mean those materials that may be separated on a commercially reasonable basis from Solid Waste and returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Subject to mutually agreed revision by the Parties, Recyclable Materials or Recyclables include, newspaper (including inserts, coupons, and store advertisements), corrugated cardboard, mixed waste paper (including office paper, computer paper, magazines, junk mail, catalogs, Kraft bags and Kraft paper, paperboard, egg containers, phone books, brown paper, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, and cereal and other similar food boxes), glass containers (including colored glass bottles and jars), aluminum (including beverage containers, foil, food containers, and small scrap metal), plastic milk and juice containers, steel or tin cans, small scrap metal, PETE and HDPE plastic containers (natural and colored), used motor oil and oil filters, and any other commercially viable recyclable materials mutually agreed to by Collector and the City.

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

Formatted: Indent: Left: -0.19"

~~45-48.~~ “Refuse” shall mean general term for waste, including Solid Waste.

~~46-49.~~ “Regulations” shall be as defined in Section 33 of this Agreement.

~~50.~~ “Roll-Off Box” shall mean a container, with a minimum capacity of ten cubic yards, designed for mechanical emptying with a vehicle, and used for the storage and transportation of solid waste, ~~green waste~~ Organic Waste, recyclables, and other commodities.

~~47-51.~~ Route Review/Waste Audit shall mean inspection and compliance review of a random sample to determine compliance of containers along a hauler route and generate an electronic or written record for each inspection;

~~52.~~ “SB 1383” shall mean Senate Bill 1383, Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions (“SB 1383”), establishing a statewide target to decrease methane emissions at landfills by reducing the disposal of organic waste by 50% below 2014 levels by 2022 and by 75% below 2014 levels by 2025.

~~48-53.~~ “Services” shall be as defined in Section 5.1 of this Agreement.

~~49-54.~~ “Solid Waste” shall mean and include all forms of residential and commercial waste generated within City limits and intended for disposal. Solid Waste as defined in Public Resources Code, Section 40191 and regulations promulgated thereunder and without limitation includes all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, Refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes. ~~Excluded from the definition of Solid Waste are Excluded Waste, Recyclable Materials, and Green Waste~~ Organic Waste. Notwithstanding any provision to the contrary, “Solid Waste” may include de minimis volumes or concentrations of waste of a type and amount normally found in residential solid waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the Resources Code. For the purposes of this Agreement the Collector may, but is not required, to collect, haul, dispose or recycle any liquid wastes, abandoned vehicles, and parts thereof, industrial appliances; dewatered, treated or chemically fixed sewage sludge or manure.

~~50-55.~~ “State” shall mean the State of California.

~~51-56.~~ “Term” shall be as defined in Section 7 of this Agreement.

~~52-57.~~ “Termination” shall be as defined in Section 27.1 of this Agreement.

~~53-58.~~ “Universal Waste” shall mean any waste matter which the State of California classifies as ‘universal waste,’ including, but not limited to, items and materials listed in 22 CCR 66261.9,

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

Formatted: Underline

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

as it may be amended, as well as any items listed below not classified by the State of California as 'universal waste.' Universal Waste includes, but is not limited to, the following:

- E-Waste;
- Batteries (except automobile batteries);
- Thermostats;
- Lamps with fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and other lamps with hazardous waste characteristics;
- Cathode ray tubes;
- Aerosol cans;
- Mercury-containing items, including light switches, pressure gauges, and thermometers;
- Appliances, devices, and other objects containing electronic components, including (but not limited to) computers, computer monitors, cellular telephones, copiers, fax machines, DVD players, VCRs, and televisions; and
- Prescription and non-prescription drugs, not including controlled substances.

EXHIBIT B
Franchise Area

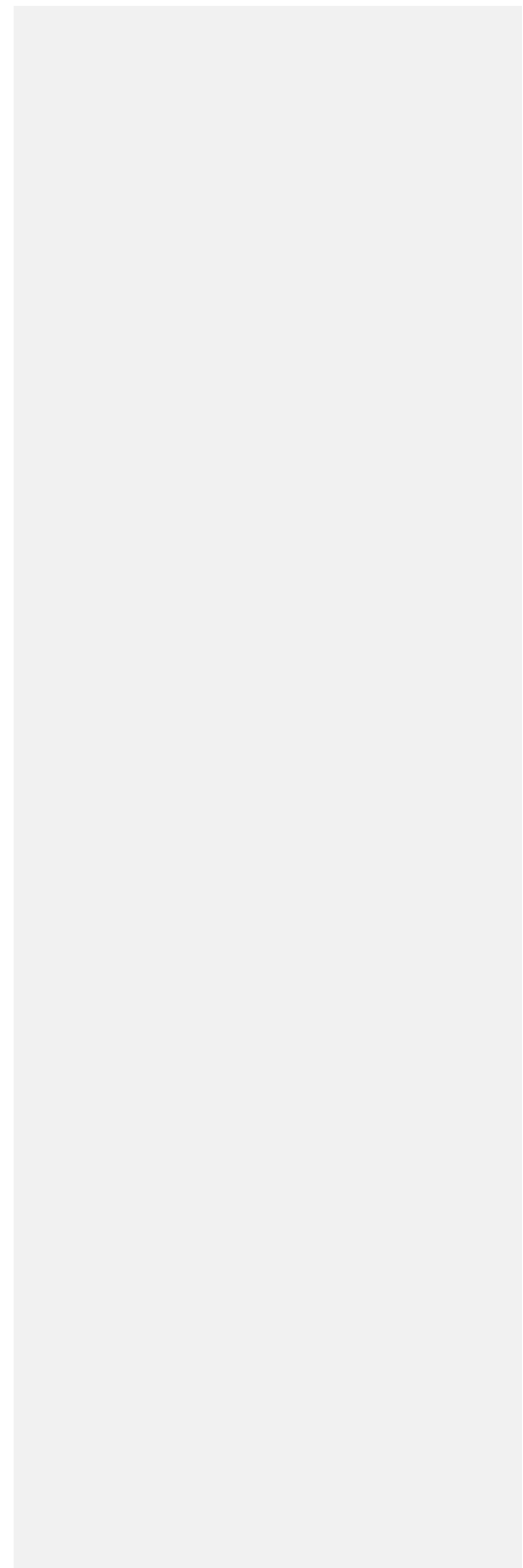


EXHIBIT C
Rates

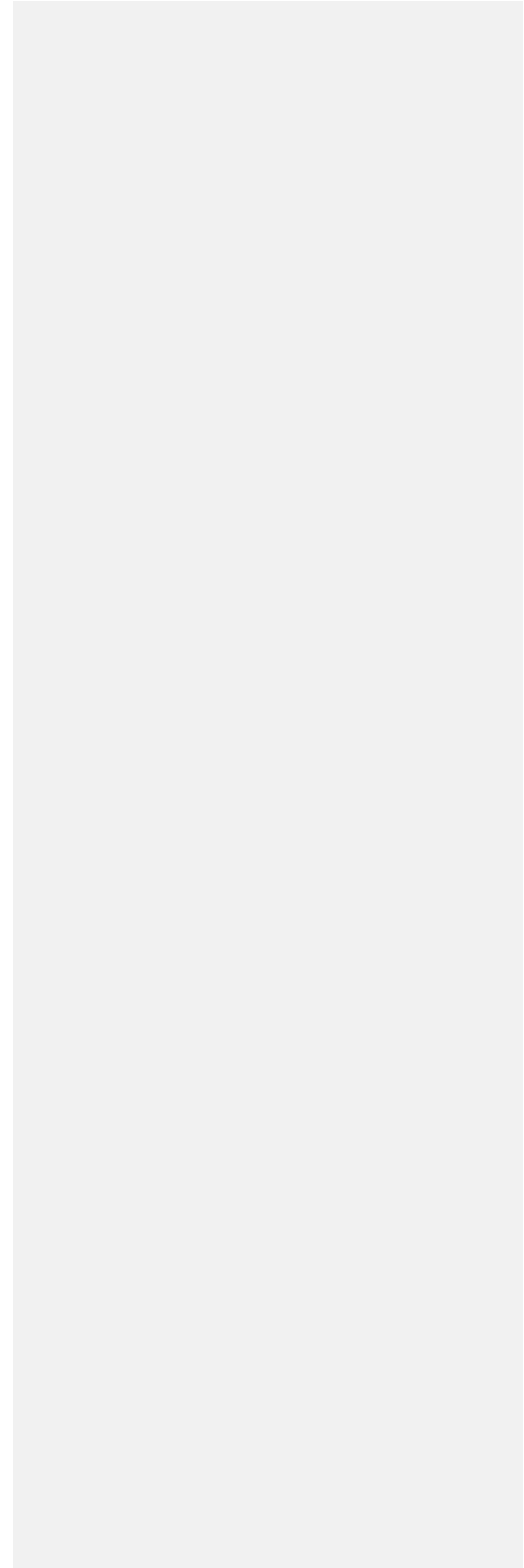


EXHIBIT D
City of Riverbank
Bulky Item Collection Program

- The Bulky Item Collection Program is available to all residential customers within the City of Riverbank.
- Customers are allowed to request up to two (2) collections per calendar year.
- To arrange collection, the customer must contact Collector and set up an appointment.
- Appointments will be scheduled by Collector and will occur within two (2) weeks of the customer's request.
- Bulky Items are limited to those items that will not fit within the customer's existing garbage container.
- Bulky Items are limited to those items listed below as "Acceptable", or to those items approved by Collector at the time the appointment is requested.
- Customers must place all Bulky Items on the paved street surface in front of their residence without blocking driveways or traffic, and must be easily accessible to Collector's vehicle.
- Customers must place all Bulky Items out for collection no earlier than 6:00 P.M., California time, before the scheduled collection day or no later than 6:00 A.M., California time, on the scheduled collection day.

<u>ACCEPTABLE ITEMS</u>		<u>UNACCEPTABLE ITEMS</u>	
Refrigerators*	Freezers*	Automobile parts	Tires
Water heaters	Air Conditioners	Garbage	Commercial waste
Washers	Dryers	Construction waste	Concrete / Asphalt
Dishwashers	Toilets/Sinks/Tubs	Sheetrock	Hazardous waste
Couches / Sofas	Tables / Chairs	Paints / Solvents	Dirt / Sod
Dressers	Mattresses	Liquid of any kind	Glass
Bed frames	Furniture	Green—waste <u>Organic</u>	Dead animals
		<u>Waste</u>	
Microwaves	Hot tubs / BBQs	Televisions	Computer monitors
Patio furniture	Doors / ladders		
Lawn mowers	Bicycles		
Exercise	Bundled, Dry		
Equipment	Cardboard		

* Doors must be removed or locked to prevent access by minors

EXHIBIT E
Riverbank Construction & Demolition Debris Policy

EXHIBIT F
Acceptable E-Waste
for
Curbside Collection Program

Computers
Printers
Copiers
Scanners
Fax Machines
Telephones
Cellular Telephones
Stereos
DVD / VHS Players

Televisions (Cathode Ray Tubes)
Computer Monitors
Flat Screen Televisions
Lap Top Computers
Networking Equipment
Printed Circuit Boards
Servers
Main Frame Units

EXHIBIT G
SB 1383 Additional Services

City of Riverbank
Monthly Refuse Service Rates
Automated Services
Effective Date January 1, 2022

BASIC CART SERVICE	Current Rates	New Rates
30 Gallon MSW Cart Rate	\$ 20.52	\$ 20.52
90 Gallon - MSW Cart Rate	\$ 23.40	\$ 23.40
90 Gallon - Organics Cart Rate	\$ -	\$ 11.85
Additional 90 Gallon Cart- (Any Type)	\$ 7.45	\$ 15.45

Senior Citizen	Current Rates	New Rates
30 Gallon MSW Cart Rate	\$ 15.44	\$ 15.44
90 Gallon - MSW Cart Rate	\$ 17.55	\$ 17.55
90 Gallon - Organics Cart Rate	\$ -	\$ 11.85
Additional 90 Gallon Cart- (Any Type)	\$ 5.85	\$ 13.42

ADDITIONAL SERVICES

Go Back	\$ 7.50	\$ 15.00
Extra Dump on Cart	\$ 10.00	\$ 18.75
Wash on Cart	\$ 12.50	\$ 21.00

City of Riverbank
Monthly Refuse Service Rates
Front Loader Bins
Effective January 1, 2022

Number of Accounts	Size of Bin	Collection Frequency	Current Rate	New Rate
1	1 Cubic Yard	1	\$57.06	\$69.41
50	2 Cubic Yard	1	\$90.63	\$115.33
6	2 Cubic Yard	2	\$165.31	\$214.71
24	2 Cubic Yard	3	\$240.12	\$314.22
13	3 Cubic Yard	1	\$124.70	\$161.75
7	3 Cubic Yard	2	\$226.16	\$300.26
0	3 Cubic Yard	3	\$316.53	\$427.68
0	3 Cubic Yard	4	\$426.25	\$574.45
45	4 Cubic Yard	1	\$162.75	\$212.15
27	4 Cubic Yard	2	\$299.42	\$398.22
20	4 Cubic Yard	3	\$417.55	\$565.75
10	4 Cubic Yard	4	\$500.99	\$698.59
4	4 Cubic Yard	5	\$615.93	\$862.93
2	4 Cubic Yard	6	\$739.42	\$1,035.82
9	6 Cubic Yard	1	\$223.11	\$297.21
8	6 Cubic Yard	2	\$412.35	\$560.55
3	6 Cubic Yard	3	\$593.84	\$816.14
0	6 Cubic Yard	4	\$693.32	\$989.72
0	6 Cubic Yard	5	\$833.35	\$1,203.85
1	6 Cubic Yard	6	\$867.31	\$1,311.91

\$2.85 per yard per week

Additional Charges:

Go-Back	\$15.00	\$55.00	Per Event
Extra Dump	\$20.00	\$45.00	Per Event
Lock Installation	\$30.00	\$60.00	Locking Bar (One time charge)
	\$25.00	\$25.00	Master Lock
	\$35.00	\$35.00	Disk Lock

City of Riverbank
SB 1383 - Additional Service Costs
Effective Date: January 1, 2022

Residential Customers:

Cost per Residential Customer per Month

Compost Procurement	\$0.13
Contamination Monitoring, Route Reviews & Waste Audits	\$0.10
Outreach & Education	\$0.05

Commercial Customers:

Cost per Commercial Customer per Yard Collected

Compost Procurement	\$0.12
Contamination Monitoring, Route Reviews & Waste Audits	\$0.10
Outreach & Education	\$0.05

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 12.2

SECTION 12: NEW BUSINESS

Meeting Date: September 28, 2021

Subject: A **Resolution** Approving a Letter of Agreement with the SitelogiQ for the Design, Engineering and Development of an Energy Efficiency Project and Directing the City Manager to Execute the Letter of Agreement

Submitted by: Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council consider approval of the proposed resolution approving a Letter of Agreement (LOA) with SitelogiQ to move forward with the design and engineering of an energy efficiency project on various locations within the City of Riverbank.

SUMMARY

At the most recent Riverbank City Council Strategic Planning Session the Council expressed a desire to consider new innovative energy efficiency and micro grid projects. Many times over the past number of years Council has discussed a desire to see developments as well as City operations find alternative sources of energy in addition to finding ways to lower the City of Riverbank's carbon footprint. Additionally, staff is always tasked with staying aware of opportunities to reduce costs for more efficient municipal operations.

At the August 24th City Council meeting the Council considered the general scope and project financing details for a solar and energy efficiency project within Riverbank. SitelogiQ performed an energy audit of all City facilities and was tasked with creating a smaller scale project for City consideration. After a significant amount of analysis SitelogiQ met with City staff to propose a handful of solar locations, as well as lighting and HVAC upgrades. The sites initially proposed as sites for potential solar array locations included Whorton Park (adjacent to the water well), the Community Center parking lot and the Police Department parking lot to offset power usage at those locations. Subsequently, Sitelogic also proposed a project location at the Wastewater Treatment Facility for possible solar as the Wastewater Treatment Facilitation is the City largest power user. All four locations would provide an added benefit of covered area for shaded parking, equipment storage, or covered park area.

At the August 24th meeting Council directed the City Attorney to move forward with negotiating the Letter of Agreement (LOA) to allow Site Logic to move into the design

and engineering phase of the project. The City Attorney has reviewed and provided some language edits to the LOA document. The LOA would commit the City to partial financial exposure (\$82,500) within the design process based on the conditions in the LOA if the City chooses to not move forward with project assuming design is completed without significant project, engineering and or financial concerns. The LOA does allow some flexibility for changing or not moving forward with the project is unknown matters arise during the design, engineering and financing phases.

If the LOA is approved, SitelogiQ will commence with design, at the same time staff will work on the financing options for Council consideration at a future date. These financing options will include a variety of choices for Council as it relates to the amount of desired ARPA funding contribution to the project as well as bonding options for Council consideration at a future meeting.

FINANCIAL IMPACT

As stated previously, there is a range of savings depending on financing of between \$6.59M in savings to approximately \$11.82M in savings (some general fund, some enterprise fund). This greatly depends on the project scope as well as anticipated financing rates for the project. Before final approval (or consideration of approval) of this project a suite of options will be provided to Council to consider in terms of financing.

ATTACHMENTS:

1. Resolution 2021-XXXX
2. Letter of Agreement

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPROVING A LETTER OF AGREEMENT (LOA) WITH THE
SITELOGIQ FOR THE DESIGN, ENGINEERING AND DEVELOPMENT OF AN
ENERGY EFFICIENCY PROJECT AND DIRECTING THE CITY MANAGER TO
EXECUTE THE LETTER OF AGREEMENT**

WHEREAS, the City Council has directed staff to seek out energy efficiency and microgrid projects; and

WHEREAS, the City has scoped various projects over the years and has desired a smaller scale project which is manageable and fiscally responsible; and

WHEREAS, Sitelogiq has prepared a preliminary project and the next step is execution of a letter of agreement to move to the next phase of design and engineering; and

WHEREAS, the City Council at their August 24th City Council meeting directed the City Attorney to work with Site Logiq to develop a letter of agreement; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the attached letter of agreement (LOA) and directs the City Manager to execute the document.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th 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: Letter of Agreement



September 10, 2021

Sean Scully, City Manager
City of Riverbank
6707 3rd Street,
Riverbank CA. 95367

RE: Facility Solution Project Feasibility and Letter of Agreement (LOA)

Dear Mr. Scully:

This Letter of Agreement (LOA) is intended to briefly describe the manner in which SiteLogIQ and the City of Riverbank will work together during the engineering process, as well as the obligations of each party with respect to the engineering process.

Client Identification: City of Riverbank

Facility Location(s):

Wastewater Treatment Facility: 23865 South Santa Fe Street (MID)
Community Center: 3600 Santa Fe Street (PG&E)
Worton Park/ Well 6: 6082 Tennessee Ave (PG&E)
City Hall: 6707 3rd Street (PG&E)
Police Station: 6727 3rd Street (PG&E)

Area of Focus:

SiteLogIQ will provide a proposal and Facility Solution agreement for the implementation of facility improvements, energy conservation, energy generation, and/or energy management services.

Scope of Services:

- A. SiteLogIQ will conduct a site visit to the Facilities to perform a physical audit and collect data. The Client will cooperate and collaborate with SiteLogIQ during this phase by providing copies of requested data, including (if



available): Site and/or system drawings, historical operating data produced or recorded by existing controls or meters, manual logs, and any other data that may be pertinent to this evaluation.

- B. Client will also make operational personnel available at reasonable times for in-person and telephone interviews with SiteLogIQ to answer questions about existing facilities conditions, operating profile and existing equipment operation.
- C. Where operational data is not available to support the analysis, SiteLogIQ will utilize standard engineering practices and assumptions to provide a conservative analysis on the potential energy savings from installing the energy conservation measures.
- D. SiteLogIQ will also analyze the potential for energy generation measures.
- E. SiteLogIQ will recommend energy management and/or on-going monitoring services.
- F. For each of the targeted Energy Conservation Measures (ECMs), estimated (projected) operating costs will be calculated and then compared to existing operating costs. Existing conditions will be evaluated using data-logged or stipulated and mutually agreed operational schedules.
- G. SiteLogIQ will prepare a return on investment analysis (consistent with the client's preferred evaluation methods based on agreed upon Economic Criteria noted below).
- H. SiteLogIQ will provide budgetary construction costs estimates and a summary Scope of Work for all recommended ECMs. Cost estimates will represent a "turnkey" solution. Refer to Attachment A for the list of discussed potential ECM's to be evaluated.
- I. The results will be presented to client as a recommended Scope of Work and a financial proforma (such as a Cash Flow) which will include costs and energy savings for the next 25 years with escalation of no more than 5% and including future maintenance & repair costs. As a result, *True Cost of Ownership* is presented to the client for their review and consideration.

Client Responsibilities:



In order for SitelogIQ to provide the services described in this LOA, the Client agrees to provide SitelogIQ with the “must have” items in Attachment B.

Development Efforts:

Client acknowledges that SitelogIQ will incur considerable expense in developing the Project. This expense includes the cost to provide professional services by SitelogIQ’s development team, the cost to visit the Site, and the cost to prepare the deliverables.

Ownership of Work:

All work products, including all proforma’s, schedules, and scope of work documentation provided by SitelogIQ, will only become the property of the Client upon execution of a binding, irrevocable contract between the Client and SitelogIQ for the implementation of the ECMs proposed by SitelogIQ. Notwithstanding the foregoing, to the extent that any tangible work documentation produced by SitelogIQ contains SitelogIQ’s pre-existing materials (including but not limited to templates, forms, and other SitelogIQ -created materials), SitelogIQ will remain the sole and exclusive owner of all such pre-existing materials.

Interconnection Application Fee: (To be paid directly to the Utility prior to Energy Services Agreement)

SitelogIQ is requesting this fee in order to obtain important Distribution System information regarding the planned solar interconnection points, **prior** to submitting an Interconnection Application during construction of a Solar Generation PV Array. The purpose is to avoid or address early in the design phase any existing PG&E/MID infrastructure that may prohibit or delay the construction of a Solar Generation PV Array at any of the City of Riverbank listed locations below.

Wastewater Treatment Facility: 23865 South Santa Fe Street (MID)
Community Center: 3600 Santa Fe Street (PG&E)
Worton Park/ Well 6: 6082 Tennessee Ave (PG&E)
Police Station: 6727 3rd Street (PG&E)

- A. Complete Interconnection Application Report:
Provides a readily available level of Distribution System data.

PG&E charges **\$900 - \$1500** (not included in Development Fee) per application of which there are 3 sites which SitelogIQ recommends for the Pre-Application.

MID charges **\$250** (not included in Development Fee) per application of which there are 1 sites which SitelogIQ recommends for the Pre-Application.

Development Fee:



SitelogIQ will develop the Project for the firm, fixed fee/rate as listed below:

1. Fee/Rate of: Fee not to exceed **\$82,500.00.**

In the event that the Client enters into a contract with SitelogIQ for the implementation of the ECMs within 60 days after presenting the Proposal, then SitelogIQ's cost to develop the Proposal will not be billed. If the Client enters into a contract with SitelogIQ at a later date, the Development Fee paid by the Client will be credited toward the project's total implementation cost.

If SitelogIQ cannot meet the Economic Criteria Client will not compensate SitelogIQ for its LOA fee.

Economic Criteria:

The Client has represented to SitelogIQ that Client agrees to move forward with the project if the project is shown to reduce the operational expenses at the site over the useful life of the project. The main financial objectives of the project are as follows:

1. Provide a self-funded program, which pays for itself through expense reductions and meets the requirements of California Government Code 4217.10 et seq.
2. Explore Client Contribution and other funding options as determined by the City Council.

This LOA shall be construed and enforced in accordance with the laws of the State of California without regard to principles of conflicts of law.

If you agree with the provisions set forth in this LOA, kindly sign and date the LOA below and return one fully-executed copy to my attention. Thank you again for providing SitelogIQ with the opportunity to work with the City of Riverbank on this important initiative.

Acceptance of Letter of Agreement

This agreement is between the City of Riverbank and SitelogIQ, Inc.

Client:

SitelogIQ

Name:

Name:

Title:

Title:

Date:

Date:

**Attachment A:
Potential Facility Improvement, Energy Conservation and Energy
Generation Measures to be considered**

1. HVAC Mechanical Equipment
2. LED Lighting
3. Solar Generation and Energy Storage Batteries

**Attachment B:
Pre-audit Information Request**

#	Must Have	Nice to Have
Utility Information		
1	Electric, Gas, Water, Oil, Other: Utility supplier and contact	all data in excel format; 3 to 5 years. Customer Access through Utility API.
2	Summary of monthly usage and cost (1 year minimum, 3 years preferred)	Utility Rate structures
3	Copies of actual Utility bills for one year	Kilo Watt (kW) and Kilo Volt Amp (kVA) Data: Monthly Peaks & 15-minute interval
4	What are the interconnection or other major electrical codes that we need to be aware of, e.g., for islanding from the utility, for connecting to a substation, etc.	Utility Meters: main & sub-meters- layout drawing, locations, areas they feed

5	What is the power rating of equipment (Volts, Amps, Hz)?	
Facility Information		
1	Age, Total building area (sq. feet.), Conditioned Area, window area, number of rooms, common facilities	Roof type & age, window type & age, any window films, etc?
2	Operation schedule, monthly occupancy data	
3	Complete set of building plans (original & as-builts); at a minimum, overall architectural plan, main mechanical schedule, electrical single-line diagram;	Please scan & pdf all the building as-built drawings.
4	Any problems regarding guest comfort (humidity, hot/cold areas, mold, etc.)	Equipment Maintenance logs & schedule (indicate recurring problems)
5	Any major renovation projects in the last 3 years? Or plans to renovate	Air balance report, Facility Assessment Plan

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 12.3

SECTION 12: NEW BUSINESS

Meeting Date: September 28, 2021

Subject: Fleet Management Services Discussion and Consideration of the Following Options:

(1) Direct Staff to Continue Current Fleet Management Program and Budget for Replacements on an As-Needed Basis, or

(2) Direct Staff to Explore Other Fleet Management Program Options, or

(3) Approve the Proposed Resolution Authorizing the City Manager to Enter into a Master Equity Lease Agreement with Enterprise Fleet Management Trust.

From: Sean Scully, City Manager

Submitted by: Marisela H. Garcia, Assistant City Manager/Administrative Services Director

RECOMMENDATION

It is recommended that the City Council receive information regarding the establishment of a Fleet Management Program for the City of Riverbank and consider the following options:

(1) Direct Staff to Continue Current Fleet Management Program and Budget for Replacements on an As-Needed Basis, or

(2) Direct Staff to Explore Other Fleet Management Program Options, or

(3) Approve the Proposed Resolution Authorizing the City Manager to Enter into a Master Equity Lease Agreement with Enterprise Fleet Management Trust.

SUMMARY

The City of Riverbank has historically purchased and owned all fleet vehicles and equipment. The City maintains a fleet of vehicles & equipment for use by various City departments which includes light, medium, and heavy-duty vehicles. 70% of the light and medium duty fleet is currently 10 years or older with the average age of the fleet

approximately 13.3 years of age. To reduce costs and increase fleet efficiency, (and at the direction of Council) staff has researched leasing options and found that the implementation of a leasing program can reduce operating costs (maintenance, fuel, and repairs). A leasing program would also result in less vehicle downtime since the vehicles are more reliable and have warranties for the duration of the leasing period.

BACKGROUND

The City currently maintains a mixed fleet consisting of gasoline, diesel, and Compressed Natural Gas (CNG) vehicles. Through the receipt of grant funds, the City was able to build and expand its CNG fueling station over the past number of years leading to the acquisition of CNG-fueled vehicles for our fleet. This move towards CNG was in response to the increasing gasoline fuel prices and environmental concerns associated with the emissions of gasoline-fueled vehicles.

Unfortunately, over the past number of years the City has experienced increased costs associated with the acquisition and maintenance of these CNG vehicles. CNG vehicles are not readily available off the lot. Vehicles are required to undergo a retrofitting process in order to install the CNG fueling system. This leads to an additional acquisition cost of approximately \$10,000 over and above asking price. The cost and placement of these fueling systems is one of the major barriers to the continued purchase of CNG-fueled vehicles. Continual changes in California emission standards often render these fueling systems obsolete and require an investment in order to upgrade them to current standards. Currently the City has five (5) CNG vehicles with recently expired CNG fueling systems with upgrade costs ranging from \$6,700 - \$16,700.

In addition, the CNG fueling station itself has had significant issues as it approaches the 20 year construction mark. The City has experienced several instances of downtime where our fueling station is not available, which has led to staff downtime as they have been unable to re-fuel their vehicles for daily use. Initial cost estimates to replace/upgrade our CNG fueling station have ranged from \$750,000-\$1,000,000.

In light of the continual cost increases associated with our CNG fleet and as we have experienced CNG vs. gasoline vs. diesel prices stabilize over the past couple of years City staff has been exploring alternative options to fleet acquisition, particularly since maintaining an aging fleet increases costs of repairs, the frequency of repairs, and the amount of time the vehicles are out of service. With the exception of a few recently replaced vehicles, the balance of the City's fleet has not been replaced on a regular basis. As a result, the City's fleet has aged to the point that, in many cases, the annual cost of maintaining an aged unit exceeds its salvage value.

In order to ensure that staff has the tools to perform and continue critical operations, it is in the City's best interest to pursue an economical replacement strategy for its fleet. Staff has researched the feasibility of an Equity Lease Agreement. Agencies such as Merced County, Madera County, the cities of Pleasanton and San Marcos, have implemented successful fleet replacement programs with the use of an Equity Lease Agreement. These agencies have partnered with Enterprise Fleet Management, Inc. ("Enterprise") to implement this program with very positive feedback and results. Enterprise was awarded a fleet management contract with Sourcwell which provides government, education, and

non-profit organizations with a cooperative purchasing program that manages solicitation requirements through a competitive process & offers a network of awarded contracts. The City of Riverbank is a member of Sourcewell and is eligible to participate in this purchasing program.

A proposed master equity lease agreement would be implemented through a contract with Sourcewell. The draft Master Equity Lease Agreement (“the Lease”) between the City and Enterprise has been tailored specifically to meet the requirements of the City and does not include maintenance of the vehicles. The maintenance would be performed by the City Mechanic. The Lease program is an “open-end” lease structure which would allow the City to replace more vehicles with less up-front capital. Below are several highlights of the program:

1. No mileage restrictions, no abnormal wear and tear, and no early termination penalties;
2. The City has all rights of ownership and can equip the vehicles with aftermarket parts as necessary (for example, flashing light bars, utility boxes, and radio installation on Parks & Public Works vehicles);
3. Leasing provides the opportunity to minimize the amount of large capital outlays necessary for purchasing vehicles; and
4. The City would establish a more proactive fleet replacement program to acquire vehicles on a more consistent basis and maintain a newer fleet.

As an added benefit, the replacement of our current aging fleet will increase staff safety as our fleet predates several important safety features that are now standard:

- 22 of our vehicles predate Anti-Lock Brake standardization implemented in 2007
- 32 vehicles predate Electronic Stability Control Standardization (ESC is the most significant safety invention since the seatbelt) implemented in 2012
- 42 vehicles predate the standardization of back up cameras implemented in 2018

STRATEGIC PLAN

This item is directly related to the City Council’s Strategic Plan Goal to “Ensure Financial Stability”.

FINANCIAL IMPACT

By undertaking this program a conservative 10 year savings of over \$417,000 has been estimated which takes into consideration reduced maintenance costs and reduced fueling costs as a result of the acquisition of more fuel efficient vehicles.

It is anticipated that the City will make a significant upgrade of 24 vehicles in year one. This would result in one-time upfront costs (down payment & licensing fees) of \$25,000 with an on-going monthly lease payment of \$13,800. These costs would be covered by the current budgeted “vehicle maintenances costs” allocated to each of the City’s divisions, including the General Fund (Parks, Building, and Building Maintenance) as well as the Streets, Water, and Sewer Funds. As the City will be retaining the maintenance

function for these vehicles, these Funding sources will need to make an additional annual commitment of approximately \$50,000 in order to fund the City Mechanic's budget.

ATTACHMENT

1. Enterprise Fleet Management Background Information
2. Fleet Synopsis prepared by Enterprise Fleet Management
3. Resolution
4. Master Equity Lease Agreement - DRAFT



FLEET MANAGEMENT

City of Riverbank

Account Executive

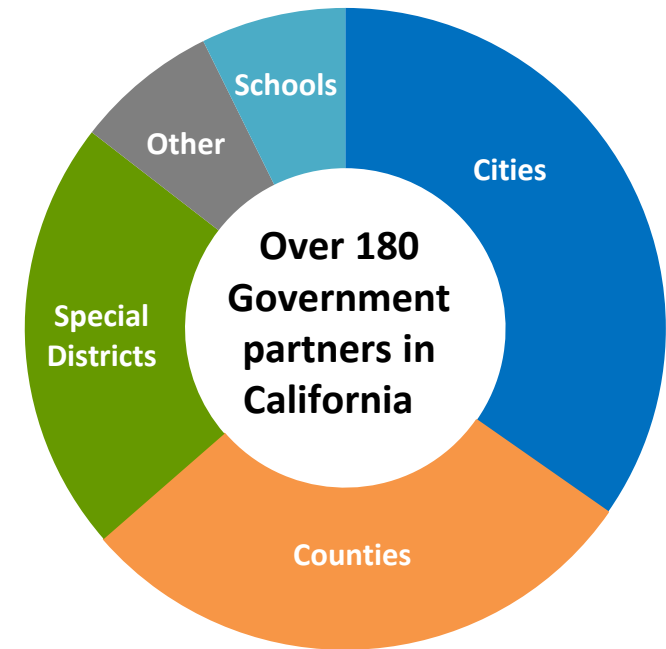
Kristian Anganes

916-770-0884

Kristian.P.Anganes@efleets.com



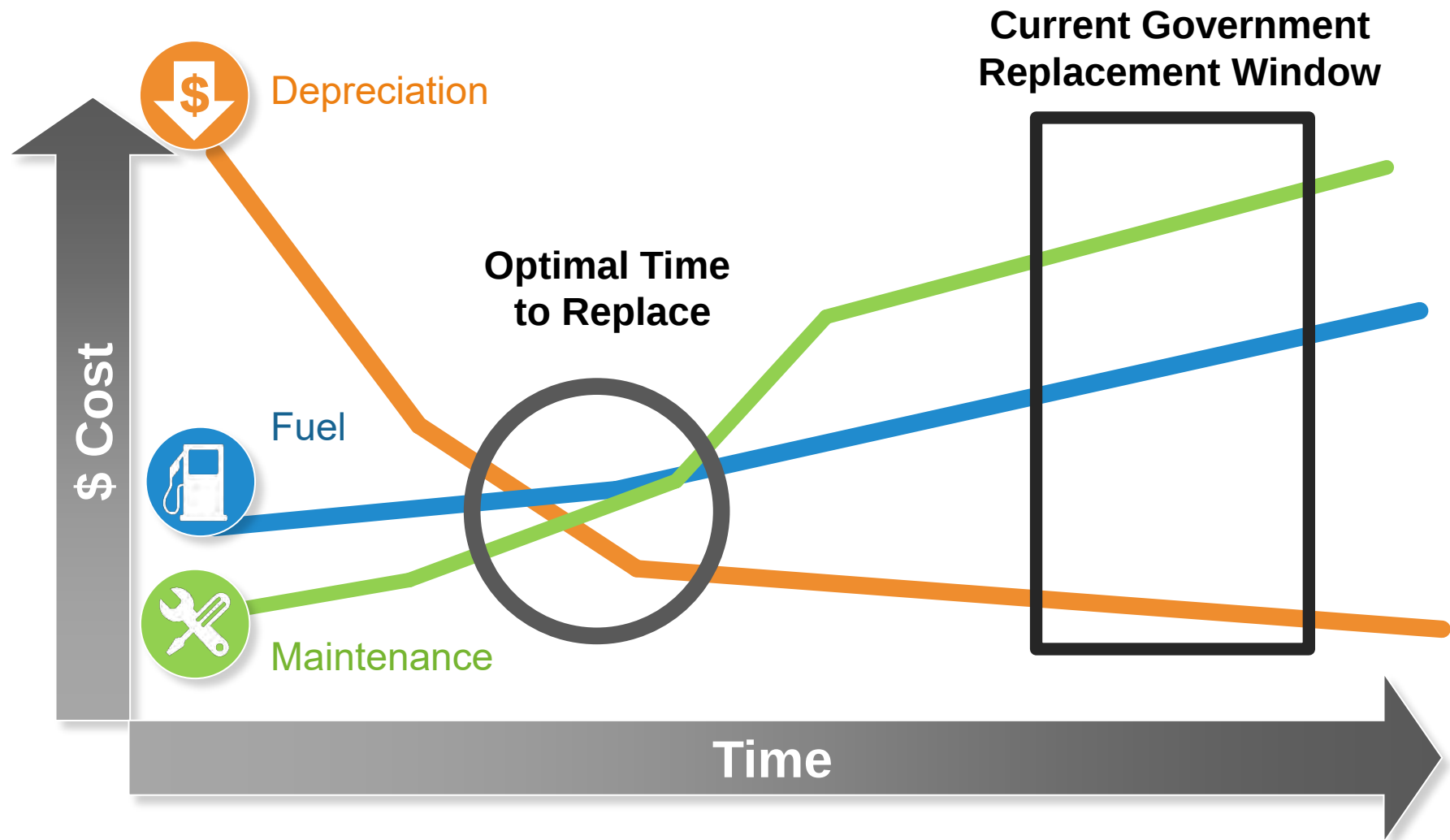
REFERENCES



Kern County
**Superintendent
of Schools**



Effective Vehicle Lifecycle



Key Observations

- Maintenance costs increase as vehicles age
- Fuel costs can be 25% - 30% higher or more depending on vehicle type
- Resale values are 70% - 80% lower at average government replacement interval vs. optimal
- Replacing vehicles at optimal time is cost usually neutral or less total cost than to hold

Buying Power and Cycling



2021 SUPER DUTY
F-250 XL

\$41,900 ⓘ
Estimated Net Price ^{SS}

← FORD’S WEBSITE

State Contract

Price

\$28,985

VEHICLE	Odometer	Sale Price	Capital Outlay
2022 Ford F-250 XL Crew Cab 4x4	10282	\$33,400	-\$4,415
2023 Ford F-250 XL Crew Cab 4x4	20655	\$30,300	- \$1,315
2028 Ford F-250 XL Crew Cab 4x4	57,636	\$21,000	\$7,985
2032 Ford F-250 XL Crew Cab 4x4	98,436	\$10,200	\$18,785

« If you have vehicles that are 10 years old or older, you are not taking advantage of standardized safety improvements.

2007

- Front/Side Crash Test
- Anti-lock Brakes
- Airbags

2012

- **Electronic Stability Control**
- Lane Departure Warning

2018

- Blind-spot Warning
- Forward Collision Warning
- Improved Headlamps
- Offset-crash Test
- Rear Video



Flexible Financing Options

1 Option

Open-End Lease

- Equity lease
- Flexible term
- No mileage restrictions
- No abnormal wear and tear clauses
- Lessee responsible for book value at term
- Lessee keeps vehicle equity at term

2 Option

Self-Funded

- Ideal for clients with strong cash position
- Pay down lease upfront to a \$1 book value or to projected residual book value
- No abnormal wear and tear charges or mileage restrictions
- EFM is title holder until term for vehicle management services

Open End Lease Structure

- Improve cash flow
- No mileage restrictions or wear and tear charges
- Customized terms for use and type of vehicle
- Flexibility of ownership

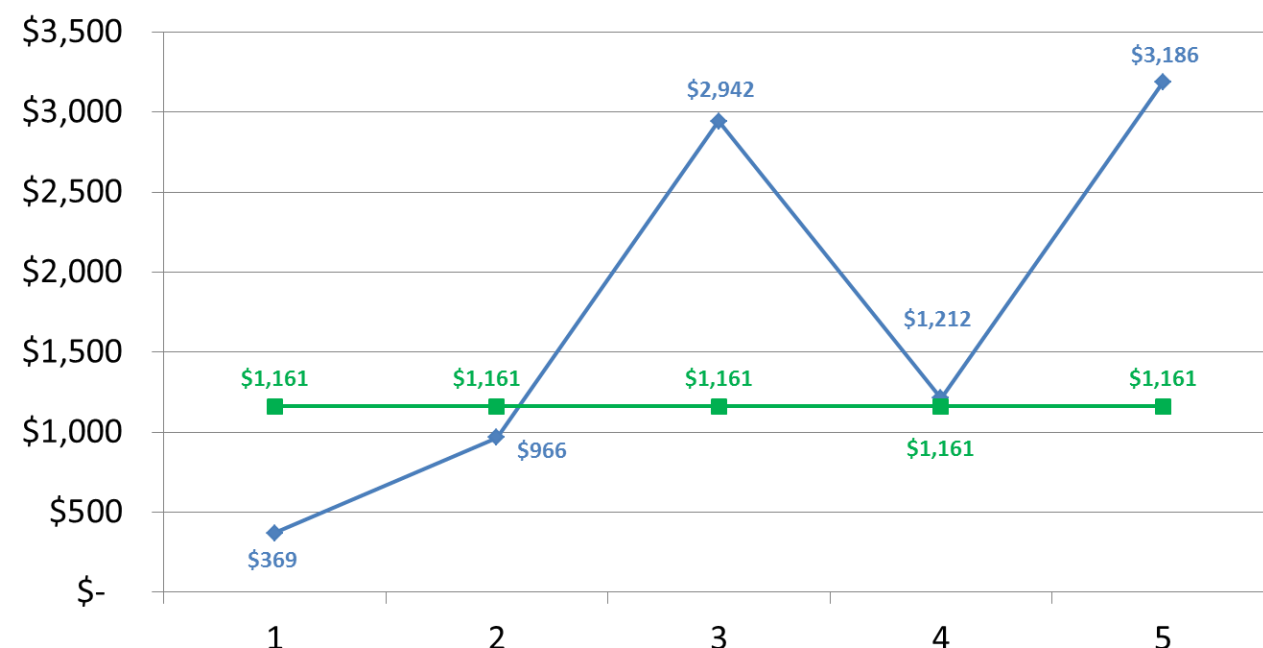


Full Maintenance

- Fixed monthly rate
- Simple process for all parties
- Includes: 24/7 Roadside, all major and minor repairs

National Management/Local Shops

- 146 ASE Certified techs manage your maintenance plan
- National accounts, dealers, local independent shops
- Convenient for your drivers
- Cost controls for the finance team



Next Steps

- 10-Year Model
- Present Value Analysis – Total Cost of Ownership
- Decision making process
- Sourcwell Member

City of Riverbank
6707 3rd St
Riverbank, CA 95367-2305

ID# 116628

Is this your organization?

Great news—your organization is already a Sourcwell member! Using the ID number provided on this page, you can immediately utilize Sourcwell awarded contracts by providing this number to the vendor you wish to purchase from.

[Update your organization's information](#)

[Add a contact for your organization](#)

Need help?

Contact our dedicated Membership Team at membership@sourcwell-mn.gov or 877-585-9706.



FLEET MANAGEMENT

PREPARED FOR:

City of Riverbank

Kristian Anganes

FLEET CONSULTANT

916-770-0884

PHONE

kristian.p.anganes@efleets.com

EMAIL



FLEET SYNOPSIS | CITY OF RIVERBANK

Current fleet age is negatively impacting the overall budget and fleet operations

- 70% of the light and medium duty fleet is currently 10 years or older
- 13.3 years is the current average age of the fleet
- CNG infrastructure is aged and costly to replace – Also, CNG vehicles are not very common due to the market moving toward hybrid and electric vehicles
- Older vehicles have higher fuel costs, maintenance costs and tend to be unreliable, causing increased downtime and loss of productivity.

THE OBJECTIVES

Identify an effective vehicle life cycle that maximizes potential equity at time of resale creating a conservative savings of over \$417,932 in 10 years

- Shorten the current vehicle life cycle from 25.33 years to 2.29 years
- Provide a lower sustainable fleet cost that is predictable year over year
- Free up more than \$24,000 in capital from the sale of 24 vehicles in the first year
- Significantly reduce maintenance to an average monthly cost of \$31.22 vs. current \$75.00
- Reduce the overall fuel spend through more fuel efficient vehicles
- Leverage an open-ended lease to maximize cash flow opportunities and recognize equity

Increase employee safety with newer vehicles

- Currently:
 - o 22 vehicles predate Anti-Lock Brake standardization (2007)
 - o 32 vehicles predate Electronic Stability Control standardization (2012)
 - ESC is the most significant safety invention since the seatbelt
 - o 42 vehicles predate standardization of back up camera (2018)

Piggyback the Sourcewell awarded RFP #060618-EFM that addresses the following:

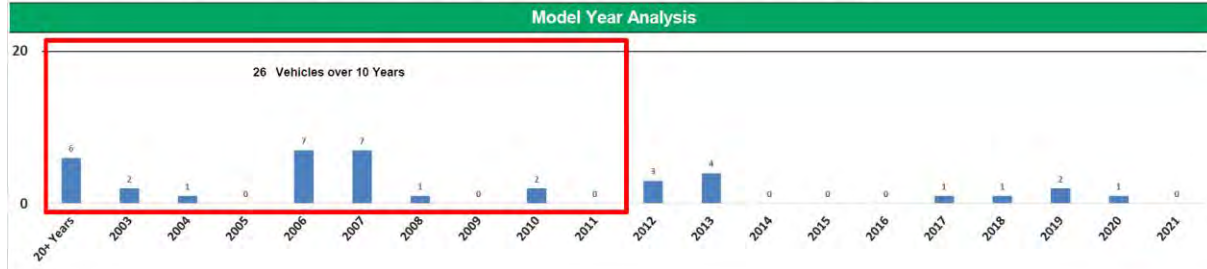
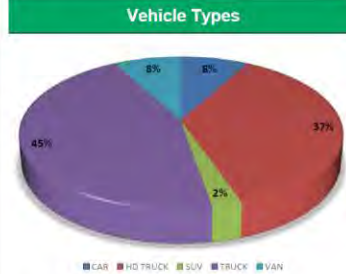
- Access to all fleet management services as applicable to the needs of the city
- Supports the city's need for fleet evaluation on a quarterly basis assessing costs and reviewing best practices

THE RESULTS

By partnering with Enterprise Fleet Management, City of Riverbank will be better able to leverage its buying power, implement a tighter controlled resale program to lower total cost of ownership and in turn minimize operational spend. City of Riverbank will reduce fuel costs by 25% and reduce maintenance costs from \$75.00 on average to \$31.22 per unit. Leveraging an open-end lease maximizes cash flow and recognizes equity from vehicles sold creating an internal replacement fund. Furthermore, City of Riverbank will leverage Enterprise Fleet Management's ability to sell vehicles at an average of 109% above Black Book value. By shifting from reactively replacing aged vehicles to proactively planning vehicle purchases, City of Riverbank will be able to replace all of its vehicles over the course of 4 years while creating an average annual savings of \$30,109 and a 10 year savings of \$417,932.

FLEET PLANNING ANALYSIS | CITY OF RIVERBANK

Fleet Profile				Fleet Replacement Schedule						Replacement Criteria	
Vehicle Type	# of Type	Average Age (years)	Average Annual Mileage	2021	2022	2023	2024	2025	Under-Utilized		
Mid-size Sedan	2	14.3	1,900	0	0	0	0	0	2	* Fiscal Year 2021 = 10 years old and older, or odometer over 100,000 * Fiscal Year 2022 = 8 years old and older, or odometer over 80,000 * Fiscal Year 2023 = 6 years old and older, or odometer over 60,000 * Fiscal Year 2024 = 4 years old and older, or odometer over 40,000 * Fiscal Year 2025 = Remaining Vehicles * Underutilized = Annual Mileage less than 2,000	
Full-size Sedan	1	18.3	1,100	0	0	0	0	0	1		
3/4 Ton Van Cargo	2	4.6	3,700	0	1	0	0	1	0		
1 Ton Van Cargo	1	9.3	200	0	0	0	0	0	1		
Mid Size SUV 4x2	1	4.2	5,200	0	0	0	1	0	0		
1/2 Ton Pickup Reg 4x2	10	17.5	4,600	10	0	0	0	0	0		
1/2 Ton Pickup Reg 4x4	1	18.3	3,900	1	0	0	0	0	0		
1/2 Ton Pickup Ext 4x2	4	10.7	4,900	2	0	0	0	2	0		
1/2 Ton Pickup Ext 4x4	1	11.3	4,500	1	0	0	0	0	0		
1/2 Ton Pickup Quad 4x2	1	11.3	7,200	1	0	0	0	0	0		
3/4 Ton Pickup Reg 4x2	4	8.4	4,000	0	4	0	0	0	0		
3/4 Ton Pickup Ext 4x2	3	13.3	4,400	2	1	0	0	0	0		
3/4 Ton Pickup Ext 4x4	2	13.8	5,000	2	0	0	0	0	0		
3/4 Ton Pickup Quad 4x4	1	3.1	6,000	0	0	0	0	1	0		
1 Ton Pickup Quad 4x2	1	28.5	3,100	1	0	0	0	0	0		
1 Ton Cab Chassis	3	15.0	7,000	3	0	0	0	0	0		
Totals/Averages	38	13.3	4,400	23	6	0	1	4	4		



Confidential 3/9/2021

Current Fleet	38	Fleet Growth	-2.41%	Proposed Fleet	34
Current Cycle	25.33	Annual Miles	4,900	Proposed Cycle	2.29
Current Maint.	\$75.00			Proposed Maint.	\$31.22
Maint. Cents Per Mile	\$0.18	Current MPG	12	Price/Gallon	\$3.25

Fleet Costs Analysis

Fiscal Year	Fleet Size	Annual Needs	Owned	Leased	Purchase	Lease*	Equity (Owned)	Equity (Leased)	Maintenance	Fuel	Fleet Budget	Net Cash
Average	38	1.5	38	0	42,757	0			34,200	45,293	122,240	0
'21	34	23	11	23	0	143,463	-25,000	-103,124	18,517	39,157	73,013	49,227
'22	34	21	5	29	0	190,679	-12,000	-103,124	15,365	37,559	128,479	-6,239
'23	34	15	5	29	0	190,679	0	-160,322	15,365	37,559	83,281	38,959
'24	34	21	4	30	0	196,686	-6,500	-158,567	14,840	37,292	83,751	38,490
'25	34	24	0	34	0	209,419	-164,543	-12,738	36,227	59,841	62,400	
'26	34	20	0	34	0	209,419	-192,124	12,738	36,227	66,260	55,980	
'27	34	24	0	34	0	209,419	-183,511	12,738	36,227	74,872	47,368	
'28	34	23	0	34	0	209,419	-116,898	12,738	36,227	141,485	-19,245	
'29	34	17	0	34	0	209,419	-192,124	12,738	36,227	66,260	55,980	
'30	34	24	0	34	0	209,419	-231,156	12,738	36,227	27,228	95,013	
10 Year Savings										\$417,932	Avg. Sustainable Savings \$47,019	

Current Fleet Equity Analysis

YEAR	2021	2022	2023	2024	2025	Under-Utilized
QTY	23	6	0	1	4	4
Est \$	\$1,000	\$2,000	\$0	\$6,500	\$8,500	\$500
TOTAL	\$23,000	\$12,000	\$0	\$6,500	\$34,000	\$2,000
Estimated Current Fleet Equity**					\$77,500	

* Lease Rates are conservative estimates
 ** Estimated Current Fleet Equity is based on the current fleet "sight unseen" and can be adjusted after physical inspection
 Lease Maintenance costs are exclusive of tires unless noted on the lease rate quote.

KEY OBJECTIVES

- Lower average age of the fleet**
 68% of the current light and medium duty fleet is over 10 years old
 Resale of the aging fleet is significantly reduced
- Reduce operating costs**
 Newer vehicles have a significantly lower maintenance expense
 Newer vehicles have increased fuel efficiency with new technology implementations
- Maintain a manageable vehicle budget**
 Challenged by inconsistent yearly budgets
 Currently vehicle budget is underfunded

CASE STUDY | CITY OF RIVERBANK

CASE STUDY | CITY OF SAN MARCOS



The City of San Marcos Reduces Costs by 27% and Replaces Aging Vehicles.

BACKGROUND

Location: San Marcos, CA
Industry: Government
Total vehicles: 90 vehicles

THE CHALLENGE

Half of The City of San Marcos' vehicles were operating past their useful life. The City's fleet was deteriorating rapidly, and many of the vehicles needed to be replaced to mitigate escalating repair and maintenance costs. Budget challenges prevented the City from purchasing new vehicles. Major repairs reduced the number of available vehicles, and the City vehicle downtime was significantly affecting its operations. Maintenance costs continued to erode the budget and interfere with the efficiency of City operations.

THE SOLUTION

Enterprise Fleet Management evaluated the City's entire fleet to identify the most cost-effective way to replace its aging vehicles. Ten vehicles were identified as under-utilized and completely removed from service. By implementing an open-ended lease structure, the City was able to replace the remaining ninety vehicles within a three-year period. The program did not require a large initial outlay of funds. The City of San Marcos was not burdened with extensive capital requirements for vehicle replacement, allowing them to replace highly important, heavy-duty and emergency vehicles first.

"The Enterprise Fleet Management lease program has not only alleviated some of the maintenance burden placed on our lean fleet maintenance staff and budget, it has also provided a level of flexibility that allows my team to promptly address the City's dynamic fleet needs without sacrificing service."

— Lisa Fowler, Public Works Manager- Administration & Fleet

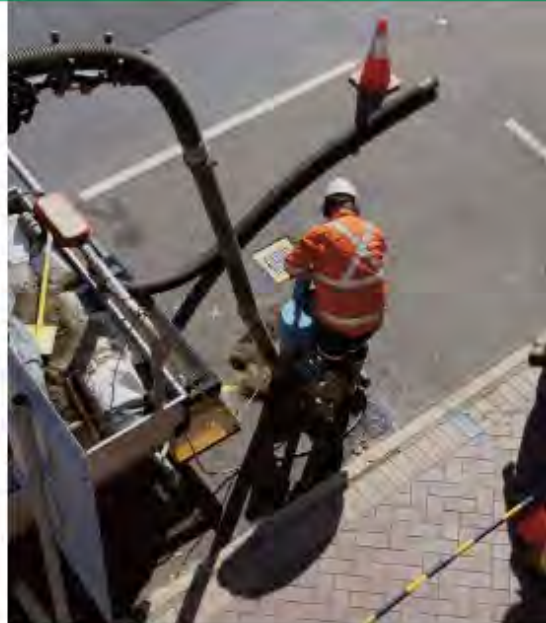
The Full Maintenance Program provides a low fixed monthly cost, which is easily budgeted for every year. The program eliminates the need for City resources to work on the light-duty fleet, so the maintenance staff can solely focus on the heavy-duty equipment.

THE RESULTS

The partnership with Enterprise Fleet Management has significantly reduced the portions of the Public Works-Fleet Operations budget and the Vehicle Replacement fund that was affected by the declining condition of the light-duty fleet. The City realized a 27% decrease in the cost to purchase and maintain the light duty fleet. The program will result in a combined fund savings of \$1.1 million over a five-year period.

To learn more, visit efleets.com or call 877-23-FLEET.

Enterprise and the 'e' logo are registered trademarks of Enterprise Fleet Management, Inc. All other trademarks are the property of their respective owners.
© 2018 Enterprise Fleet Management, Inc. 100124_2M



Key Results

**27%
DECREASE
IN FLEET COSTS**



**RIGHT-SIZED
FLEET BY 10%
FOR BETTER
UTILIZATION**

**REPLACED
90 VEHICLES
OVER A 3-YEAR PERIOD**



PROGRAM RESOURCES | CITY OF RIVERBANK

SAFETY

- 70% of all vehicles are older than 10 years of age and do not contain the most up to date safety features, such as electronic stability control, airbag standardization and anti-lock brake control.

CLIENT STRATEGY MANAGER

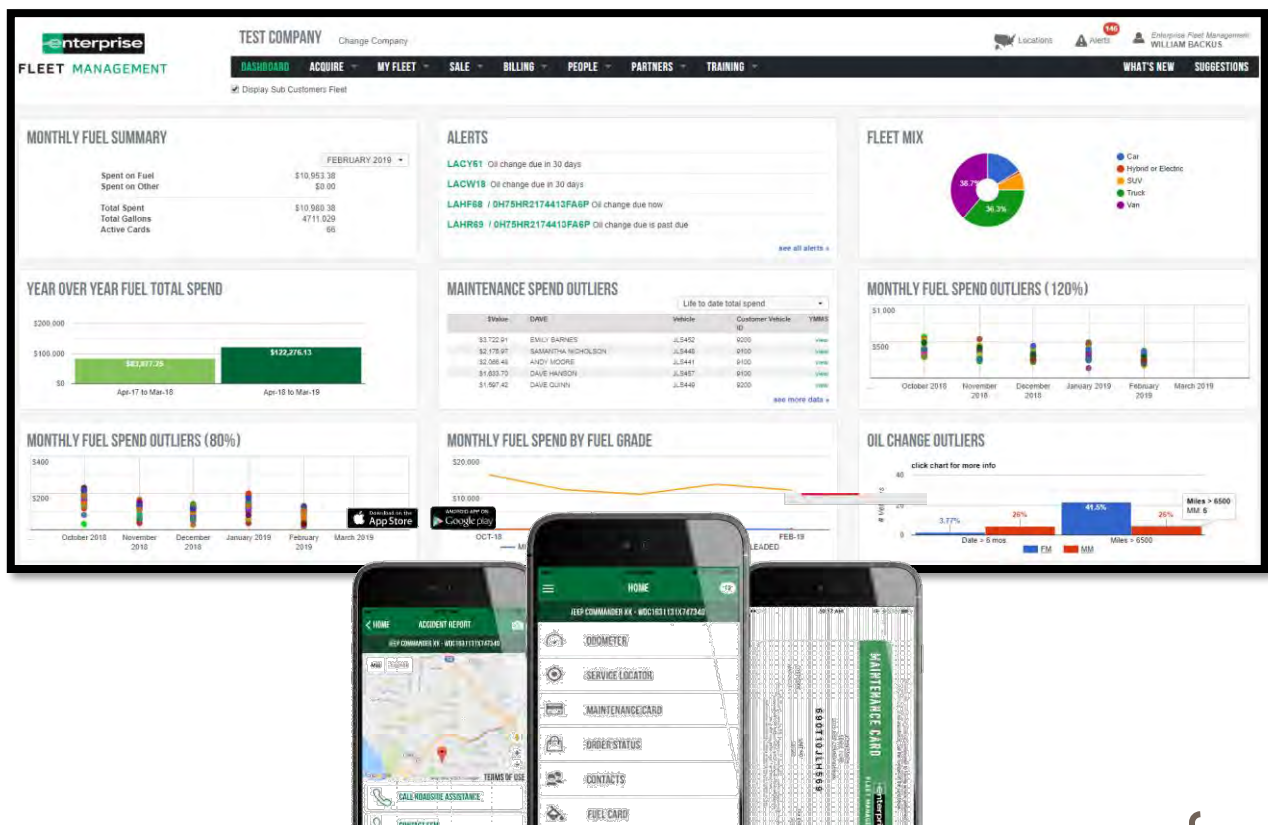
The City of Riverbank will have a dedicated, local account team to proactively manage and develop your fleet while delivering the highest level of customer service to facilitate your day-to-day needs.

- Your dedicated Client Strategy Manager meets with you 3-4 times a year for both financial and strategic planning.
- Your Client Strategy Manager will provide on-going analysis – this will include most cost-effective vehicle makes/models, cents per mile, total cost of ownership, and replacement analysis.

TECHNOLOGY

Enterprise Fleet Management's website provides vehicle tracking, reporting, and metrics. Our website can be customized to view a wide range of data so that you may have a comprehensive and detailed look at all aspects of your fleet and the services provided. Our Mobile App gives drivers all the convenience and functionality they need.

- **Consolidated Invoices** - Includes lease, maintenance, and any additional ancillaries
- **Maintenance Utilization** - Review the life-to-date maintenance per vehicle
- **Recall Information** - See which units have open recalls
- **License & Registration** - See which plate renewals are being processed by Enterprise and view status
- **Alerts** - Set customizable alerts for oil changes, lease renewals, license renewals, and billing data
- **Lifecycle Analysis** - See data regarding all transactions for the lifecycle of the entire fleet, with drill-down capability to any specific lease or transaction



REFERENCES | CITY OF RIVERBANK

CURRENT PARTNERS:

- County of Mariposa
- City of Anderson
- Golden Plains Unified School District
- City of Grass Valley
- Calaveras County Water District
- County of Yuba
- City of Rocklin

COOPERATIVES:

- TIPS/TAPS USA
- SOURCEWELL

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A MASTER
EQUITY LEASE AGREEMENT WITH ENTERPRISE FLEET MANAGEMENT FOR
THE ESTABLISHMENT OF A FLEET MANAGEMENT PROGRAM**

WHEREAS, the City of Riverbank's current fleet management program consists of replacing vehicles on an emergency, as-needed basis; and

WHEREAS, due to budgeting constraints the City has not been able to fund a fleet replacement program on a consistent basis; and

WHEREAS, the City's fleet has a current average age of 13.3 years and is incurring significant maintenance and fuel costs due to the age of the vehicles; and

WHEREAS, it is in the City's best interest to establish a Fleet Management Program which will reduce maintenance costs and ensure the continued safety of our employees; and

WHEREAS, the City has evaluated the Enterprise Fleet Management Program and has evaluated the financial impact of such program and the City would experience a cost savings from entering into an agreement for said program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the City Manager to enter in a Master Equity Lease Agreement attached hereto as **Exhibit A** with Enterprise Fleet Management.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th 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 - Master Equity Lease Agreement

MASTER EQUITY LEASE AGREEMENT

This Master Equity Lease Agreement is entered into this _____ day of _____, by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor"), and the lessee whose name and address is set forth on the signature page below ("Lessee").

1. LEASE OF VEHICLES: Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the vehicles (individually, a "Vehicle" and collectively, the "Vehicles") described in the schedules from time to time delivered by Lessor to Lessee as set forth below ("Schedule(s)") for the rentals and on the terms set forth in this Agreement and in the applicable Schedule. References to this "Agreement" shall include this Master Equity Lease Agreement and the various Schedules and addenda to this Master Equity Lease Agreement. Lessor will, on or about the date of delivery of each Vehicle to Lessee, send Lessee a Schedule covering the Vehicle, which will include, among other things, a description of the Vehicle, the lease term and the monthly rental and other payments due with respect to the Vehicle. The terms contained in each such Schedule will be binding on Lessee unless Lessee objects in writing to such Schedule within ten (10) days after the date of delivery of the Vehicle covered by such Schedule. Lessor is the sole legal owner of each Vehicle. This Agreement is a lease only and Lessee will have no right, title or interest in or to the Vehicles except for the use of the Vehicles as described in this Agreement. This Agreement shall be treated as a true lease for federal and applicable state income tax purposes with Lessor having all benefits of ownership of the Vehicles. It is understood and agreed that Enterprise Fleet Management, Inc. or an affiliate thereof (together with any subservicer, agent, successor or assign as servicer on behalf of Lessor, "Servicer") may administer this Agreement on behalf of Lessor and may perform the service functions herein provided to be performed by Lessor.

2. TERM: The term of this Agreement ("Term") for each Vehicle begins on the date such Vehicle is delivered to Lessee (the "Delivery Date") and, unless terminated earlier in accordance with the terms of this Agreement, continues for the "Lease Term" as described in the applicable Schedule.

3. RENT AND OTHER CHARGES:

(a) Lessee agrees to pay Lessor monthly rental and other payments according to the Schedules and this Agreement. The monthly payments will be in the amount listed as the "Total Monthly Rental Including Additional Services" on the applicable Schedule (with any portion of such amount identified as a charge for maintenance services under Section 4 of the applicable Schedule being payable to Lessor as agent for Enterprise Fleet Management, Inc.) and will be due and payable in advance on the first day of each month. If a Vehicle is delivered to Lessee on any day other than the first day of a month, monthly rental payments will begin on the first day of the next month. In addition to the monthly rental payments, Lessee agrees to pay Lessor a pro-rated rental charge for the number of days that the Delivery Date precedes the first monthly rental payment date. A portion of each monthly rental payment, being the amount designated as "Depreciation Reserve" on the applicable Schedule, will be considered as a reserve for depreciation and will be credited against the Delivered Price of the Vehicle for purposes of computing the Book Value of the Vehicle under Section 3(c). Lessee agrees to pay Lessor the "Total Initial Charges" set forth in each Schedule on the due date of the first monthly rental payment under such Schedule. Lessee agrees to pay Lessor the "Service Charge Due at Lease Termination" set forth in each Schedule at the end of the applicable Term (whether by reason of expiration, early termination or otherwise).

(b) In the event the Term for any Vehicle ends prior to the last day of the scheduled Term, whether as a result of a default by Lessee, a Casualty Occurrence or any other reason, the rentals and management fees paid by Lessee will be recalculated in accordance with the rule of 78's and the adjusted amount will be payable by Lessee to Lessor on the termination date.

(c) Lessee agrees to pay Lessor within thirty (30) days after the end of the Term for each Vehicle, additional rent equal to the excess, if any, of the Book Value of such Vehicle over the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule. If the Book Value of such Vehicle is less than the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule, Lessor agrees to pay such deficiency to Lessee as a terminal rental adjustment within thirty (30) days after the end of the applicable Term. Notwithstanding the foregoing, if (i) the Term for a Vehicle is greater than forty-eight (48) months (including any extension of the Term for such Vehicle), (ii) the mileage on a Vehicle at the end of the Term is greater than 15,000 miles per year on average (prorated on a daily basis) (i.e., if the mileage on a Vehicle with a Term of thirty-six (36) months is greater than 45,000 miles) or (iii) in the sole judgment of Lessor, a Vehicle has been subject to damage or any abnormal or excessive wear and tear, the calculations described in the two immediately preceding sentences shall be made without giving effect to clause (ii) in each such sentence. The "Book Value" of a Vehicle means the sum of (i) the "Delivered Price" of the Vehicle as set forth in the applicable Schedule minus (ii) the total Depreciation Reserve paid by Lessee to Lessor with respect to such Vehicle plus (iii) all accrued and unpaid rent and/or other amounts owed by Lessee with respect to such Vehicle.

(d) Any security deposit of Lessee will be returned to Lessee at the end of the applicable Term, except that the deposit will first be applied to any losses and/or damages suffered by Lessor as a result of Lessee's breach of or default under this Agreement and/or to any other amounts then owed by Lessee to Lessor.

(e) Any rental payment or other amount owed by Lessee to Lessor which is not paid within twenty (20) days after its due date will accrue interest, payable on demand of Lessor, from the date due until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate permitted by applicable law (the "Default Rate").

(f) If Lessee fails to pay any amount due under this Agreement or to comply with any of the covenants contained in this Agreement, Lessor, Servicer or any other agent of Lessor may, at its option, pay such amounts or perform such covenants and all sums paid or incurred by Lessor in connection therewith will be repayable by Lessee to Lessor upon demand together with interest thereon at the Default Rate.

Initials: EFM_____ Customer_____

(g) Lessee's obligations to make all payments of rent and other amounts under this Agreement are absolute and unconditional and such payments shall be made in immediately available funds without setoff, counterclaim or deduction of any kind. Lessee acknowledges and agrees that neither any Casualty Occurrence to any Vehicle nor any defect, unfitness or lack of governmental approval in, of, or with respect to, any Vehicle regardless of the cause or consequence nor any breach by Enterprise Fleet Management, Inc. of any maintenance agreement between Enterprise Fleet Management, Inc. and Lessee covering any Vehicle regardless of the cause or consequence will relieve Lessee from the performance of any of its obligations under this Agreement, including, without limitation, the payment of rent and other amounts under this Agreement.

4. USE AND SURRENDER OF VEHICLES: Lessee agrees to allow only duly authorized, licensed and insured drivers to use and operate the Vehicles. Lessee agrees to comply with, and cause its drivers to comply with, all laws, statutes, rules, regulations and ordinances and the provisions of all insurance policies affecting or covering the Vehicles or their use or operation. Lessee agrees to keep the Vehicles free of all liens, charges and encumbrances. Lessee agrees that in no event will any Vehicle be used or operated for transporting hazardous substances or persons for hire, for any illegal purpose or to pull trailers that exceed the manufacturer's trailer towing recommendations. Lessee agrees that no Vehicle is intended to be or will be utilized as a "school bus" as defined in the Code of Federal Regulations or any applicable state or municipal statute or regulation. Lessee agrees not to remove any Vehicle from the continental United States without first obtaining Lessor's written consent. At the expiration or earlier termination of this Agreement with respect to each Vehicle, or upon demand by Lessor made pursuant to Section 14, Lessee at its risk and expense agrees to return such Vehicle to Lessor at such place and by such reasonable means as may be designated by Lessor. If for any reason Lessee fails to return any Vehicle to Lessor as and when required in accordance with this Section, Lessee agrees to pay Lessor additional rent for such Vehicle at twice the normal pro-rated daily rent. Acceptance of such additional rent by Lessor will in no way limit Lessor's remedies with respect to Lessee's failure to return any Vehicle as required hereunder.

5. COSTS, EXPENSES, FEES AND CHARGES: Lessee agrees to pay all costs, expenses, fees, charges, fines, tickets, penalties and taxes (other than federal and state income taxes on the income of Lessor) incurred in connection with the titling, registration, delivery, purchase, sale, rental, use or operation of the Vehicles during the Term. If Lessor, Servicer or any other agent of Lessor incurs any such costs or expenses, Lessee agrees to promptly reimburse Lessor for the same.

6. LICENSE AND CHARGES: Each Vehicle will be titled and licensed in the name designated by Lessor at Lessee's expense. Certain other charges relating to the acquisition of each Vehicle and paid or satisfied by Lessor have been capitalized in determining the monthly rental, treated as an initial charge or otherwise charged to Lessee. Such charges have been determined without reduction for trade-in, exchange allowance or other credit attributable to any Lessor-owned vehicle.

7. REGISTRATION PLATES, ETC.: Lessee agrees, at its expense, to obtain in the name designated by Lessor all registration plates and other plates, permits, inspections and/or licenses required in connection with the Vehicles, except for the initial registration plates which Lessor will obtain at Lessee's expense. The parties agree to cooperate and to furnish any and all information or documentation, which may be reasonably necessary for compliance with the provisions of this Section or any federal, state or local law, rule, regulation or ordinance. Lessee agrees that it will not permit any Vehicle to be located in a state other than the state in which such Vehicle is then titled for any continuous period of time that would require such Vehicle to become subject to the titling and/or registration laws of such other state.

8. MAINTENANCE OF AND IMPROVEMENTS TO VEHICLES:

(a) Lessee agrees, at its expense, to (i) maintain the Vehicles in good condition, repair, maintenance and running order and in accordance with all manufacturer's instructions and warranty requirements and all legal requirements and (ii) furnish all labor, materials, parts and other essentials required for the proper operation and maintenance of the Vehicles. Any alterations, additions, replacement parts or improvements to a Vehicle will become and remain the property of Lessor and will be returned with such Vehicle upon such Vehicle's return pursuant to Section 4. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Lessee shall have the right to remove any additional equipment installed by Lessee on a Vehicle prior to returning such Vehicle to Lessor under Section 4. The value of such alterations, additions, replacement parts and improvements will in no instance be regarded as rent. Without the prior written consent of Lessor, Lessee will not make any alterations, additions, replacement parts or improvements to any Vehicle which detract from its economic value or functional utility. Lessor will not be required to make any repairs or replacements of any nature or description with respect to any Vehicle, to maintain or repair any Vehicle or to make any expenditure whatsoever in connection with any Vehicle or this Agreement.

(b) Lessor and Lessee acknowledge and agree that if Section 4 of a Schedule includes a charge for maintenance, (i) the Vehicle(s) covered by such Schedule are subject to a separate maintenance agreement between Enterprise Fleet Management, Inc. and Lessee and (ii) Lessor shall have no liability or responsibility for any failure of Enterprise Fleet Management, Inc. to perform any of its obligations thereunder or to pay or reimburse Lessee for its payment of any costs and expenses incurred in connection with the maintenance or repair of any such Vehicle(s).

9. SELECTION OF VEHICLES AND DISCLAIMER OF WARRANTIES:

(a) LESSEE ACCEPTANCE OF DELIVERY AND USE OF EACH VEHICLE WILL CONCLUSIVELY ESTABLISH THAT SUCH VEHICLE IS OF A SIZE, DESIGN, CAPACITY, TYPE AND MANUFACTURE SELECTED BY LESSEE AND THAT SUCH VEHICLE IS IN GOOD CONDITION AND REPAIR AND IS SATISFACTORY IN ALL RESPECTS AND IS SUITABLE FOR LESSEE'S PURPOSE. LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OF ANY VEHICLE OR AN AGENT OF A MANUFACTURER OF ANY VEHICLE.

(b) LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY VEHICLE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY LESSEE. THE VEHICLES ARE LEASED "AS IS," "WITH ALL FAULTS." All warranties made by any supplier, vendor and/or manufacturer of a Vehicle are hereby assigned by Lessor to Lessee for the applicable Term and Lessee's only remedy, if any, is against the supplier, vendor or manufacturer of the Vehicle.

Initials: EFM_____ Customer_____

(c) None of Lessor, Servicer or any other agent of Lessor will be liable to Lessee for any liability, claim, loss, damage (direct, incidental or consequential) or expense of any kind or nature, caused directly or indirectly, by any Vehicle or any inadequacy of any Vehicle for any purpose or any defect (latent or patent) in any Vehicle or the use or maintenance of any Vehicle or any repair, servicing or adjustment of or to any Vehicle, or any delay in providing or failure to provide any Vehicle, or any interruption or loss of service or use of any Vehicle, or any loss of business or any damage whatsoever and however caused. In addition, none of Lessor, Servicer or any other agent of Lessor will have any liability to Lessee under this Agreement or under any order authorization form executed by Lessee if Lessor is unable to locate or purchase a Vehicle ordered by Lessee or for any delay in delivery of any Vehicle ordered by Lessee.

10. RISK OF LOSS: Lessee assumes and agrees to bear the entire risk of loss of, theft of, damage to or destruction of any Vehicle from any cause whatsoever ("Casualty Occurrence"). In the event of a Casualty Occurrence to a Vehicle, Lessee shall give Lessor prompt notice of the Casualty Occurrence and thereafter will place the applicable Vehicle in good repair, condition and working order; provided, however, that if the applicable Vehicle is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair (a "Totaled Vehicle"), Lessee agrees to pay Lessor no later than the date thirty (30) days after the date of the Casualty Occurrence the amounts owed under Sections 3(b) and 3(c) with respect to such Totaled Vehicle. Upon such payment, this Agreement will terminate with respect to such Totaled Vehicle.

11. INSURANCE:

(a) Lessee agrees to purchase and maintain in force during the Term, insurance policies in at least the amounts listed below covering each Vehicle, to be written by an insurance company or companies satisfactory to Lessor, insuring Lessee, Lessor and any other person or entity designated by Lessor against any damage, claim, suit, action or liability:

(i) Commercial Automobile Liability Insurance (including Uninsured/Underinsured Motorist Coverage and No-Fault Protection where required by law) for the limits listed below (Note - \$2,000,000 Combined Single Limit Bodily Injury and Property Damage with No Deductible is required for each Vehicle capable of transporting more than 8 passengers):

<u>State of Vehicle Registration</u>	<u>Coverage</u>
Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont	\$1,000,000 Combined Single Limit Bodily Injury and Property Damage - No Deductible
Florida	\$500,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible
All Other States	\$300,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible

(ii) Physical Damage Insurance (Collision & Comprehensive): Actual cash value of the applicable Vehicle. Maximum deductible of \$500 per occurrence - Collision and \$250 per occurrence - Comprehensive).

If the requirements of any governmental or regulatory agency exceed the minimums stated in this Agreement, Lessee must obtain and maintain the higher insurance requirements. Lessee agrees that each required policy of insurance will by appropriate endorsement or otherwise name Lessor and any other person or entity designated by Lessor as additional insureds and loss payees, as their respective interests may appear. Further, each such insurance policy must provide the following: (i) that the same may not be cancelled, changed or modified until after the insurer has given to Lessor, Servicer and any other person or entity designated by Lessor at least thirty (30) days prior written notice of such proposed cancellation, change or modification, (ii) that no act or default of Lessee or any other person or entity shall affect the right of Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns to recover under such policy or policies of insurance in the event of any loss of or damage to any Vehicle and (iii) that the coverage is "primary coverage" for the protection of Lessee, Lessor, Servicer, any other agent of Lessor and their respective successors and assigns notwithstanding any other coverage carried by Lessee, Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns protecting against similar risks. Original certificates evidencing such coverage and naming Lessor, Servicer, any other agent of Lessor and any other person or entity designated by Lessor as additional insureds and loss payees shall be furnished to Lessor prior to the Delivery Date, and annually thereafter and/or as reasonably requested by Lessor from time to time. In the event of default, Lessee hereby appoints Lessor, Servicer and any other agent of Lessor as Lessee's attorney-in-fact to receive payment of, to endorse all checks and other documents and to take any other actions necessary to pursue insurance claims and recover payments if Lessee fails to do so. Any expense of Lessor, Servicer or any other agent of Lessor in adjusting or collecting insurance shall be borne by Lessee.

Lessee, its drivers, servants and agents agree to cooperate fully with Lessor, Servicer, any other agent of Lessor and any insurance carriers in the investigation, defense and prosecution of all claims or suits arising from the use or operation of any Vehicle. If any claim is made or action commenced for death, personal injury or property damage resulting from the ownership, maintenance, use or operation of any Vehicle, Lessee will promptly notify Lessor of such action or claim and forward to Lessor a copy of every demand, notice, summons or other process received in connection with such claim or action.

(b) Notwithstanding the provisions of Section 11(a) above: (i) if Section 4 of a Schedule includes a charge for physical damage waiver, Lessor agrees that (A) Lessee will not be required to obtain or maintain the minimum physical damage insurance (collision and comprehensive) required under Section 11(a) for the Vehicle(s) covered by such Schedule and (B) Lessor will assume the risk of physical damage (collision and comprehensive) to the Vehicle(s) covered by such Schedule; provided, however, that such physical damage waiver shall not apply to, and Lessee shall be and remain liable and responsible for, damage to a covered Vehicle caused by wear and tear or mechanical breakdown or failure, damage to or loss of any parts, accessories or components added to a covered

Initials: EFM _____ Customer _____

Vehicle by Lessee without the prior written consent of Lessor and/or damage to or loss of any property and/or personal effects contained in a covered Vehicle. In the event of a Casualty Occurrence to a covered Vehicle, Lessor may, at its option, replace, rather than repair, the damaged Vehicle with an equivalent vehicle, which replacement vehicle will then constitute the "Vehicle" for purposes of this Agreement; and (ii) if Section 4 of a Schedule includes a charge for commercial automobile liability enrollment, Lessor agrees that it will, at its expense, obtain for and on behalf of Lessee, by adding Lessee as an additional insured under a commercial automobile liability insurance policy issued by an insurance company selected by Lessor, commercial automobile liability insurance satisfying the minimum commercial automobile liability insurance required under Section 11(a) for the Vehicle(s) covered by such Schedule. Lessor may at any time during the applicable Term terminate said obligation to provide physical damage waiver and/or commercial automobile liability enrollment and cancel such physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least ten (10) days prior written notice. Upon such cancellation, insurance in the minimum amounts as set forth in 11(a) shall be obtained and maintained by Lessee at Lessee's expense. An adjustment will be made in monthly rental charges payable by Lessee to reflect any such change and Lessee agrees to furnish Lessor with satisfactory proof of insurance coverage within ten (10) days after mailing of the notice. In addition, Lessor may change the rates charged by Lessor under this Section 11(b) for physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least thirty (30) days prior written notice.

12. INDEMNITY: To the extent permitted by state law, Lessee agrees to defend and indemnify Lessor, Servicer, any other agent of Lessor and their respective successors and assigns from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns may incur by reason of Lessee's breach or violation of, or failure to observe or perform, any term, provision or covenant of this Agreement, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle. The provisions of this Section 12 shall survive any expiration or termination of this Agreement. Nothing herein shall be deemed to affect the rights, privileges, and immunities of Lessee and the foregoing indemnity provision is not intended to be a waiver of any sovereign immunity afforded to Lessee pursuant to the law.

13. INSPECTION OF VEHICLES; ODOMETER DISCLOSURE; FINANCIAL STATEMENTS: Lessee agrees to accomplish, at its expense, all inspections of the Vehicles required by any governmental authority during the Term. Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns will have the right to inspect any Vehicle at any reasonable time(s) during the Term and for this purpose to enter into or upon any building or place where any Vehicle is located. Lessee agrees to comply with all odometer disclosure laws, rules and regulations and to provide such written and signed disclosure information on such forms and in such manner as directed by Lessor. Providing false information or failure to complete the odometer disclosure form as required by law may result in fines and/or imprisonment. Lessee hereby agrees to promptly deliver to Lessor such financial statements and other financial information regarding Lessee as Lessor may from time to time reasonably request.

14. DEFAULT; REMEDIES: The following shall constitute events of default ("Events of Default") by Lessee under this Agreement: (a) if Lessee fails to pay when due any rent or other amount due under this Agreement and any such failure shall remain unremedied for ten (10) days; (b) if Lessee fails to perform, keep or observe any term, provision or covenant contained in Section 11 of this Agreement; (c) if Lessee fails to perform, keep or observe any other term, provision or covenant contained in this Agreement and any such failure shall remain unremedied for thirty (30) days after written notice thereof is given by Lessor, Servicer or any other agent of Lessor to Lessee; (d) any seizure or confiscation of any Vehicle or any other act (other than a Casualty Occurrence) otherwise rendering any Vehicle unsuitable for use (as determined by Lessor); (e) if any present or future guaranty in favor of Lessor of all or any portion of the obligations of Lessee under this Agreement shall at any time for any reason cease to be in full force and effect or shall be declared to be null and void by a court of competent jurisdiction, or if the validity or enforceability of any such guaranty shall be contested or denied by any guarantor, or if any guarantor shall deny that it, he or she has any further liability or obligation under any such guaranty or if any guarantor shall fail to comply with or observe any of the terms, provisions or conditions contained in any such guaranty; (f) the occurrence of a material adverse change in the financial condition or business of Lessee or any guarantor; or (g) if Lessee or any guarantor is in default under or fails to comply with any other present or future agreement with or in favor of Lessor, The Crawford Group, Inc. or any direct or indirect subsidiary of The Crawford Group, Inc.. For purposes of this Section 14, the term "guarantor" shall mean any present or future guarantor of all or any portion of the obligations of Lessee under this Agreement.

Upon the occurrence of any Event of Default, Lessor, without notice to Lessee, will have the right to exercise concurrently or separately (and without any election of remedies being deemed made), the following remedies: (a) Lessor may demand and receive immediate possession of any or all of the Vehicles from Lessee, without releasing Lessee from its obligations under this Agreement; if Lessee fails to surrender possession of the Vehicles to Lessor on default (or termination or expiration of the Term), Lessor, Servicer, any other agent of Lessor and any of Lessor's independent contractors shall have the right to enter upon any premises where the Vehicles may be located and to remove and repossess the Vehicles; (b) Lessor may enforce performance by Lessee of its obligations under this Agreement; (c) Lessor may recover damages and expenses sustained by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns by reason of Lessee's default including, to the extent permitted by applicable law, all costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns in attempting or effecting enforcement of Lessor's rights under this Agreement (whether or not litigation is commenced) and/or in connection with bankruptcy or insolvency proceedings; (d) upon written notice to Lessee, Lessor may terminate Lessee's rights under this Agreement; (e) with respect to each Vehicle, Lessor may recover from Lessee all amounts owed by Lessee under Sections 3(b) and 3(c) of this Agreement (and, if Lessor does not recover possession of a Vehicle, (i) the estimated wholesale value of such Vehicle for purposes of Section 3(c) shall be deemed to be \$0.00 and (ii) the calculations described in the first two sentences of Section 3(c) shall be made without giving effect to clause (ii) in each such sentence); and/or (f) Lessor may exercise any other right or remedy which may be available to Lessor under the Uniform Commercial Code, any other applicable law or in equity. A termination of this Agreement shall occur only upon written notice by Lessor to Lessee. Any termination shall not affect Lessee's obligation to pay all amounts due for periods prior to the effective date of such termination or Lessee's obligation to pay any indemnities under this Agreement. All remedies of Lessor under this Agreement or at law or in equity are cumulative.

15. ASSIGNMENTS: Lessor may from time to time assign, pledge or transfer this Agreement and/or any or all of its rights and obligations under this Agreement to any person or entity. Lessee agrees, upon notice of any such assignment, pledge or transfer of any amounts due or to become due to Lessor under this Agreement to pay all such amounts to such assignee, pledgee or transferee. Any such assignee, pledgee or transferee of any rights or obligations of Lessor under this Agreement will have all of the rights and obligations that have been assigned to it. Lessee's rights and interest in and to the Vehicles are and will continue

at all times to be subject and subordinate in all respects to any assignment, pledge or transfer now or hereafter executed by Lessor with or in favor of any such assignee, pledgee or transferee, provided that Lessee shall have the right of quiet enjoyment of the Vehicles so long as no Event of Default under this Agreement has occurred and is continuing. Lessee acknowledges and agrees that the rights of any assignee, pledgee or transferee in and to any amounts payable by the Lessee under any provisions of this Agreement shall be absolute and unconditional and shall not be subject to any abatement whatsoever, or to any defense, setoff, counterclaim or recoupment whatsoever, whether by reason of any damage to or loss or destruction of any Vehicle or by reason of any defect in or failure of title of the Lessor or interruption from whatsoever cause in the use, operation or possession of any Vehicle, or by reason of any indebtedness or liability howsoever and whenever arising of the Lessor or any of its affiliates to the Lessee or to any other person or entity, or for any other reason.

Without the prior written consent of Lessor, Lessee may not assign, sublease, transfer or pledge this Agreement, any Vehicle, or any interest in this Agreement or in and to any Vehicle, or permit its rights under this Agreement or any Vehicle to be subject to any lien, charge or encumbrance. Lessee's interest in this Agreement is not assignable and cannot be assigned or transferred by operation of law. Lessee will not transfer or relinquish possession of any Vehicle (except for the sole purpose of repair or service of such Vehicle) without the prior written consent of Lessor.

16. MISCELLANEOUS: This Agreement contains the entire understanding of the parties. This Agreement may only be amended or modified by an instrument in writing executed by both parties. Lessor shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Agreement and no waiver whatsoever shall be valid unless in writing and signed by Lessor and then only to the extent therein set forth. A waiver by Lessor of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy, which Lessor would otherwise have on any future occasion. If any term or provision of this Agreement or any application of any such term or provision is invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision will not be affected thereby. Giving of all notices under this Agreement will be sufficient if mailed by certified mail to a party at its address set forth below or at such other address as such party may provide in writing from time to time. Any such notice mailed to such address will be effective one (1) day after deposit in the United States mail, duly addressed, with certified mail, postage prepaid. Lessee will promptly notify Lessor of any change in Lessee's address. This Agreement may be executed in multiple counterparts (including facsimile and pdf counterparts), but the counterpart marked "ORIGINAL" by Lessor will be the original lease for purposes of applicable law. All of the representations, warranties, covenants, agreements and obligations of each Lessee under this Agreement (if more than one) are joint and several.

17. SUCCESSORS AND ASSIGNS; GOVERNING LAW: Subject to the provisions of Section 15, this Agreement will be binding upon Lessee and its heirs, executors, personal representatives, successors and assigns, and will inure to the benefit of Lessor, Servicer, any other agent of Lessor and their respective successors and assigns. This Agreement will be governed by and construed in accordance with the substantive laws of the State of Missouri (determined without reference to conflict of law principles).

18. NON-PETITION: Each party hereto hereby covenants and agrees that, prior to the date which is one year and one day after payment in full of all indebtedness of Lessor, it shall not institute against, or join any other person in instituting against, Lessor any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States. The provisions of this Section 18 shall survive termination of this Master Equity Lease Agreement.

19. NON-APPROPRIATION: Lessee's funding of this Agreement shall be on a Fiscal Year basis and is subject to annual appropriations. Lessor acknowledges that Lessee is a municipal corporation, is precluded by the County or State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the County or State to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the lease terms within this Agreement or any Schedules relating hereto are contingent upon appropriation of funds. The parties further agree that should the County or State fail to appropriate such funds, the Lessor shall be paid all rentals due and owing hereunder up until the actual day of termination. In addition, Lessor reserves the right to be paid for any reasonable damages. These reasonable damages will be limited to the losses incurred by the Lessor for having to sell the vehicles on the open used car market prior to the end of the scheduled term (as determined in Section 3 and Section 14 of this Agreement).

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Master Equity Lease Agreement as of the day and year first above written.

LESSEE: _____

Signature: _____

By: _____

Title: _____

Address: _____

Date Signed: _____, _____

LESSOR: Enterprise FM Trust
By: Enterprise Fleet Management, Inc. its attorney in fact

Signature: _____

By: _____

Title: _____

Address: _____

Date Signed: _____, _____

Initials: EFM_____ Customer_____