

CITY COUNCIL / LRA BOARD

Mayor/Chair

Richard D. O'Brien

Vice Mayor/Chair (CM-D3) Cal Campbell

Council/Authority Members:

District 1 Luis Uribe

District 2 Rachel Hernandez

District 4 Darlene Barber-Martinez



**City of Riverbank
Regular City Council and
Local Redevelopment Authority
Board Hybrid Meetings
(Virtual via ZOOM)**

Council Chambers, 6707 Third St., Suite B
Riverbank, CA 95367



AGENDA

TUESDAY, APRIL 26, 2022 – 6:00 P.M.

(THE AGENDA PACKET IS ONLINE AT [HTTP://WWW.RIVERBANK.ORG/AGENDACENTER](http://www.riverbank.org/agendacenter))

NOTICE: THIS MEETING WILL BE HELD IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 59453, SUBDIVISION (e) OF THE RALPH M. BROWN ACT (CALIFORNIA GC § 54950, ET SEQ.), THE FEDERAL AMERICANS WITH DISABILITIES. WHILE THIS MEETING WILL BE PHYSICALLY OPEN TO THE PUBLIC, GIVEN THE STATE OF EMERGENCY REGARDING THE THREAT OF COVID-19, MEMBERS OF THE PUBLIC MAY ALSO PARTICIPATE AND COMMENT VIA THE ZOOM VIRTUAL PLATFORM. 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 (Informational only)

Item 8.1 **Strategic Plan Update** - City Council to receive the presentation; no action is requested at this time.

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.

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- Item 9.1** Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.
- Item 9.2** Approval of the April 12, 2022 City Council and Local Redevelopment Authority Board Minutes.
- Item 9.3** Second Reading by Title Only and Adoption of Ordinance 2022-002 Amending Title XV: Land Usage, Chapter 153: Zoning, by Repealing in their Entirety Section 153.215: Zoning permits, Section 153.216: Use permits, Section 153.217: Variance, Section 153.218: Appeals, and Section 153.219: Mobile home permits, and substituting them with new Sections 153.210 through 153.214.
- Item 9.4** Adopt a Resolution Authorizing the City to Implement Teleconferenced Public Meetings Pursuant to Assembly Bill 361 Allowing the City to Continue a Hybrid Virtual Meeting Environment.

10. PUBLIC HEARINGS - No Public Hearings Scheduled

11. NEW BUSINESS

- Item 11.1** **Adopt a Resolution Approving the Appointment of Planning Commission Alternate Ben Reuben to fulfill the unexpired four-year term of former Commissioner Mallorie R. Fenrich Effective April 26, 2022; and Administer the Oath of Office to Said Appointee** - It is recommended that the City Council 1) consider the appointment of current Planning Commission Alternate Ben Reuben to fulfill the unexpired four-year term of former Commissioner Mallorie R. Fenrich, 2) have the Oath of Office administered and Certificate of Appointment presented and, 3) direct the Interim City Clerk to advertise and post a special vacancy notice to solicit applications for the alternate member position on the Planning Commission pursuant to Government Code §54974.
- Item 11.2** **A Resolution Formally Naming Crossroads West Park “Centennial Park”** - It is recommended that the City Council consider approving the Resolution naming the first Crossroads West Park “Centennial Park”.
- Item 11.3** **A Resolution Authorizing the Installment Sale Financing of Energy Efficiency Projects Relating to the Wastewater System in the Aggregate Principal Amount of Not to Exceed \$4,445,000 and Approving Related Documents and Official Actions** - It is recommended that the City Council consider adopting a Resolution which will authorize the Installment Sale Financing of the Riverbank Energy Efficiency Project related to the installment of a micro grid at the Wastewater Treatment Plan in a Principal amount not to exceed \$4,445,000 and approving the related documents.

- Item 11.4** **A Resolution Establishing Formal Eligibility Guidelines for the Senior Solid Waste Rates** - It is recommended that the City Council consider adopting a Resolution which will formally establish the eligibility guidelines for residents applying for the Senior Solid Waste Rate.

12. COMMENTS/REPORTS

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

- Item 12.1** Staff

- Item 12.2** Council/Authority Member

- Item 12.3** Mayor/Chair

13. ADJOURNMENT

- The next regular City Council meeting will be on May 10, 2022 at 6 pm.

AFFIDAVIT OF POSTING
I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted at the meeting location, on the North City Hall public exterior bulletin board, and the City's website 72 hours prior to the meeting in accordance to the California Ralph M. Brown Act. Posted this 21 st day of April, 2022. <i>/s/ Kathy L. Teixeira, Interim City Clerk</i>



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 cityclerk@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/VIRTUAL PLATFORM PUBLIC PARTICIPATION COMMENT
PROCEDURES FOR THE HYBRID CITY COUNCIL MEETING HELD IN
CONFORMANCE WITH THE BROWN ACT AS AMENDED BY SB 361**

PUBLIC “LIVE” VIEWING

- Government Channels: Charter– 2 and AT&T U-VERSE – 99
- YouTube Live – is no longer available due to technical difficulties, which is being worked on.
- Via ZOOM Platform (See instructions below)

SUBMITTING PUBLIC COMMENTS FOR THE RECORD

Written comments must be received before 4:00 p.m. on the date of the meeting in order for them to be distributed to the Council prior to consideration of the matter. Written comments will not be read aloud at the meeting, but will be reported as received for the record. If you do not receive an acknowledgement of receipt within an hour of submission or by 5:00 pm, please call the City Clerk’s Office at (209) 863-7198 or the Administration Dept. at (209) 863-7122.

ACCEPTABLE METHODS OF SUBMITTING COMMENTS BEFORE THE 4:00 PM DEADLINE

- **Via Mail Service:** Mail comments to City of Riverbank, Attn. City Clerk, 6707 Third Street, Suite A, Riverbank, CA 95367. (Call 209-863-7198 / 209-863-7122 to ensure they were received.)
- **Via Email:** Mail to cityclerk@riverbank.org **(Note: This technology is not a guaranteed method.)**
 - Indicate Agenda Item # in the **subject line**. (Call 209-863-7198 / 209-863-7122 to ensure receipt)
- **Oral Comments In-Person:** The Mayor will ask the audience if anyone wishes to comment, at that time you may approach the podium. (A Spanish language interpreter is available for assistance.)
- **Oral Comments Via Zoom:** The Mayor will announce when public comments may be made for a limit of 3 minutes on the agenda item being considered, at which time you will:
(please make sure the volume on your video device or any nearby device is turned down.)
 - Using a computer – click on the “raise hand” feature in the webinar controls. This will alert staff that you wish to speak, and you will be unmuted.
 - Using a Phone – press ***9** to “raise the hand”. This will alert staff that you wish to speak, and you will be unmuted.

Teleconference Phone Number (This system is a backup for ZOOM technical difficulties only when providing oral comments.) If there are technical difficulties or disconnection with ZOOM while making oral comments, please immediately call the teleconference phone number **(209) 863-7151** so that Council may receive your comments. Council will be waiting for your call. Thank you

JOIN THE MEETING VIA ZOOM PLATFORM

- Join by this link: <https://us02web.zoom.us/j/83620531051>
- Join by accessing website: <https://zoom.us/join>, enter **Webinar ID: 836 2053 1051**
- Join by telephone: **1 669 900 9128 or 1 346 248 7799, plus Webinar ID**

Learn about using ZOOM - Visit <https://zoom.us/j/94943925973?status=success> for a free account or to download the app.

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 8.1

SECTION 8: PRESENTATIONS

Meeting Date:	April 26, 2022
Subject:	Strategic Plan Update
From:	Marisela H. Garcia, City Manager

RECOMMENDATION

It is recommended that the City Council receive a presentation on the status of the Strategic Plan.

SUMMARY

In August 2021 the City Council and City Staff met to discuss new objectives to achieve the City's Strategic Plan Goals. Tonight's presentation is a status update on the established objectives.

STRATEGIC PLAN

This item is directly related to the City Council's Strategic Plan Goal to "Improve Community Communication."

FINANCIAL IMPACT

There is no financial impact associated with this item.

ATTACHMENT

There are no attachments to this item.

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.1

SECTION 9: CONSENT CALENDAR

Meeting Date:	April 26, 2022
Subject:	Waiver of Readings
From:	Marisela H. Garcia, Interim City Manager
Submitted by:	Kathy L. Teixeira, Interim City Clerk / LRA Recorder

RECOMMENDATION

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

SUMMARY

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

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

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENTS

There are no attachments to this report.

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.2

SECTION 9: CONSENT CALENDAR

Meeting Date:	April 26, 2022
Subject:	Approval of the April 12, 2022 City Council and Local Redevelopment Authority Board Minutes.
From:	Marisela H. Garcia, Interim City Manager
Submitted by:	Kathy L. Teixeira, Interim City Clerk

RECOMMENDATION

It is recommended that the City Council / Local Redevelopment Authority Board approve the City Council /LRA Meeting Minutes of April 12, 2022, as presented.

SUMMARY

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

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. The April 12, 2022, City Council and Local Redevelopment Authority Board Minutes.

CITY COUNCIL / LRA BOARD

Mayor/Chair
Richard D. O'Brien
Vice Mayor/Chair (CM-D3) Cal Campbell
Council/Authority Members:
District 1 Luis Uribe
District 2 Rachel Hernandez
District 4 Darlene Barber-Martinez



**City of Riverbank
Regular City Council and
Local Redevelopment Authority
Board Hybrid Meetings**

(Virtual via ZOOM)

Council Chambers, 6707 Third St., Suite B
Riverbank, CA 95367



MINUTES

TUESDAY, APRIL 12, 2022 – 6:00 P.M.

(THE AGENDA PACKET IS ONLINE AT [HTTP://WWW.RIVERBANK.ORG/AGENDACENTER](http://www.riverbank.org/agendacenter))

1. CALL TO ORDER - Vice Mayor / Vice Chair Cal Campbell called the meeting to order at 6:00 p.m.

2. FLAG SALUTE – Councilmember District 1 Luis Uribe led the pledge of allegiance.

3. INVOCATION – Reverend Randy Richardson provided the invocation.

4. ROLL CALL

Members of the City Council / Local Redevelopment Authority Board present in the Chamber:

Council Member / Authority Member District 1 Luis Uribe
Council Member / Authority Member District 2 Rachel Hernandez
Council Member / Authority Member District 4 Darlene Barber-Martinez
Vice Mayor / Vice Chair (CM-D03) Cal Campbell

Members of the City Council / Local Redevelopment Authority Absent and Excused:
Mayor / Chair Richard D. O'Brien

5. AGENDA CHANGES

Interim City Clerk Teixeira recommended an amendment to Item 9.2 Approval of the March 22, 2022 City Council and Local Redevelopment Authority Board Minutes. Interim City Clerk Teixeira stated on page 4 under Opposition that the minutes should be amended to read (added text underlined) “Evelyn Halbert advised she had submitted her written comments to the City Clerk and was told they would be distributed to the City Council. She then questioned how garbage service providers would meet these requirements for those areas exempt from complying with SB 1383.”

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.

Interim City Manager Garcia declared a conflict of interest with Agenda Item 11.2., the consideration of appointment of the City Manager and approval of the related employment agreement.

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.*

Vice Mayor Campbell opened Public Comment at 6:03 p.m.

Fred Walton spoke in opposition of the River Walk Project citing concerns related to density, topography, and flooding.

There being no further public comments, Vice Mayor Campbell closed the Public Comment period at 6:04 p.m.

8. PRESENTATIONS (Informational only)

Item 8.1 **Proclamation – Golden Valley Health Centers’ 50th Year Anniversary**
– Vice Mayor Cal Campbell to present Golden Valley Health Center with a Proclamation Honoring their 50th Anniversary.

Vice Mayor Campbell presented a Proclamation in celebration of Golden Valley Health Centers’ 50th Year Anniversary to Yamilet Valladolid, Director of Government & Community Affairs and Amy Carroll, Chief of Communications for Golden Valley Health Centers.

Ms. Carroll thanked Vice Mayor Campbell stating they are very proud of the Center’s longevity in serving residents of Stanislaus, Merced and San Joaquin counties. It is only through partnerships like that shared with Riverbank and its elected officials that they are able to continue to provide their many services to those in need. She concluded her remarks thanking the City of Riverbank for their partnership, continued support and for this Proclamation.

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 Approval of the March 22, 2022 City Council and Local Redevelopment Authority Board Minutes.

Item 9.3 Second Reading by Title Only and Adoption of Ordinance 2022-001 Adding New Chapter 54: Mandatory Organic Waste Disposal Reduction Ordinance to Title V: Public Works of the Riverbank Municipal Code of Ordinances.

Item 9.4 **Resolution (2022-030)** to Approve and Adopt the Revised 2022 City of Riverbank Measure L Expenditure Plan Project List.

Item 9.5 **Resolution (2022-031)** Authorizing the Purchase of the Jackson Avenue Property (APN 075-005-025) and 2531 Stanislaus Street (APN 075-005-013) for \$550,000 and Allocating Funds from the American Rescue Plan Act Fund 136 for said Purchase.

Councilmember Uribe stated he would like to pull Item 9.4, the Revised 2022 City of Riverbank Measure L Expenditure Plan Project List for further discussion.

Councilmember Barber-Martinez stated she would like to pull Item 9.3 the Second Reading by Title Only and Adoption of Ordinance 2022-001 Adding New Chapter 54: Mandatory Organic Waste Disposal Reduction Ordinance to Title V: Public Works of the Riverbank Municipal Code of Ordinances for further discussion.

Councilmember Barber-Martinez asked whether the City had received any questions from the public regarding the adoption of proposed Ordinance 2022-001. Interim City Manager Garcia responded not today; however, comments were received at the public hearing and staff did reach out to the resident who provided those questions.

Councilmember Uribe stated he would like to draw attention to the amended project list to the Measure L Expenditure Plan as it relates to the roundabout at Squire Wells Way where Cottage Crest Drive and Heartland Drive intersect. He advised staff is proposing g rapidly flashing beacons for that area along with signage to address recent incidents at this particular location. He stated his opinion that the City needs to go further to make the area safer for pedestrians and motorists suggesting that the statute be removed and a 4-way stop sign configuration be installed at that location.

The City Council and staff discussed the roundabout in further detail and the need for making the area safer. Interim City Manager Garcia explained the proposal within the Measure L Expenditure Plan does include additional signage, most of which will be lighted similar to what has been installed at another roundabout location in the city.

ACTION: *By motion moved and seconded (Uribe/Barber-Martinez/ passed 4/0) to approve Consent Calendar Items 9.1, 9.3 through 9.5., as presented and Item 9.2 as amended.*

Motion carried by unanimous City Council and LRA Board roll call vote:

AYES: Barber-Martinez, Hernandez, Uribe, and Vice Mayor Campbell

NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None

10. PUBLIC HEARINGS

Item 10.1 **Adopt Resolutions accepting and closing the Proposition 218 Public Notification and Protest process and approving the proposed rate increase for solid waste disposal services and authorizing the City Manager to execute an Agreement for the collection of solid waste in the City of Riverbank - It is recommended that the City Council –**

- 1) Open the Proposition 218 Public Hearing and Receive Written Protests to the Proposed Rate Increase for Solid Waste Disposal Services, and
- 2) Adopt a Resolution Accepting and Closing the Proposition 218 Public Notification and Protest Process as it Relates to the Proposed Rate Increase for Solid Waste Disposal Services, and
- 3) Consider Adopting a Resolution Approving the Proposed Solid Waste Rates (this item is contingent upon the Results of the Protest Process), and
- 4) Authorize Mayor Richard D. O'Brien to Execute a Franchise Agreement with Gilton Solid Waste for Solid Waste Disposal Services.

The Public Hearing Notice was published twice in the Riverbank News, once on February 23, 2022 and again on March 2, 2022. The Public Hearing Notice is also posted on the City of Riverbank's website <http://riverbank.org> and notices were mailed via USPS to all rate holders.

Vice Mayor Campbell introduced Aurora Dewhirst, tonight's public hearing interpreter.

The time being 6:20 p.m., Vice Mayor / Vice Chair Campbell opened the public hearing requesting staff's report.

Interim City Manager Garcia with interpretation provided by Aurora Dewhirst provided a staff report and PowerPoint Presentation on the solid waste disposal rate increases and proposed agreement with Gilton Solid Waste Management. She provided a brief history on State Mandate SB 1383, reviewed the new rates, and briefly discussed the agreement for the collection of solid waste in the city of Riverbank with Gilton Solid Waste, which previously had been adopted with rate increases pending closure of the Prop 218 hearing.

Vice Mayor Campbell then opened the Public Hearing at 6:30 p.m. for Public Comment.

Vice Mayor Campbell advised as there was no public comment, he asked staff to provide the final protest count of affected property owners.

Interim City Clerk Teixeira responded that 7,773 ballots were mailed to property owners. For there to be a majority vote, 3,888 protest ballots were necessary. The City Clerk's office received 98 protests.

There being no public comment, Vice Mayor Campbell closed the Public Hearing at 6:34 p.m.

During the motion and second a public comment came in via ZOOM.

Public Comment

Evelyn Halbert stated she is protesting the rate increase and she has not received any responses or comments back from her previously submitted questions. She stated there are too many exemptions and waivers making the rate increase unfair. She stated her other question is related to the direction to be provided to the Mayor to execute the

Franchise Agreement with Gilton Solid Waste for Solid Waste Disposal Services; asking how the City Council can approve an agreement that is not contained in the staff report.

Interim City Manager Garcia stated in response to Ms. Halbert's question related to the Franchise Agreement; the City Council considered and approved the agreement on September 28, 2021 pending the closure of the Prop 218 hearing.

ACTION: *By motion moved and seconded (Uribe / Hernandez / passed 4-0) to adopt **City Council Resolution 2022-032** approving the proposed rate increase for solid waste disposal services.*

Motion carried by unanimous City Council and LRA Board roll call vote:

AYES: Uribe, Hernandez, Barber-Martinez, and Vice Mayor / Vice Chair Campbell

NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None

ACTION: *By motion moved and seconded (Barber-Martinez / Uribe / passed 4-0) to adopt **City Council Resolution 2022-033** approving the Proposed Solid Waste Rates and authorize Mayor Richard D. O'Brien to Execute a Franchise Agreement with Gilton Solid Waste for Solid Waste Disposal Services.*

Motion carried by unanimous City Council and LRA Board roll call vote:

AYES: Barber-Martinez, Uribe, Hernandez, and Vice Mayor / Vice Chair Campbell

NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None

Councilmember Barber-Martinez asked Interim City Manager Garcia to clarify for the public that there is a discount program for seniors. Interim City Manager Garcia responded that is correct, the city has a senior discount program which applies to seniors over the age of 65 and those considered permanently disabled. City staff will be making modifications to the senior discount rate to be consistent with the City's water and sewer discount program.

Item 10.2 **Adopt a Resolution Authorizing a 13.4% Inflationary Adjustment Increase to the City of Riverbank System Development Fees Based on the Construction Cost Index to be effective May 1, 2022** – It is recommended that the City Council open the public hearing, accept public testimony and adopt a Resolution Authorizing a 13.4% Inflationary Adjustment Increase to the City of Riverbank System Development Fees Based on the Construction Cost Index to be effective May 1, 2022. ***The Public Hearing Notice was published twice in the Riverbank News, once on February 23, 2022, and again on March 2, 2022.***

The time being 6:40 p.m., Vice Mayor / Vice Chair Campbell opened the public hearing requesting staff's report.

Assistant Finance Director Alcantor presented a comprehensive staff report with PowerPoint Presentation recommending the City Council open the public hearing, accept public testimony and adopt a resolution authorizing a 13.4% Inflationary Adjustment

Increase to the City of Riverbank System Development Fees based on the Construction Cost Index to be effective May 1, 2022.

There being no public comment or questions by the City Council, Vice Mayor / Vice Chair Campbell closed the public hearing at 6:43 p.m.

ACTION: *By motion moved and seconded (Uribe / Barber-Martinez / passed 4-0) to adopt **City Council Resolution 2022-034** Authorizing a 13.4% Inflationary Adjustment Increase to the City of Riverbank System Development Fees based on the Construction Cost Index to be effective May 1, 2022. Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Barber-Martinez, and Vice Mayor / Vice Chair Campbell
NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None*

10.2 **First Reading by Title Only and Introduction of a Proposed Ordinance Amending Title XV, Land Usage, by repealing in their entirety Sections §153.215 ZONING PERMITS, §153.216 USE PERMITS, §153.217 VARIANCE, §153.218 APPEALS, and §153.219 MOBILE HOME PERMITS, and amending them with new Sections §153.210 through §153.214.**

The time being 6:45 p.m., Vice Mayor / Vice Chair Campbell opened the public hearing requesting staff's report.

Planning and Building Manager Kenney stated the proposed amendments are funded by the City's SB2 Grant, the purpose of which is to streamline housing production; therefore, by amending these sections the Code will provide further clarification to the public and developers as to what the City expects with regard to development submittals as well as how applications will be processed. Planning and Building Manager Kenney then introduced David Niskanen of J.B. Anderson Land Use Planning, stating Mr. Niskanen will be providing tonight's presentation.

Mr. Niskanen presented a comprehensive staff report with PowerPoint Presentation on the proposed Ordinance to amend Title XV, Land Usage, by repealing in their entirety Sections §153.215 ZONING PERMITS, §153.216 USE PERMITS, §153.217 VARIANCE, §153.218 APPEALS, and §153.219 MOBILE HOME PERMITS, and amending them with new sections §153.210 through §153.214. He concluded staff's report recommending the City Council conduct the public hearing and approve the proposed ordinance for its adoption at the next regular City Council meeting on April 26, 2022.

The City Council discussed the benefits of the proposed ordinance with staff.

The time being 6:56 p.m., Vice Mayor / Vice Chair Campbell opened the public hearing and asked for public comments.

There being no public comment nor further Council discussion, Vice Mayor / Vice Chair Campbell closed the public hearing at 6:57 p.m.

ACTION: *By motion moved and seconded (Barber-Martinez / Hernandez / passed 4-0) to approve the first reading and introduction of the proposed Ordinance [No. 2022-002] to amend Title XV, Land Usage, by repealing in their entirety Sections §153.215 ZONING PERMITS, §153.216 USE PERMITS, §153.217 VARIANCE, §153.218 APPEALS, and §153.219 MOBILE HOME PERMITS, and amending them with new sections §153.210 through §153.214 and to initiate a second reading by title and consider its adoption on April 26, 2022, as presented.*
Motion carried by unanimous City Council roll call vote.
AYES: Barber-Martinez, Hernandez, Uribe, and Vice Mayor / Vice Chair Campbell
NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None

11. NEW BUSINESS

Item 11.1 **Adopt a Resolution of Concurrence and Support for the Approval of the Fiscal Year 2022-2023 Annual Action Plan (AAP)** – It is recommended that the City Council open the Community Meeting, accept Public Comment, and consider adopting a Resolution of Concurrence and support for the approval of the Fiscal Year 2022-2023 Annual Action Plan (AAP).

Housing Specialist Ibanez presented a comprehensive staff report with PowerPoint Presentation recommending that the City Council accept public comment and consider adopting the Resolution of Concurrence and support for the approval of the Fiscal Year 2022-2023 Annual Action Plan (AAP) contained in staff's report.

There being no public comment Vice Mayor / Vice Chair Campbell brought the item back to the City Council.

Councilmember Uribe commented, although it is different funding, it is nice to see that the renovations have begun at Castlewood Park noting that the improvements are much needed particularly the ADA access on the west side of the park. Councilmember Uribe concluded his remarks asking Housing Specialist Ibanez to keep the Council in the loop particularly should she need their assistance in moving projects along with the County.

ACTION: *By motion moved and seconded (Hernandez / Uribe / passed 4-0) to adopt City Council Resolution 2022-035 Resolution of Concurrence and support for the approval of the Fiscal Year 2022-2023 Annual Action Plan (AAP).*
Motion carried by unanimous City Council roll call vote.
AYES: Hernandez, Uribe, Barber-Martinez, and Vice Mayor / Vice Chair Campbell
NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None

Item 11.2 **Adopt a Resolution Approving the Appointment of Marisela H. Garcia as the City Manager and Approving the Related Employment Agreement** – It is recommended that the City Council approve the appointment of Marisela H. Garcia as the City Manager and approve the

Employment Agreement between the City of Riverbank and Marisela H. Garcia.

Interim City Manager Garcia left the podium and Council Chamber due to a conflict of interest with Item 11.2.

City Attorney Hallinan presented the staff report advising at the direction of the City Council, the City Attorney's office prepared a standard form contract consisting of a 4-year term with subsequent one-year renewals. He concluded his staff report recommending the City Council approve the appointment of Marisela H. Garcia as the City Manager and approve the Employment Agreement between the City of Riverbank and Marisela H. Garcia.

There being no public comment Vice Mayor / Vice Chair Campbell brought the item back to the City Council.

The Vice Mayor and City Councilmembers stated the qualities of Interim City Manager Garcia that make her the perfect choice for the position of City Manager.

ACTION: *By motion moved and seconded (Uribe / Hernandez / passed 4-0) to adopt City Council Resolution 2022-036 the appointment of Marisela H. Garcia as the City Manager and approve the Employment Agreement between the City of Riverbank and Marisela H. Garcia.*

AYES: Uribe, Hernandez, Barber-Martinez, and Vice Mayor / Vice Chair Campbell

NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None

City Manager Garcia returned to the Council Chamber and addressed the audience and City Council from the podium stating she is pleased and honored to serve a City Council that is cohesive and provides staff with the needed guidance to bring the city in to the next phase of growth. She concluded her remarks stating her appreciation to the City Council for the support they provide as well as the support from staff.

Item 11.3 **Adopt a Resolution to Award and Authorize the City Manager to Enter into Professional Service Agreements for Retainer On-Call Services for Building Inspection and Plan Checking Services for the City of Riverbank to West Coast Code Consultants, Inc. (WC-3), CSG Consultants, Inc., 4Leaf, Inc., and Bureau Veritas –** It is recommended the City Council adopt a resolution to award and authorize the City Manager to enter into a contract with each of these firms to perform on-call building inspection and plan checking services for the City of Riverbank. In addition, the Resolution authorizes the City to negotiate separate contracts with these firms as needed for specific development projects.

Planning and Building Manager Kenney presented a comprehensive staff report with PowerPoint Presentation recommending the City Council adopt the resolution contained in staff's report to award and authorize the City Manager to enter into a contract with each of the listed firms to perform on-call building inspection and plan checking services for the

City of Riverbank. In addition, the Resolution authorizes the City to negotiate separate contracts with these firms as needed for specific development projects.

City Manager Garcia clarified with the City Council when it comes to the day-to-day inspections staff hopes this will be an interim solution for Riverbank; that through the budget process staff will be presenting to the City Council in June staff hopes to be able to fund an additional building inspector position within the City to supplement the current building inspector.

Councilmember Barber-Martinez asked if the rates quoted by these firms are comparable or were each of their quotes based on an area of expertise. Planning and Building Manager Kenney explained that each firm will receive 3% of the value of their project.

There being no public comment Vice Mayor / Vice Chair Campbell brought the item back to the City Council.

ACTION: *By motion moved and seconded (Barber-Martinez / Campbell / passed 4-0) to adopt City Council Resolution 2022-037 to award and authorize the City Manager to enter into Professional Service Agreements for Retainer On-Call Services for Building Inspection and Plan Checking Services for the City of Riverbank to West Coast Code Consultants, Inc. (WC-3), CSG Consultants, Inc., 4Leaf, Inc., and Bureau Veritas.*
AYES: Barber-Martinez, Uribe, Hernandez, and Vice Mayor / Vice Chair Campbell
NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED:

Item 11.4 **Adopt a Resolution Authorizing the Execution of a Performance Agreement between the City of Riverbank and Simply Divine Events, LLC in conjunction with Simply Divine Foundation (501c3) for the Coordination of the 2022 Cheese & Wine Festival** – It is recommended the City Council adopt a resolution authorizing the City Manager to execute a Performance Agreement between the City of Riverbank and Simply Divine Events, LLC in conjunction with Simply Divine Foundation (501c3) for the Coordination of the 2022 Cheese & Wine Festival.

Parks and Recreation Director Fitzpatrick presented a comprehensive staff report with PowerPoint Presentation recommending the City Council adopt the resolution contained in staff's report authorizing the City Manager to execute a Performance Agreement between the City of Riverbank and Simply Divine Events, LLC in conjunction with Simply Divine Foundation (501c3) for the coordination of the 2022 Cheese & Wine Festival.

Parks and Recreation Director Fitzpatrick responded to questions raised by the City Council.

There being no public comment Vice Mayor / Vice Chair Campbell brought the item back to the City Council.

ACTION: *By motion moved and seconded (Uribe / Barber-Martinez / passed 4-0) to adopt City Council Resolution 2022-038 authorizing the City Manager to*

execute a Performance Agreement between the City of Riverbank and Simply Divine Events, LLC in conjunction with Simply Divine Foundation (501c3) for the Coordination of the 2022 Cheese & Wine Festival.

AYES: Uribe, Barber-Martinez, Hernandez, and Vice Mayor / Vice Chair Campbell

NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED: None

Item 11.5 **Adopt a Resolution Authorizing the Mayor to Execute a Lease with Simply Divine Events, LLC for the Area Associated with the Riverbank Cheese and Wine Festival** - It is recommended the City Council adopt a resolution authorizing the Mayor to Execute a Lease with Simply Divine Events, LLC for the Area Associated with the Riverbank Cheese and Wine Festival.

Parks and Recreation Director Fitzpatrick presented a comprehensive staff report with PowerPoint Presentation recommending the City Council adopt the resolution contained in staff's report to authorizing the Mayor to Execute a Lease with Simply Divine Events, LLC for the Area Associated with the Riverbank Cheese and Wine Festival.

Parks and Recreation Director Fitzpatrick responded to questions raised by the City Council.

There being no public comment Vice Mayor / Vice Chair Campbell brought the item back to the City Council.

ACTION: By motion moved and seconded (Barber-Martinez / Uribe / passed 4-0) to adopt City Council Resolution 2022-039 authorizing the Mayor to Execute a Lease with Simply Divine Events, LLC for the Area Associated with the Riverbank Cheese and Wine Festival.

AYES: Barber-Martinez, Uribe, Hernandez, and Vice Mayor / Vice Chair Campbell

NAYS: None / ABSENT: Mayor / Chair O'Brien / ABSTAINED:

12. COMMENTS/REPORTS

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

Item 12.1 Staff

City Manager Garcia invited all residents of Riverbank to the Centennial Founders Day Carnival scheduled for April 30, 2022 at the Community Center from 12:00 to 5:00 p.m.; this event is free to all residents.

Planning and Building Manager Kenney shared that YAFT (Young Adults Fighting Tobacco) and YAAB (Young Adults Advisory Board), the Sierra Club and Stanislaus Climate Action Now will assemble at the community center park on Saturday, May 14, 2022, at 9:30 a.m. to pick up cigarette butts and trash in the surrounding streets from 10:00 a.m. to 2:00 p.m. There will be approximately 30 youths involved in this event who

would like at least one councilmember to come out for a photo and to say a couple of words before they begin.

Public Works Director Riddell provide an update on the Roselle Force Main advising issues between the developer and contractor have been resolved; this project is anticipated for completion by mid-May.

Public Works Director Riddell also provided an update on the Public Works Building noting it is anticipated that the building should be in and occupied by the end of July or the beginning of August.

Item 12.2 Council/Authority Member

Councilmember Uribe reported on the following:

- He had received an update that the paperwork for the modular home to be used by the homeless for laundry service at Sierra Home is in review and has been for the last two months. The City will be formally reaching out to the Board of Supervisors to ask for their assistance and provide an update to see what the delay is with the hope to move forward.
- He will be attending the City of Modesto's State of the City in support of Mayor Zwahlen. For those interested in attending Modesto's State of the City Address will be held at the Modesto Centre Plaza doors open at 11:30 a.m. with the event beginning at 12:15 p.m.
- The Glow Egg Hunt for ages 13 to 17 years of age will be held at Castleberg Park from 8:00 to 9:00 p.m. on Saturday, April 16.

Councilmember Hernandez reported on the following:

- Although LOVE Riverbank is not happening this year. They are moving forward with some of the work involved to implement sustainable planning for funding development and marketing into the next year.
- There will be a Stanislaus 2030 community meeting for Riverbank; date and time to be determined.

Councilmember Barber-Martinez reported on the following:

- A Stanislaus Homeless Alliance meeting will be held tomorrow, April 13 at 1010 Tenth Street at 5:30 p.m. and is open to the public.
- A reminder that although the recent rain has been a welcome sight there is still significant fire hazards so she cautioned everyone to be conscious of the damage a spark can cause.
- Thanked her fellow councilmembers for filling in for her during in her absence.

Vice Mayor Campbell encouraged everyone to be active participants in local nonprofits throughout the City noting their invaluable contributions to the community stating memberships are faltering with no new volunteers.

Item 12.3 Mayor/Chair

No comments.

13. CLOSED SESSION

The public will have a limit of 3 minutes to comment on Closed Session item(s) as set forth on the agenda prior to the City Council/LRA Board recessing to Closed Session.

Item 13.1 CONFERENCE WITH LABOR NEGOTIATORS

(Pursuant to Government Code §54957.6)

Agency Representative: Interim City Manager Marisela Garcia

Employee Organizations: Riverbank Miscellaneous Employees

Vice Mayor Campbell asked whether there was anyone wishing to speak on the item listed on the Closed Session Agenda there being none, Vice Mayor Campbell adjourned the City Council to closed session at 7:40 p.m.

14. RECONVENE – REPORT FROM CLOSED SESSION

Vice Mayor Campbell reconvened the meeting at 8:05 p.m.

Item 14.1 Report from Closed Session on Item 13.1 CONFERENCE WITH LABOR NEGOTIATORS

(Pursuant to Government Code §54957.6)

Agency Representative: Interim City Manager Marisela Garcia

Employee Organizations: Riverbank Miscellaneous Employees

Vice Mayor Campbell reported direction had been provided to staff on Item 13. CONFERENCE WITH LABOR NEGOTIATORS (Pursuant to Government Code §54957.6).

15. ADJOURNMENT OF THE REGULAR MEETING

There being no further business, Vice Mayor / Vice Chair Campbell adjourned the regular meeting at 8:06 p.m. to the next regular scheduled City Council / LRA Meeting April 26, 2022.

ATTEST: (Adopted 04/12/2022)

APPROVED:

Kathy L. Teixeira
Interim City Clerk / LRA Recorder

Cal Campbell
Vice Mayor / Vice Chair

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.3

SECTION 9: CONSENT CALENDAR

Meeting Date: April 26, 2022

Subject: Second Reading by Title Only of a Proposed Ordinance Amending Title XV, Land Usage, by repealing in their entirety Sections §153.215 ZONING PERMITS, §153.216 USE PERMITS, §153.217 VARIANCE, §153.218 APPEALS, and §153.219 MOBILE HOME PERMITS, and substituting them with new Sections and adding new Sections §153.210 through §153.214.

From: Marisela H. Garcia, City Manager

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

RECOMMENDATION

It is recommended that the City Council review the proposed ordinance to consider its adoption.

SUMMARY

The proposed Zoning Ordinance Amendment is a staff-initiated proposal to modify the Riverbank Municipal Code (RMC) to update the City's Administrative Procedures as it relates to processing entitlement applications.

Specifically, the amendments include:

- Repeal Section §153.215 Zoning Permits, §153.216 Use Permits, §153.217 Variance, §153.218 Appeals, and §153.219 Mobile Home Permits and substituting them with new Sections §153.215 through §153.219. The new Sections are a re-organization of the City's Administrative Procedures and includes processing procedures for planning entitlements, including Use Permits, Architecture and Site Plan Review, Variance and Appeals.
- Add Section §153.210 Purpose, §153.211 Permits – General, §153.212 Application, §153.213 Supporting Information, and §153.214 Review Procedure to the RMC. The new Sections provide general processing procedures, including but

not limited to supporting information required for new application submittals and public hearing notice requirements.

The Planning Commission, at their regular meeting of March 15, 2022 and with a vote of 4-0, recommended approval of the ordinance to the City Council (Attachment 2). The City Council, with a vote of 4-0 at their regular meeting of April 12, 2022, approved the first reading of the ordinance.

BACKGROUND

The City's Municipal Code includes administrative procedures for the processing of entitlement applications. Typically, these procedures include submittal requirements, submittal requirements, and procedures for specific entitlement applications. Together, these Sections are entitled "Permits, Variances, Appeals". The City's Zoning Code includes processing procedures for the following entitlement applications:

- Use Permits
- Variance
- Appeal
- Mobile Home Permits

Each section related to entitlement includes procedures for application submittal, public hearing notice, appeal, action by Planning Commission or the Community Development Director and expiration date of the specific entitlement. The purpose of updating the administrative procedures is to assist in streamlining review of entitlement applications and provide consistency related to the supporting information requirement for the entitlement applications (e.g., Legal Description of the property, location map, environmental information form, site plans, elevations, etc.).

Additionally, the Mobile Home Permits Section is being removed. Currently, the City requires a Mobile Home Permit for the placement of a mobile home on a zoned R-1, R-2, R-3 or R-4 (there is no R-4 zoning district) which contains one single-family dwelling. As a by-right use, State law allows the placement of a mobile home on a single-family lot and is treated as a single-family dwelling. Furthermore, the City's Zoning Code allows for the development of Accessory Dwelling Units (ADUs) consistent with State law. As such, a Mobile Home Permit should no longer be required.

The proposed Zoning Ordinance Amendment would re-organize and re-format these Sections in the Zoning Code and together would rename the Sections "Administrative Procedures".

ENVIRONMENTAL REVIEW

The proposed Zoning Ordinance Amendment is exempt according to the California Environmental Quality Act (CEQA) Article 5 §15061(b)(3) by the "Common Sense Exemption" that CEQA applies only to projects that have a potential for causing a direct

physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

The proposed amendments to not change the zoning designation on any individual property and does not affect existing land use. The purpose of the amendment is to update the City's Administrative Procedures as it relates to receiving and processing entitlement applications. The proposed amendment will not directly or indirectly result in the development of a specific project.

FINANCIAL IMPACT

None. This project is funded by the State of California through a Senate Bill 2 Grant.

PUBLIC NOTICE

The City Council public hearing notice was published in the Riverbank News on March 23, 2022, posted at City Hall North, City Hall South, the Post Office, the Riverbank Community Center, and emailed to the Library.

ATTACHMENTS

1. Draft Ordinance 2022-002
2. Planning Commission Resolution 2022-001 (no exhibits with this item)

**THE CITY COUNCIL
OF THE CITY OF RIVERBANK
ORDINANCE 2022-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AMENDING RIVERBANK MUNICIPAL CODE BY ADDING SECTIONS
§153.210 THROUGH §153.214 AND REPEALING IN THEIR ENTIRETY SECTIONS
§153.215, ZONING PERMITS, §153.216, USE PERMITS, §153.217, VARIANCE,
§153.218, APPEALS, AND §153.219 MOBILE HOME PERMITS, AND AMENDING
THEM WITH NEW SECTIONS §153.215 THROUGH §153.219**

WHEREAS, on March 2, 2022, notice of the Planning Commission public hearing was published in the Riverbank News in compliance with California Government Code Section 65090, and posted in public places throughout the City and on the City's website; and

WHEREAS, the Planning Commission held a public hearing on March 15, 2022 to consider an amendment to the City of Riverbank Municipal Code and with a vote of 4-0, recommended approval of this ordinance to the City Council; and

WHEREAS, the proposed amendments to the Riverbank Municipal Code implement the requirements of State law and add local policies that are within the scope of the State law; and

WHEREAS, the amendment is exempt according to the California Environmental Quality Act (CEQA) Article 5 §15061(b)(3) by the "Common Sense Exemption" that CEQA applies only to projects that have a potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

WHEREAS, The Riverbank Planning Commission made the following finding:

1. The proposed Zoning Ordinance Amendment is consistent with the City's General Plan Land Use Element.
2. The proposed Zoning Ordinance Amendment furthers the public interest, convenience, and general welfare of the City. The amendments would ensure consistency of the Riverbank Municipal Code with the General Plan and State law, and update application processing procedures that are relevant to the current practices in the planning profession.

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

SECTION 1: Title XV: Land Usage, Chapter 153: Zoning, Section 153.215: Zoning permits, Section 153.216: Use permits, Section 153.217: Variance, Section 153.218: Appeals, and Section 153.219: Mobile home permits, shall be repealed in its entirety and amended with new Title XV: Land Usage, Chapter 153 Zoning, Sections 153.215 through §153.219, and new Title XV: Land Usage, Chapter 153 Zoning, Sections 153.210 through 153.214 shall be added, which shall read as follows:

Administrative Procedures

Section

- 153.210 Purpose
- 153.211 Permits – General
- 153.212 Application
- 153.213 Supporting Information
- 153.214 Review Procedure
- 153.215 Public Hearing Notice
- 153.216 Use Permits
- 153.217 Architecture and Site Plan Review
- 153.218 Variance
- 153.219 Appeals

§ 153.210 PURPOSE

(A) The purpose of sections 153.210 through 153.219 is to provide administrative and legislative procedures for the review of plans, the processing and review of applications for consideration and relief under this Chapter, and for appeal procedures with respect to Community Development Director and Planning Commission determinations.

§ 153.211 PERMITS – GENERAL

(A) Application for any permit, variance, appeal, zoning ordinance amendment or other entitlement provided by this Chapter shall be prepared and submitted by the applicant, shall be processed by the city, and shall be reviewed by the appropriate body or person pursuant to this Chapter and the more specific provisions set forth in subsequent sections for the specific entitlement.

§ 153.212 APPLICATION

(A) Application for any permit, variance, appeal, or other entitlement provided by this Chapter and considered by the city, shall be made on form prescribed by the city

and signed by the applicant and the owner of the affected property or authorized agent and shall be accompanied by the fee prescribed by a separate city ordinance.

§ 153.213 SUPPORTING INFORMATION

- (A) Applications to be considered by the city shall be accompanied by the following supporting information as may be applicable:
 - (1) A legal description of the property (required);
 - (2) A location map showing the project site and the general vicinity of the site (required);
 - (3) A completed environmental information form as prescribed by the city in its CEQA Guidelines (required);
 - (4) Site plans, elevations plans, floor plans, and other maps and data as may be necessary to describe the existing conditions on and surrounding the property and the proposed plans for the future development of the property. The Planning Commission shall by resolution, maintain a listing of the minimum documentation necessary for submittal in support of each type of application;
 - (5) Such other information specified in this title for the particular entitlement requested.

§ 153.214 REVIEW PROCEDURE

- (A) Upon submittal to the city, applications shall be processed in accordance with the following:
 - (1) Preliminary review. Within thirty days following initial submittal of an application the following actions shall be taken by the Community Development Director or his/her designee:
 - (a) A determination shall be made as to whether the application is in order and complete pursuant to city requirements and CEQA Guidelines.
 - (b) If the application is determined to be not in order or complete the applicant shall be notified of the deficiencies in application and/or specific data necessary to make it complete.
 - (c) At such time as the application is determined to be complete, the applicant shall be notified.

(B) CEQA. Following certification that an application is complete the city shall review the proposal conducting any studies necessary for its property consideration and causing the preparation of reports for the reviewing body including any prerequisite environmental documents.

(C) Final Review and Action.

(1) If the matter is one requiring a public hearing, a public hearing date shall be set and advertised pursuant to § 153.215.

(2) If the matter is one allowing the Community Development Director or his/her designee action, the matter shall be reviewed and action shall be taken.

(3) If the matter is one requiring Planning Commission action or recommendation to the City Council, the matter will be forwarded to the Planning Commission for their review and action or recommendation.

(4) If the matter is one requiring City Council action, the matter will be forwarded to the City Council for their review and action.

§ 153.215 PUBLIC HEARING NOTICE

(A) Whenever the provisions of this title state that a public hearing shall be held, a public hearing notice shall be given pursuant to § 65091 of the Government Code.

(B) All mailing or publication shall be accomplished at least ten (10) days prior to the public hearing.

(C) The failure of any person to receive notice required by this section, shall not affect the authority of the city to act on a matter before it, provided proper notice has been found to be given.

§ 153.216 USE PERMITS

(A) *Purpose.* Use permits may be issued for any of the uses or purposes for which such permits are required and are subject to the provisions of this section.

(B) *Form.* Applications for a use permit shall be made to the Planning Commission in writing on a form prescribed by the Commission and shall be accompanied by sufficient information in writing, drawings or pictures to show the detail of the proposed use or building(s). Applications for a use permit shall provide evidence to support the approval findings pursuant to § 153.216(D). A filing fee in such amount as may be fixed by the City Council shall be paid at the time the application is filed.

(C) *Public Hearing.* The Planning Commission shall give notice and hold a public hearing on each application for a use permit in accordance with the provisions of § 153.215 of this chapter.

(D) *Approval Findings.* The Planning Commission shall make the following findings to approve a Use Permit application:

(1) The proposed use is consistent with the General Plan, any applicable Specific Plan, and all applicable provisions of this Chapter.

(2) The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, and general welfare of the persons residing or working in the neighborhood or to the general welfare of the city.

(3) The proposed use is consistent with the purpose of the applicable zoning district or districts.

(4) The proposed use meets the minimum requirements of this title applicable to the use and complies with all other applicable laws, ordinances, and regulations of the city and state.

(E) *Conditions.* The Planning Commission may designate such conditions in connection with the use permit as it deems necessary to secure the purpose of this title and may require such guarantees and evidence that such conditions are being or will be complied with.

(F) *Denial.* In cases where any use permit is refused, the Planning Commission shall state its reasons for such refusal.

(G) *Appeal.* Appeal of the Planning Commission's action on the request for a Use Permit shall be made in accordance with the procedures specified in § 153.219 (Appeals).

(H) *Effect.* Use permit shall not become effective for ten (10) days after being granted and in the event an appeal is filed, shall not become effective until a decision is made by the Council on such appeal.

(1) No building or zoning permit shall be issued in any case where a use permit is required by the provisions of this title unless and until such use permit has been granted by the Planning Commission or Council and then only in accordance with the terms and conditions of the use permit granted.

(2) No application for a use permit which has been denied shall be resubmitted for a period of one (1) year from the date the order of denial became final, except on grounds of new evidence or proof of change of project conditions found to be valid by the Planning Commission or City Council, whichever issued the order of denial.

(3) Any use permit granted shall be null and void twenty-four (24) months from the date of final approval thereof unless prior to such expiration date, the property is being used for the purpose of which the use permit was granted or unless a valid building permit is in effect for the construction of necessary buildings or appurtenances to such use. The Planning Commission may defer expiration of the permit for a period not exceeding one (1) year upon application, in writing, by the owner of the property prior to expiration provided such use is still permitted in the district in which it is proposed to be located.

§ 153.217 ARCHITECTURE AND SITE PLAN REVIEW

(A) *Purpose.* The purpose of these regulations is to allow architecture and site plan review of all developments, buildings, structures and other facilities constructed or modified in any zone where architecture and site plan review is required in order to foster a good design character through consideration of aesthetic and functional relationships to surrounding development, and in order to further enhance the city's appearance, and the livability and usefulness of properties.

(B) *Form.* Applications for an Architecture and Site Plan Review permit shall be made to the Planning Commission on a form prescribed by the Planning Commission and shall be accompanied by sufficient information in writing, drawings, or pictures to show the detail of the proposed building(s). Applications for an Architecture and Site Plan Review permit shall provide evidence to support the approval findings pursuant to § 153.217(D). A filing fee in such amount as may be fixed by the City Council shall be paid at the time the application is filed.

(C) *Public Hearing.* The Planning Commission shall give notice and hold a public hearing on each application it receives for Architecture and Site Plan Review in accordance with the provisions of § 153.215.

(D) *Approval Findings.* The Planning Commission shall make the following findings to approve an Architecture and Site Plan Review application:

(1) The proposed project is consistent with the objectives of the General Plan, complies with applicable zoning regulations, Planned Development, Master Plan or Specific Plan provisions, improvement standards, and other applicable standards and regulations adopted by the city.

(2) The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation.

(3) The site layout (orientation and placement of buildings and parking areas), as well as the landscaping, lighting, and other development features, is compatible with and compliments the existing surrounding environment and ultimate character of the area under the General Plan.

(4) The proposed architecture, including the character, scale, and quality of the design, relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting, and similar elements, establishes a clear design concept and is compatible with the character of the buildings on adjoining and nearby properties.

(E) *Conditions.* The Planning Commission may designate such conditions in connection with the architecture and site plan review as it deems necessary to secure the purpose of this title and may require such guarantees and evidence that such conditions are being or will be complied with.

(F) *Appeal.* Appeal of the Planning Commission's action on the request for an Architecture and Site Plan Review shall be made in accordance with the procedures specified in § 153.219 (Appeals).

(G) *Effect.* The Architecture and Site Plan Review shall not become effective for ten (10) days after being granted and in the event an appeal is filed, shall not become effective until a decision is made by the Council on such appeal.

(1) No building or zoning permit shall be issued in any case where an architecture and site plan review application is required by the provisions of this title unless and until such permit has been granted by the Planning Commission, or City Council and then only in accordance with the terms and conditions of the Architecture and Site Plan Review permit granted.

(2) No application for an architecture and site plan review application which has been denied shall be resubmitted for a period of one (1) year from the date the order of denial became final, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission or City Council, whichever issued the order of denial.

(3) Any architecture and site plan review granted shall be null and void twenty-four (24) months from the date of final approval thereof unless prior to such expiration date, a valid building permit is in effect for the construction of necessary buildings or appurtenances of the review. The Planning Commission may defer expiration of the permit for a period not exceeding one (1) year upon application, in writing, by the

owner of the property prior to expiration provided such use is still permitted in the district in which it is proposed to be located.

§ 153.218 VARIANCE

(A) *Purpose.* Each zoning district has specific development standards and a variance is a special request for the city to waive or alter one (1) or more of those standards. When practical difficulties, unnecessary hardship and outcomes inconsistent with the general purpose of this title result from the strict application of certain provisions thereof, a variance may be granted as provided in this section except for uses not permitted by zoning district regulations.

(B) *Form.* An application for variance shall be made in writing on a form prescribed by the city and shall be accompanied by a filing fee (that is subject to change by City Council resolution). Applications for a Variance shall provide evidence to support the approval findings pursuant to § 153.218(D).

(C) *Public Hearing.* The Planning Commission shall give notice and hold a public hearing on each application for a variance in accordance with the provisions of § 153.215.

(D) *Approval Findings.* The Planning Commission shall make the following findings to approve a Variance application:

(1) Because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives the subject property of the privileges enjoyed by other properties in the vicinity and under identical zone classifications.

(2) The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privileges.

(3) The granting of such application will not, under the circumstances of the particular case, materially adversely affect the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

(E) *Conditions.* The Planning Commission may impose such conditions in connection with a variance as it deems necessary to secure the purposes of this chapter and may require a bond guarantee or other assurances that such conditions are being or will be complied with.

(F) *Appeal.* Appeal of the Planning Commission's action on the request for a Variance shall be made in accordance with the procedures specified in § 153.219 (Appeals).

(G) *Effect.*

(1) The Variance shall not become effective for ten (10) days after being granted and in the event an appeal is filed, shall not become effective until a decision is made by the Council on such appeal.

(2) No application for a variance which has been denied shall be resubmitted for a period of one (1) year from the date of said order of denial became final, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission.

(3) Any variance granted shall be null and void twelve (12) months from the date of final approval thereof unless prior to such expiration date, the property is being used as stated in the variance, or unless a valid building permit is in effect for the construction of buildings or appurtenances to such variance. The Planning Commission may defer expiration of the variance for a period not exceeding one (1) year upon receiving an application, in writing, by the owner of the property prior to expiration provided the conditions for granting the variance have not changed.

(4) The Planning Commission may revoke or modify the approval of a variance as indicated in § 153.247 of this chapter.

§ 153.219 APPEALS

(A) *Purpose.* The purpose of these provisions is to prescribe the procedure through which an appeal may be made in case an interested person is dissatisfied with any order, requirement, permit, decision, determination, or disapproval, made in an administration, interpretation, or enforcement of this Chapter.

(B) *Approval Authority.* The following table identifies the approving authority for each entitlement:

Entitlement	Approving Authority	
	Community Development Director	Planning Commission
Use Permit		X
Architecture and Site Plan Review		X
Variance		X

Home Occupation	X	
Sign Permit	X	
Determination of Similar Use	X	

(C) *Appeal Authority.* Any person dissatisfied with a determination or action of the Community Development Director or Planning Commission made pursuant to this Chapter may appeal such action to the designated appeal authority listed in the table below, within ten (10) days from the date of the action. Actions by City Council are final, and no further administrative appeals are available.

Approving Authority for Action Being Appealed	Appeal Authority	
	Planning Commission	City Council
Community Development Director	X	
Planning Commission		X

(D) *Form.* All appeals shall be submitted in writing, identifying the determination or action being appealed and specifically stating the basis or grounds of the appeal. Appeals shall be filed within ten (10) days from, but not including, the date of the determination or action for which an appeal is made, accompanied by a filing fee established by City Council resolution, and submitted to the Community Development Director. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the city is not open for business. The filing of an appeal shall stay the issuance of any necessary subsequent permit(s) associated with any right or entitlement that will be subject to the appeal.

(1) *Appeal of the Community Development Director Decision.* The applicant or any other person aggrieved may appeal such decision by filing a written notice with the Community Development Director prior to the time the decision becomes final. The Community Development Director shall furnish forms of notice of appeal.

(2) *Appeal of Planning Commission Decision.* The applicant or any other person aggrieved may appeal such decision by filing a written notice of appeal with the Community Development Director prior to the time the decision becomes final.

(E) *Public Hearing.* Unless otherwise agreed upon by the person filing the appeal and the applicant, appeal hearings should be conducted within sixty (60) days from the date of appeal submittal. Notice of the appeal shall be provided pursuant to noticing requirements consistent with state law.

(F) *Appeal Hearing and Action.* Each appeal shall be considered a de novo (new) hearing. In taking its action on an appeal, the appeal authority shall state the basis for its action. Only such evidence and plans as were submitted to and ruled upon the

approving authority may be provided to the appeal authority for review. The appeal authority may act to confirm, modify, or reverse the action of the approving authority, in whole or in part, or add or amend such conditions as deemed necessary. The action of the appeal authority is final on the date of decision and, unless expressly provided by this title, may not be further appealed.

SECTION 2. *Severability.* If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this chapter, or any part thereof is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage, provided it is published pursuant to Government Code section 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 April 12, 2022. 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 26th day of April, 2022; motioned by Councilmember _____, seconded by Councilmember _____; moved said ordinance by a City Council vote of _____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Kathy L. Teixeira
Interim City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan
City Attorney

**City of Riverbank
Planning Commission
Resolution No. 2022-001**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK
RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF AN ORDINANCE
AMENDING TITLE XV: LAND USAGE, BY REPEALING IN THEIR ENTIRETY
SECTION §153.215: ZONING PERMITS, SECTION §153.216: USE PERMITS,
SECTION §153.217: VARIANCE, SECTION §153.218: APPEALS, AND SECTION
§153.219 MOBILE HOME PERMITS, AND SUBSTITUTING THEM WITH NEW
SECTIONS AND ADDING NEW SECTIONS §153.210 THROUGH §153.214.**

WHEREAS, the proposed amendments to the Riverbank Municipal Code implement Administrative Procedures for the review and processing of entitlement applications; and

WHEREAS, on March 2, 2022, notice of the Planning Commission public hearing was published in the Riverbank News in compliance with California Government Code Section 65090, and posted in public places throughout the City; and

WHEREAS, the Planning Commission held a public hearing on March 15, 2022, to consider the proposed amendments to the Riverbank Municipal Code; and

WHEREAS, the proposed amendments comply with the General Plan in that “the City and Redevelopment Agency will encourage, through incentives, streamlining, flexible standards, and other means, development of employment-generating uses (Policy LAND-4.1)”, “The City will encourage the revitalization of existing commercial areas through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement processes, catalyst projects, public-private partnerships, and other means (Policy LAND-4.2)”, and “The City will encourage and assist small, locally-owned businesses that wish to locate, expand, or simply continue to do business in Riverbank through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement process, public-private partnerships, and other means (Policy LAND-4.3)”; and

WHEREAS, the amendment is exempt according to the California Environmental Quality Act (CEQA) Article 5 §15061(b)(3) by the “Common Sense Exemption” that CEQA applies only to projects that have a potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

WHEREAS, The Riverbank Planning Commission made the following findings:

1. The proposed Zoning Ordinance Amendment is consistent with the City’s

General Plan Land Use Element, as enumerated in the General Plan Consistency section of the Staff Report.

2. The proposed Zoning Ordinance Amendment further the public interest, convenience, and general welfare of the City. The amendments would ensure consistency of the Riverbank Municipal Code with the General Plan and State law, and update administrative procedures related to processing entitlement applications.

NOW THEREFORE, BE IT RESOLVED the City of Riverbank Planning Commission forwards its recommendation to the City Council to adopt draft Ordinance No. 2022-XXX (Exhibit A).

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 15th of March, 2022, motioned by Commissioner Diana, seconded by Commissioner Stewart, and upon roll call was carried by the following vote 4-0:

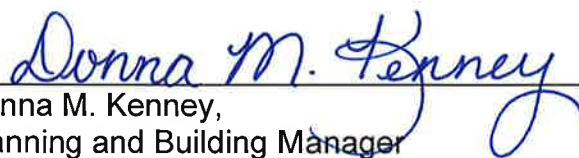
AYES: Commissioners: Link, Stewart, Dinan, and Reuben

NOES:

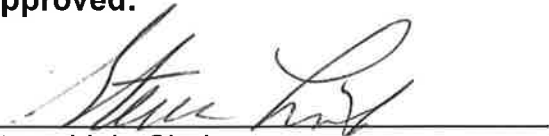
ABSENT: Commissioners Fenrich and Basso (excused)

ABSTAIN:

Attest:


Donna M. Kenney,
Planning and Building Manager

Approved:


Steve Link, Chairperson
Planning Commission

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.4

SECTION 9: CONSENT CALENDAR

Meeting Date:	April 26, 2022
Subject:	Adopt a Resolution Authorizing the City to Implement Teleconferenced Public Meetings Pursuant to Assembly Bill 361 Allowing the City to Continue a Hybrid Virtual Meeting Environment
From:	Tom Hallinan, City Attorney
Submitted by:	Tom Hallinan, City Attorney

RECOMMENDATION

Staff recommends Council adopt a Resolution authorizing the City to Implement Teleconferenced Public Meetings Pursuant to Assembly Bill 361 Allowing the City to Continue a Virtual Meeting Environment.

SUMMARY

NOTE: This report is generally the same staff report presented at the January 25, 2022 Council meeting. As the resolution only extends the allowance for teleconferenced meetings for a 30-day period it is necessary to re-agendize this item for approval.

On September 16, 2021 Governor Newsom signed Assembly Bill ("AB") 361 which allows cities to continue to meet remotely during proclaimed states of emergency under modified Ralph M. Brown Act requirements that are similar but not identical to the rules and procedures established by the previous Executive Orders temporarily suspending provisions of the Brown Act. On September 20, 2021, Governor Newsom signed Executive Order N-15-21 to suspend AB 361 until October 1, 2021. Over the past year, City Council meetings have been held with virtual teleconference components.

AB 361, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a local legislative body holds a meeting during a declared state of emergency by the governor and when state of local health officials have imposed or recommended measures to promote social distancing.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021, for public agencies to transition back to public meetings held in full compliance with the Brown Act.

As the Delta variant has surged in California, the Legislature has taken action to extend the COVID-19 exceptions to the Brown Acts' teleconference requirements, subject to some additional safeguards. AB 361 allows a local agency to use teleconferencing without complying with the Brown Act provisions in any of the following circumstances:

- The local legislative body holds a meeting during a proclaimed state of emergency by the governor, and state or local officials have imposed or recommended measures to promote social distancing.
- The local legislative body holds a meeting during a proclaimed state of emergency by the governor for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- The local legislative body holds a meeting during a proclaimed state of emergency by the governor and has determined, by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

A local agency that holds a meeting under these circumstances would be required by AB 361 to do all of the following, in addition to giving notice of the meeting and posting agendas as required under the Brown act. These additional requirements are intended to protect the public's right to participate in the meetings of local agency legislative bodies.

Pursuant to AB 361 local agencies are required to do all of the following in addition to meeting notice requirements under the Brown Act:

- Allow the public to access the meeting and require that the agenda provide an opportunity for the public to directly address the legislative body pursuant to the Brown Act's other teleconferencing provisions.
- In each instance when the local agency provides notice of the teleconferenced meeting or posts its agenda, give notice for how the public can access the meeting and provide public comment.
- Identify and include in the agenda an opportunity for all persons to attend via a call-in or an internet-based service option; the legislative body need not provide a physical location for the public to attend or provide comments.
- Conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the public.
- Stop the meeting until public access is restored in the event of a service disruption that either prevents the local agency from broadcasting the meeting to the public using the call-in or internet-based service option or is within the local agency's control and prevents the public from submitting public comments (any actions taken during such a

service disruption can be challenged under the Brown Act's existing challenge provisions).

- Not require comments be submitted in advance (though the legislative body may provide that as an option) and provide the opportunity to comment in real time.
- Provide adequate time for public comment, either by establishing a timed public comment period or by allowing a reasonable amount of time to comment.
- If the legislative body uses a third-party website or platform to host the teleconference, and the third-party service requires users to register to participate, the legislative body must provide adequate time during the comment period for users to register and may not close the registration comment period until the comment period has elapsed.

AB 361 also provides that if a local agency conducts teleconference meetings in reliance on AB 361, the local agency must make the following findings by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules:

- The legislative body has reconsidered the circumstances of the emergency; and
- Either of the following circumstances exist: The state of emergency continues to directly impact the ability of members to meet safely in person, or State or local officials continue to impose or recommend social distancing measures.

The goal of AB 361 is "to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options" consistent with Executive Order N-29-20. AB 361 contains an urgency clause which became effective upon signing with a sunset of January 1, 2024. However, shortly after signing AB 361, Governor Newsom signed Executive Order N-15-21 to suspend AB 361 until October 1, 2021.

At the October 12th City Council meeting, Council considered whether or not to continue with the hybrid meeting format. During that meeting difficulties were experienced in receiving a specific comment on an agenda item. As such, the Council chose to only extend the hybrid meeting allowance for 2 weeks to determine alternate options for accepting comments or dealing with technical issues. **At the October 26th Council meeting staff gave out the phone number at the dais for any member of the public that had technical issues providing comment by zoom. Two comments were received via this method, if this resolution is approved staff will continue with this measure until it is no longer needed.** Staff is currently in the process of soliciting bids for technological upgrades to the Council Chamber technology setup which will provide improved ability for hybrid and streamed meetings.

Alternatively, the Council could choose to no longer allow hybrid meetings in which case Councilmembers would attend in person or would have to follow the original Brown Act requirements for a remote meeting (public posting etc.). Some local communities still live stream meetings but do not allow remote public comment as an option.

If the Resolution is adopted the City Council will continue to hold in person meetings with a virtual hybrid component. The City Council will revisit the need to conduct

meetings remotely within 30 days of the adoption of this Resolution, it is staff's intention to reevaluate options for hybrid meetings during that time period for future Council consideration.

FINANCIAL IMPACT

None at this time.

ATTACHMENTS

1. Draft City Council Resolution 2022-
2. Letter from Stanislaus County Public Health Officer
Re: Social Distancing Recommendation

CITY OF RIVERBANK

RESOLUTION 2022-____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, PROCLAIMING A LOCAL EMERGENCY AND AUTHORIZING
REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES
OF THE CITY OF RIVERBANK PURSUANT TO ASSEMBLY BILL 361 AND
BROWN ACT PROVISIONS**

WHEREAS, the City Council of the City of Riverbank (the “City”) is committed to preserving public access and participation in meetings of the City Council; and

WHEREAS, all meetings of the City’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Gov. Code, §§ 54950 – 54963), so that any member of the public may attend, participate, and watch the City’s legislative bodies conduct their business; and

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill (“AB”) 361, amending Government Code section 54953, subdivision (e) to allow for remote teleconferencing participation in meetings by members of a legislative body without compliance with the requirements of Government Code section 54953, subdivision (b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition for remote teleconferencing participation in meetings by members of a legislative body is that a state of emergency is declared by the Governor, pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the City’s boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing or the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the City, specifically, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

WHEREAS, the Stanislaus County Public Health Officer issued an order on September 2, 2021 regarding the highly transmissible Delta Variant and recommending face coverings indoors; and

WHEREAS, there has been a significant increase in COVID-19 cases in Stanislaus County due primarily to the Delta variant of SARS-CoV-2, the virus that causes COVID-19. Emerging evidence indicates that the Delta variant is far more transmissible than prior variants of the virus, may cause more severe illness, and can be spread by fully vaccinated individuals; and

WHEREAS, as a consequence of the declared emergency, the City Council does hereby find that the legislative body of the City shall conduct their meetings without compliance with Government Code section 54953, subdivision (b)(3), as authorized by Section 54953, subdivision (e), and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in Section 54953, subdivision (e)(2); and

WHEREAS, pursuant to Government Code section 54953, subdivision (e)(3), in order to continue to teleconference without compliance with Government Code section 54953, subdivision (b)(3), the City Council shall, not later than 30 days after teleconferencing for the first time pursuant to this Resolution, and every 30 days thereafter, make the following findings by majority vote: The legislative body has reconsidered the circumstances of the state of emergency and any of the following conditions exist: (1) the state of emergency continues to directly impact the ability of the members to meet safely in person or (2) state or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, the City reserves the option to hold in-person meetings, consistent with local health officer directives, or to continue a practice of remote meetings that still allow multiple options for public participation.

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

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The City Council hereby proclaims that a local emergency exists throughout the City, and that the legislative body meeting in person could present imminent risks to the health and safety of attendees due to the prevalence of COVID-19 in Stanislaus County and the state, such that the City reserves the right to continue virtual meetings or conduct in-person meetings, consistent with local health guidance or duly issued orders.

Section 3. Remote Teleconference Meetings. The legislative body and designees of the City are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953, subdivision (e), and other applicable provisions of the Brown Act.

Section 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) October 30, 2021, or (ii) such time the City Council makes a subsequent finding by majority vote in accordance with Government Code section 54953, subdivision (e)(3), to extend the time during which the legislative bodies of the City may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 26th day of April, 2022; 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:

Kathy L. Teixeira
Interim City Clerk

Richard D. O'Brien
Mayor



HEALTH SERVICES AGENCY

Public Health Services

917 Oakdale Road, Modesto, CA 95353

Julie Vaishampayan, MD, MPH

Public Health Officer

Phone: 209.558.8804 Fax: 209.558.7286

www.hsahealth.org

September 22, 2021

To Whom It May Concern:

I recommend that physical/social distancing measures be practiced throughout our Stanislaus County communities to minimize the spread of COVID-19, including implementation of the newly enacted AB 361 to maintain social distancing by legislative bodies of our local agencies. This recommendation is made due to the continued threat of COVID-19 to the community.

I will continue to evaluate this recommendation on an ongoing basis and will communicate when there is no longer such a recommendation.

Julie Vaishampayan, MD, MPH
Public Health Officer
Stanislaus County

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.1

SECTION 11: NEW BUSINESS

Meeting Date: April 12, 2022

Subject: Adopt a Resolution Approving the Appointment of Planning Commission Alternate Ben Reuben to fulfill the unexpired four-year term of former Commissioner Mallorie R. Fenrich Effective April 26, 2022; and Administer the Oath of Office to Said Appointee

From: Marisela H. Garcia, City Manager

Submitted by: Kathy L. Teixeira, Interim City Clerk

RECOMMENDATION

It is recommended that the City Council consider the appointment of current Planning Commission Alternate Ben Reuben to fulfill the unexpired four-year term of former Commissioner Mallorie R. Fenrich thereafter have the Oath of Office administered and Certificate of Appointment presented.

SUMMARY

Pursuant to the policy on Planning Commission terms and filling vacancies and in accordance with the Riverbank Municipal Code (RMC), it is recommended the City Council approve a Resolution to 1) consider the appointment of current Planning Commission Alternate Ben Reuben to fulfill the unexpired four-year term of Commissioner Mallorie R. Fenrich, 2) have the Oath of Office administered and Certificate of Appointment presented and, 3) direct the Interim City Clerk to advertise and post a special vacancy notice to solicit applications for the alternate member position on the Planning Commission pursuant to Government Code §54974.

FINANCIAL IMPACT

Compensation to serve as a primary Planning Commissioner is \$100. The Alternate Planning Commissioner receives \$50, however if called upon to serve in the absence of a primary Commissioner, the compensation is \$100. Compensation is a fixed amount set at the discretion of the City Council by resolution and is paid for attendance of an “opened” meeting.

STRATEGIC PLAN

The Planning Commission provides valuable guidance to the City Council and overall community on a variety of development projects. Many of those projects expand economic development opportunities and promotes sustainable land use planning, which are goals of the City's strategic plan.

ATTACHMENT

1. Draft City Council Resolution 2022-

CITY OF RIVERBANK

RESOLUTION 2022-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPROVING THE APPOINTMENT OF ALTERNATE BEN REUBEN
TO PRIMARY MEMBER TO THE PLANNING COMMISSION
EFFECTIVE APRIL 26, 2022**

WHEREAS, the City of Riverbank Planning Commission was established and is regulated pursuant to Riverbank Municipal Code (RMC) Title III; Chapter 32; and

WHEREAS, on March 23, 2022, Planning Commissioner Mallorie Fenrich resigned her primary Planning Commission seat; and

WHEREAS, the vacated primary seat has a term set to expire December 31, 2023; and

WHEREAS, pursuant to the RMC, Mayor O'Brien recommends to the City Council approval to appoint, existing alternate Commissioner, Benjamin Reuben to the vacant primary seat to fulfil the unexpired term; and

WHEREAS, the appointment of Benjamin Reuben to the vacant primary seat creates an unscheduled vacancy of the alternate seat on the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the aforementioned appointment as stated. Said appointee shall begin his term upon taking the Oath of Office, and may temporarily continue to serve beyond his expiration date until a new appointment has been made; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Riverbank directs the Interim City Clerk to advertise and post a special vacancy notice to solicit applications for the alternate member position on the Planning Commission pursuant to Government Code §54974.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 26th day of April, 2022; 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:

Kathy L. Teixeira
Interim City Clerk

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.2

SECTION 11: NEW BUSINESS

Meeting Date:	April 26, 2022
Subject:	A Resolution Formally Naming Crossroads West Park “Centennial Park”
From:	Marisela H. Garcia, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council consider approving the Resolution naming the first Crossroads West Park “Centennial Park”.

SUMMARY

The first new Crossroads West Park will be developed soon. A Resolution to name this park “Centennial Park” will be presented to the City Council for consideration. Staff will discuss protocol for the future naming of parks as the city continues to grow.

BACKGROUND

It has been quite a few years since the City of Riverbank has developed a new park. When the Crossroads Parks were developed many of the parks were named after icons in the community. Others such as the Riverbank Sports Complex and the Riverbank Skatepark were not. Most recently, the City Council approved the design of the first park that will open on the eastside of town “Countryside Park”. Staff referred to this as “Countryside Park” while the park was being developed due to the name of the development and chose a farm theme. The name seemed to fit the area.

The idea to name the first park in Crossroads West that will be developed this year “Centennial Park” came as we are celebrating Riverbank’s 100th year anniversary this year.

Back in 2004, there was a park naming list that was developed with possible names that were added by a past City Manager and Council. This list may be outdated at this point or could be added to a new list that is developed for possible names of future parks. Staff will seek direction from City Council on the protocol for the naming of upcoming new parks.

STRATEGIC PLAN

This is relevant to the strategic plan by *Enhancing Quality of Life through our development of parks to provide exceptional experiences for our residents.*

FINANCIAL IMPACT

There is no financial impact to this report.

ATTACHMENT

1. Draft City Council Resolution 2022-

CITY OF RIVERBANK

RESOLUTION 2022-

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF RIVERBANK, CALIFORNIA
APPROVING THE NAMING OF THE FIRST CROSSROADS WEST PARK
“CENTENNIAL PARK”**

WHEREAS, the City of Riverbank is celebrating their 100th year anniversary and celebrating “Centennial” events; and

WHEREAS, a new development, Crossroads West will be opening a new park during the “Centennial” timeframe; and

WHEREAS, the park name of “Centennial Park” is appropriate for this new park within this new development.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank approve the name of the first Crossroads West Park to be named “Centennial Park”.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 26th day of April, 2022; 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:

Kathy L. Teixeira
Interim City Clerk

Richard D. O’Brien
Mayor

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.3

SECTION 11: NEW BUSINESS

Meeting Date: April 26, 2022

Subject: A Resolution Authorizing the Installment Sale Financing of Energy Efficiency Projects Relating to the Wastewater System in the Aggregate Principal Amount of Not to Exceed \$4,445,000 and Approving Related Documents and Official Actions

From: Marisela H. Garcia, City Manager

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution which will authorize the Installment Sale Financing of the Riverbank Energy Efficiency Project related to the installment of a micro grid at the Wastewater Treatment Plan in a Principal amount not to exceed \$4,445,000 and approving the related documents.

SUMMARY

On January 11, 2022 the City Council allocated \$2,000,000 in American Rescue Plan Act Funds towards the Riverbank Energy Efficiency Project with an understanding that the balance of the proposed project would need to be financed via a loan, bond, or negotiated installment sale. Tonight's action authorizes McLiney and Company to proceed with finalizing an Installment Sale with Municipal Finance Corporation to finance these improvements.

BACKGROUND

At the 2021 Riverbank City Council Strategic Planning Session the Council expressed a desire to consider new and innovative energy efficiency and micro grid projects. Similarly, 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 proposed for solar array locations include Whorton Park (adjacent to the city's water well), the Community Center parking lot, and the Police Department parking lot to offset power usage at those locations. Subsequently, SitelogIQ has also proposed a project location at the Wastewater Treatment Facility for solar at the Wastewater Treatment Facility, which 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.

The City Council directed the City Attorney to move forward with negotiating the Letter of Agreement (LOA) to allow SitelogIQ to move into the design and engineering phase of the project which was approved at the September 28th City Council meeting. Once Design and Engineering were completed, the Facility Solutions Master Agreement and Operations & Maintenance Agreements were presented and approved by the City Council on February 8, 2022.

The Facility Solutions Master Agreement approved the project scope which includes:

1. Lighting Improvements at multiple city locations, including City Hall, Community Center, Corporation Yard, Jacob Myers Park, Museum, Whorton Park, amongst others,
2. HVAC Upgrades at multiple city locations,
3. Solar Systems at the Waste Water Treatment Facility, Community Center, Police Station, and Whorton Park.

FINANCING PROPOSAL

Term: 20 year loan

Total Financing: \$4,435,000 (but not to exceed \$4,445,000)

Rate: 3.85%

Annual Payment Range: \$182,605 (Year 1 Interest only) - \$336,100

Use of Funds:

1. Project Costs - \$4,339,659.38
2. Issuance Costs - \$95,340.62 (bond attorney, purchase attorney, financial advisor)

Anticipated closing date: May 6, 2022

STRATEGIC PLAN

This is directly related to the City Council's Strategic Plan Goal to "Ensure the City's Continued Financial Stability" which has as an objective to "Explore the use of renewable energy for City operations/vehicles".

FINANCIAL IMPACT

Repayment source will be the realized energy cost savings via PG&E and MID directly attributed to the Wastewater Treatment Plant.

ATTACHMENTS

1. Draft City Council Resolution 2022-
2. Installment Sales Agreement – DRAFT
3. Term Sheet
4. Agreement for Legal Services

CITY OF RIVERBANK

RESOLUTION 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE INSTALLMENT SALE FINANCING OF ENERGY EFFICIENCY PROJECTS RELATING TO THE WASTEWATER SYSTEM IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,445,000 AND APPROVING RELATED DOCUMENTS AND OFFICIAL ACTIONS

WHEREAS, the City owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System"), and wishes to provide financing for improvements to the Wastewater System consisting generally of solar arrays and related electrical generating facilities, lighting efficiency upgrades, including retrofitting of existing fluorescent light fixtures with LED lamps, and HVAC improvements, including electrical controls upgrades (the "Project"); and

WHEREAS, in order to provide financing for the Project, the City has proposed to enter into an Installment Sale Agreement with the Municipal Finance Corporation (the "Corporation"), under which the Corporation will provide funds for the Project and will agree to sell the completed Project to the City in consideration of the agreement by the City to pay the purchase price thereof in semiannual installments (the "Installment Payments") which are payable from and secured by a pledge of and lien on the net revenues of the Wastewater System; and

WHEREAS, the Corporation will assign its rights under the Installment Sale Agreement to NBH Bank, a subsidiary of National Bank Holdings Corporation, as lender (the "Lender"), including its right to receive the Installment Payments; and

WHEREAS, as required by Government Code Section 5852.1, attached hereto as Appendix A is certain financial information relating to the Installment Sale Agreement that has been obtained by the City Council and is hereby disclosed and made public; and

WHEREAS, the City Council has previously approved a Debt Issuance and Management Policy which complies with Government Code Section 8855, and the execution and delivery of the Installment Sale Agreement will be in compliance with such policy; and

WHEREAS, the City Council approves all of said transactions in furtherance of the public purposes of the City, and the City Council wishes at this time to authorize all proceedings relating to the financing for the Project as described herein.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves as follows:

Section 1. Approval of Installment Sale Agreement. The City Council hereby approves the financing of the Project on an installment sale basis under an Installment Sale Agreement between the Corporation and the City, under which the Corporation agrees to provide financing in the aggregate principal amount of not to exceed \$4,445,000, and under which the City agrees to purchase the completed Project in consideration of the payment of semiannual Installment Payments which are secured by a pledge of the net revenues of the Wastewater System. The City Council hereby approves the Installment Sale Agreement in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable by the City Manager. The City Council hereby authorizes and directs the City Manager to execute, and the City Clerk to attest, the final form of the Installment Sale Agreement for and in the name of the City.

Section 2. Approval of Assignment. The City Council hereby approves the assignment of the Installment Payments by the Corporation to the Lender pursuant to an Assignment Agreement between the Corporation and the Lender. The interest components of the Installment Payments shall be calculated at a rate not to exceed 4.25% and the Installment Payments shall be payable over a term which shall not exceed December 1, 2042.

Section 3. Professional Services. The firm of McLiney and Company, a division of SAMCO Capital, is hereby designated to serve as municipal advisor to the City, and the firm of Jones Hall, A Professional Law Corporation, is hereby designated to serve as bond counsel to the City, in connection with the financing transactions described in this Resolution. Compensation to said firms shall be paid from a portion of the proceeds of the financing which are provided by the Lender. The City Manager is hereby authorized and directed to execute an agreement with each of said firms.

Section 4. Official Actions. The Mayor, the City Manager, the Finance Director, the City Clerk and all other officers of the City, are authorized and directed in the name and on behalf of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Without limiting the generality of the foregoing, the City Council hereby approves the execution and delivery of an agreement between the City and the Lender relating to the establishment and administration of funds for the construction of the Project and other matters relating to the financing, in form and substance acceptable to the City Manager upon the advice of the City's municipal advisor and bond counsel.

Whenever in this Resolution any officer of the City is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on behalf of such officer in the case such officer is absent or unavailable.

Section 5. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 26th day of April, 2022; 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:

Kathy Teixeira
Interim City Clerk

Richard D. O'Brien
Mayor

Attachment:

1. Exhibit A – Required Good Faith Estimates pursuant to Government Code Section 5852.1
2. Installment Sales Agreement

EXHIBIT A

REQUIRED GOOD FAITH ESTIMATES PURSUANT TO GOVERNMENT CODE SECTION 5852.1

1. True Interest Cost of the Installment Payments: 3.85%.
2. Finance charges, being the sum of all fees and charges paid to third parties in the amount of \$95,340.
3. Amount of proceeds expected to be received by the City, net of proceeds for finance charges in (2) above and net of capitalized interest (if any) and reserves (if any) paid or funded with the proceeds of the Installment Sale Agreement: \$4,339,659.
4. Total payment amount for the Installment Payments, being the sum of (a) debt service to be paid to final maturity, plus (b) any financing costs not paid from proceeds of the Installment Sale Agreement: \$6,504,375.

INSTALLMENT SALE AGREEMENT

This Installment Sale Agreement (this "Agreement") dated May 6, 2022, is between MUNICIPAL FINANCE CORPORATION, a corporation duly organized and existing under the laws of the State of California (the "Corporation"), and the CITY OF RIVERBANK, a municipal corporation duly organized and existing under the laws of the State of California (the "City").

BACKGROUND:

1. The City owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System"), and in order to provide funds to finance energy efficiency improvements to the Wastewater System (the "Project"), the Corporation has proposed to enter into this Agreement, under which the Corporation will provide funds for that purpose and will agree to sell the Project to the City in consideration of the agreement by the City to pay the purchase price of the Project in semiannual installments (the "Installment Payments").

2. The Installment Payments will be payable from and secured by a pledge of and lien on the net revenues of the Wastewater System, on a parity with the outstanding obligations of the City under that certain Series 2014 Wastewater Loan Agreement dated as of January 1, 2014, between the City and the Corporation, under which the Corporation has made a loan to the City in the aggregate original principal amount of \$5,742,714.75.

3. The City is authorized to enter into this Agreement and to purchase the Project from the Corporation under the laws of the State of California.

4. Concurrently with the execution and delivery of this Agreement, the Corporation has assigned its rights hereunder to NBH Bank, a subsidiary of National Bank Holdings Corporation.

AGREEMENT:

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Corporation formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS AND APPENDICES

SECTION 1.1. *Definitions.* All terms defined in this Section shall for all purposes of this Agreement have the meanings herein specified.

"Additional Revenues" means, with respect to the issuance of any Parity Debt, any or all of the following amounts:

- (i) An allowance for Net Revenues from any additions or improvements to or extensions of the Wastewater System to be made by the City during the 36 month period following the issuance of such Parity Debt, in an amount equal to 90% of the estimated additional average annual Net Revenues to be derived from all properties which are improved with a structure the construction of which has been completed prior to the date of issuance of such Parity Debt and to which service will be provided by such additions, improvements and extensions, all as shown by the certificate or opinion of a Fiscal Consultant.
- (ii) An allowance for Net Revenues arising from any increase in the charges made for service from the Wastewater System which has become effective prior to the incurring of such Parity Debt but which, during all or any part of the most recent completed Fiscal Year for which audited financial statements of the City are available, or for any more recent consecutive 12-month period selected by the City under Section 5.8(b), was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or 12-month period, all as shown by the certificate or opinion of a Fiscal Consultant.

“Agreement” means this Installment Sale Agreement dated May 6, 2022, between the Corporation and the City.

“Assignee” means (a) initially, NBH Bank, a subsidiary of National Bank Holdings Corporation, as assignee of certain rights of the Corporation hereunder, and (b) any other entity to whom the rights of the Corporation are assigned hereunder.

“Assignment” means that certain Assignment of Installment Sale Agreement dated the date hereof, by and between the Corporation and the Assignee.

“Bond Counsel” means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income under Section 103 of the Tax Code.

“City” means the City of Riverbank, a municipal corporation formed under the laws of the State of California.

“Closing Date” means the date of execution and delivery of this Agreement by the parties hereto, being May 6, 2022.

“Corporation” means the Municipal Finance Corporation, a corporation duly organized and existing under the laws of the State of California.

“Debt Service” means, for any Fiscal Year, the sum of the following: (a) the Installment Payments coming due and payable under this Agreement during such Fiscal Year, (b) the principal of and interest on the 2014 Loan coming due and payable during such Fiscal Year under the 2014 Loan Agreement, and (c) the principal of and interest on

any outstanding Parity Debt coming due and payable during such Fiscal Year under the related Parity Debt Documents.

"Escrow Agent" means NBH Bank, a subsidiary of National Bank Holdings Corporation, in its capacity as holder of the Project Fund.

"Event of Default" means any of the events of default as defined in Section 6.1.

"Federal Securities" means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

"Fiscal Consultant" means any consultant or firm of such consultants appointed by the City and who, or each of whom: (a) is judged by the City to have experience in matters relating to the financing of Wastewater System enterprises; (b) is in fact independent and not under domination of the City; (c) does not have any substantial interest, direct or indirect, with the City other than as Assignee or purchaser of any Parity Debt; and (d) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

"Fiscal Year" means each twelve-month period during the Term of this Agreement commencing on July 1 in any calendar year and ending on June 30 in the next succeeding calendar year, or any other twelve-month period selected by the City as its fiscal year period.

"Gross Revenues" means all gross charges received for, and all other gross income and receipts derived by the City from, the ownership and operation of the Wastewater System or otherwise arising from the Wastewater System, including but not limited to investment earnings thereon; but excluding (a) customer deposits, (b) the proceeds of any special assessments or special taxes levied upon real property within any improvement district for the purpose of paying special assessment bonds or special tax obligations of the City relating to the Wastewater System; and (c) connection charges, if any.

"Installment Payment Date" means February 1 and August 1 in each year, commencing August 1, 2022, and continuing to and including the date on which the Installment Payments are paid in full.

"Installment Payments" means all payments required to be paid by the City under Section 4.3, including any prepayment thereof under Sections 7.2 or 7.3.

"Maximum Annual Debt Service" means, as of the date of any calculation, the maximum sum obtained for the current or any future Fiscal Year during the Term of this Agreement by totaling the following amounts for such Fiscal Year:

- (a) the aggregate amount of the Installment Payments coming due and payable in such Fiscal Year hereunder, except to the extent payable from any security deposit under Section 7.1;

- (b) the aggregate amount of debt service payments on the 2014 Loan coming due and payable in such Fiscal Year under the 2014 Loan Agreement, except to the extent such payments have been discharged under Section 8.2 of the 2014 Loan Agreement; and
- (c) the aggregate amount of the debt service payments coming due and payable in such Fiscal Year with respect to any outstanding Parity Debt, except to the extent such payments have been discharged under the related Parity Debt Documents.

"Net Revenues" means, for any period, an amount equal to all of the Gross Revenues received during such period minus the amount required to pay all Operation and Maintenance Costs becoming payable during such period.

"Operation and Maintenance Costs" means the reasonable and necessary costs and expenses paid by the City for maintaining and operating the Wastewater System, including but not limited to (a) the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Wastewater System in good repair and working order, (b) the reasonable administrative costs of the City attributable to the operation and maintenance of the Wastewater System, and (c) transfers made to other funds of the City for the purpose of paying or reimbursing the payment of Operation and Maintenance Costs. "Operation and Maintenance Costs" do not include (i) interest expense relating to obligations of the City with respect to the Wastewater System, (ii) depreciation, replacement and obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

"Parity Debt" means, collectively, any bonds, notes or other obligations of the City payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the Installment Payments which are issued or incurred under Section 5.8.

"Parity Debt Documents" means, collectively, the indenture of trust, trust agreement, installment sale agreement or other document authorizing the issuance of any Parity Debt or any securities which evidence Parity Debt.

"Project" means the facilities, improvements and other property described more fully in Appendix B attached hereto, as that Appendix may be amended from time to time.

"Project Costs" means, with respect to the Project, all costs of the acquisition, construction and installation thereof which are paid from moneys on deposit in the Project Fund, including but not limited to:

- (a) all costs required to be paid to any person under the terms of any agreement for or relating to the acquisition, construction and installation of the Project;
- (b) obligations incurred for labor and materials in connection with the acquisition, construction and installation of the Project;
- (c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in

connection with the acquisition, construction and installation of the Project;

- (d) all preliminary costs of the Project, including but not limited to design, environmental, engineering and architectural services, costs for testing, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees and costs for supervising construction, as well as for the performance of all other duties required by or consequent to the proper acquisition, construction and installation of the Project;
- (e) any sums required to reimburse the City for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the acquisition, construction and installation of the Project;
- (f) all financing costs incurred in connection with the acquisition, construction and installation of such Project; and
- (g) the interest components of the Installment Payments during the period of acquisition, construction and installation of the Project.

"Project Fund" means the fund by that name established under Section 3.3.

"Rate Stabilization Fund" means any fund established and held by the City as a fund for the stabilization of rates and charges imposed by the City with respect to the Wastewater System, which fund is established, held and maintained in accordance with Section 5.10.

"Subordinate Debt" means any bonds, notes or other obligations of the City payable from and secured by a pledge of and lien upon any of the Net Revenues on a subordinate basis to the Installment Payments, including [describe any outstanding obligations which are subordinate to the Installment Payments].

"Tax Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

"Term of this Agreement" or "Term" means the time during which this Agreement is in effect, as provided in Section 4.2.

"2014 Loan" means the loan made by the Corporation to the City under the 2014 Loan Agreement in the aggregate original principal amount of \$5,742,714.75.

"2014 Loan Agreement" means the Series 2014 Wastewater Loan Agreement dated as of January 1, 2014, between the City and the Corporation, under which the Corporation has made the 2014 Loan to the City.

“Wastewater Fund” means the fund or funds established and held by the City with respect to the Wastewater System for the receipt and deposit of Gross Revenues.

“Wastewater System” means the public utility owned, controlled and operated by the City for the collection, treatment and disposal of wastewater within the service area of the City, including, without limitation, the existing sewer systems, plans, works or undertakings together with any additions, improvements or extensions at any time constructed or acquired by the City for such purposes.

SECTION 1.2. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision hereof.

(d) Whenever the term “may” is used herein with respect to an action by one of the parties hereto, such action shall be discretionary and the party who “may” take such action shall be under no obligation to do so.

SECTION 1.3. *Appendices.* The following Appendices are attached to, and by reference made a part of, this Agreement:

Appendix A: The schedule of Installment Payments to be paid by the City hereunder, showing the date and amount of each such Installment Payment.

Appendix B: The description of the Project.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.1. *Representations, Covenants and Warranties of the City.* The City represents, covenants and warrants to the Corporation as follows:

- (a) Due Organization and Existence. The City is a municipal corporation and political subdivision of the State of California, duly organized and existing under the laws of the State of California.
- (b) Authorization and Enforceability. The laws of the State of California authorize the City to enter into this Agreement, to enter into the

transactions contemplated hereby and to carry out its obligations hereunder, and the City Council of the City has duly authorized the execution and delivery of this Agreement. This Agreement constitutes the legal, valid and binding agreement of the City enforceable against the City in accordance with its terms.

- (c) No Violations. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, other than as set forth herein.
- (d) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.
- (e) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, educational or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, educational or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement or the financial conditions, assets, properties or operations of the City.

SECTION 2.2. *Representations, Covenants and Warranties of Corporation.* The Corporation represents, covenants and warrants to the City as follows:

- (a) Due Organization and Existence. The Corporation is a corporation duly organized and existing under the laws of the State of California, has power to enter into this Agreement and the Assignment, and the City Council of the Corporation has duly authorized the execution and delivery of this Agreement and the Assignment.

- (b) Due Execution. The representatives of the Corporation executing this Agreement and the Assignment are fully authorized to execute the same under official action taken by the City Council of the Corporation.
- (c) Valid, Binding and Enforceable Obligations. This Agreement and the Assignment have been duly authorized, executed and delivered by the Corporation and constitute the legal, valid and binding agreements of the Corporation, enforceable against the Corporation in accordance with their respective terms.
- (d) No Violations. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Corporation, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement or the Assignment, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, educational or other governmental authority pending or, to the knowledge of the Corporation after reasonable investigation, threatened against or affecting the Corporation or the assets, properties or operations of the Corporation which, if determined adversely to the Corporation or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement or the Assignment, and the Corporation is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, educational or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement.
- (g) Corporation Not Fiduciary. In connection with the execution of this Agreement, the Corporation is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the City.

ARTICLE III

DEPOSIT OF FUNDS; CONSTRUCTION OF PROJECT

SECTION 3.1. *Amount of Financing; Deposit of Amounts.* As provided in the Assignment, the proceeds therefrom shall be applied on the Closing Date as follows: (a) the amount of \$_____ shall be applied to pay the costs of the financing; and (b) the remainder of such proceeds in the amount of \$_____ shall be transferred to the Escrow Agent for deposit in the Project Fund, to be applied to finance the acquisition, construction and installation of the Project as provided herein.

SECTION 3.2. *Construction of Project.* The Corporation hereby appoints the City as its agent to carry out all phases of the acquisition, construction and installation of the Project under and in accordance with the provisions hereof. The City hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Corporation regarding the acquisition, construction and installation of the Project. As agent of the Corporation hereunder, the City shall enter into, administer and enforce all purchase orders or other contracts relating to the Project. Payment of Project Costs shall be made by the City from amounts held by the Escrow Agent in the Project Fund in accordance with the provisions of this Agreement. If and to the extent the amounts on deposit in the Project Fund are insufficient to enable the City to complete the Project in full, the City has the sole responsibility for completing the Project and the City will finance such completion from any source of legally available funds of the City.

The City hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided for, the acquisition, construction and installation of the Project in accordance with the plans and specifications, purchase orders, construction contracts and other documents relating thereto and approved by the City under all applicable requirements of law. All contracts for, and all work relating to, the acquisition, construction and installation of the Project are subject to all applicable provisions of law relating to the acquisition and construction of public works by the City. The City has the right to specify the exact scope, nature and identification of the Project and the respective components thereof, and to modify the description of the Project or any component thereof.

The failure to complete the Project by its estimated completion date does not constitute an Event of Default hereunder or a grounds for termination hereof, nor will any such failure result in the diminution, abatement or extinguishment of the obligations of the City hereunder to pay the Installment Payments when due.

SECTION 3.3. *Payment of Project Costs.* On the Closing Date the Corporation shall cause the sum of \$_____ to be transferred to the Escrow Agent for deposit into the Project Fund, to be applied for the purpose of financing the acquisition, construction and installation of the Project. Any unexpended proceeds in the Project Fund upon the completion of the Project shall be applied by the City towards the payment of Installment Payments.

ARTICLE IV

INSTALLMENT SALE OF PROJECT

SECTION 4.1. *Sale of Project to the City.* The Corporation hereby sells the Project to the City, and the City hereby purchases the Project from the Corporation, upon the terms and provisions hereof.

SECTION 4.2. *Term.* The Term of this Agreement commences on the date of execution and delivery of this Agreement and ends on the date on which all of the Installment Payments have been paid in full.

SECTION 4.3. *Installment Payments.*

(a) Obligation to Pay. The City hereby agrees to pay the purchase price of the Project in the aggregate principal amount of \$4,435,00, together with interest (calculated at the rate of 3.850% per annum on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual Installment Payments in the respective amounts and on the respective Installment Payment Dates specified in Appendix A.

As a result of the assignment by the Corporation to the Assignee of the right of the Corporation to receive the Installment Payments, the City shall pay all Installment Payments when due directly to the Assignee.

(b) Effect of Prepayment. If the City prepays the Installment Payments in full under Article VII, the City's obligations under this Agreement shall thereupon cease and terminate, including but not limited to the City's obligation to pay Installment Payments under this Section; subject however, to the provisions of Section 7.1 in the case of prepayment by application of a security deposit. If the City prepays the Installment Payments in part but not in whole under Sections 7.2 or 7.3, the principal components of the remaining Installment Payments shall be reduced on a pro rata basis.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section, the payment in default shall continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the Installment Payment Date to the applicable date of payment at the rate of ____% per annum.

SECTION 4.4. *Nature of City's Obligations.*

(a) Special Obligation. The City's obligation to pay the Installment Payments is a special obligation of the City limited solely to the Net Revenues. Under no circumstances is the City required to advance moneys derived from any source of income other than the Net Revenues and other sources specifically identified herein for the payment of the Installment Payments, and no other funds or property of the City are liable for the payment of the Installment Payments. Notwithstanding the foregoing provisions of this Section, however, nothing herein prohibits the City voluntarily from making any payment hereunder from any source of available funds of the City.

(b) Obligations Absolute. The obligations of the City to pay the Installment Payments from the Net Revenues and to perform and observe the other agreements contained herein are absolute and unconditional and are not subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the City or the Corporation of any obligation to the City or otherwise with respect to the Wastewater System, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Corporation. Until such time as all of the Installment Payments have been fully paid or prepaid, the City:

- (i) will not suspend or discontinue payment of any Installment Payments,
- (ii) will perform and observe all other agreements contained in this Agreement, and
- (iii) will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Wastewater System, sale of the Wastewater System, the taking by eminent domain of title to or temporary use of any component of the Wastewater System, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Corporation to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement.

(c) Protection of Rights. If the Corporation fails to perform any such agreements on its part, the City may institute such action against the Corporation as the City deems necessary to compel performance so long as such action does not abrogate the obligations of the City contained in the preceding subsection (b). The City may, however, at the City's own cost and expense and in the City's own name or in the name of the Corporation prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect the City's rights hereunder, and in such event the Corporation will cooperate fully with the City and to take such action necessary to effect the substitution of the City for the Corporation in such action or proceeding if the City shall so request.

SECTION 4.5. *Pledge and Application of Net Revenues.*

(a) Pledge. All of the Net Revenues are hereby irrevocably pledged to the punctual payment of the Installment Payments, on a parity with the pledge which secures the 2014 Loan and any outstanding Parity Debt. Such pledge constitutes a first and exclusive lien on the Net Revenues for the payment of the Installment Payments, the 2014 Loan and any Parity Debt in accordance with the terms of this Agreement, the 2014 Loan Agreement and the related Parity Debt Documents, respectively.

(b) Deposit of Gross Revenues; Transfers to Make Installment Payments. The City shall deposit all of the Gross Revenues immediately upon receipt in the Wastewater Fund, which has previously been established by the City and which the City will maintain throughout the Term of this Agreement. All Net Revenues will be held by the City in the

Wastewater Fund in trust for the benefit of the Corporation and for the benefit of the owners of the 2014 Loan Agreement and any outstanding Parity Debt. The City shall withdraw from the Wastewater Fund and transfer to the Corporation an amount of Net Revenues equal to the aggregate amount of the Installment Payments when and as the same become due and payable. In addition, the City shall withdraw from the Wastewater Fund such amounts of Net Revenues at such times as required to pay the 2014 Loan and any outstanding Parity Debt and otherwise comply with the provisions of the 2014 Loan Agreement and any Parity Debt Documents.

(c) Other Uses Permitted. The City shall manage, conserve and apply the Net Revenues in such a manner that all deposits required to be made under the preceding paragraph will be made at the times and in the amounts so required. Subject to the foregoing sentence, so long as no Event of Default has occurred and is continuing hereunder, the City may at any time and from time to time use and apply Net Revenues for (i) the acquisition and construction of improvements to the Wastewater System; (ii) the prepayment of the Installment Payments, the 2014 Loan and any Parity Debt, or (iii) any other lawful purpose of the City.

ARTICLE V

COVENANTS OF THE CITY

SECTION 5.1. *Disclaimer of Warranties.* THE CORPORATION MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROJECT OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO ANY OF THE PROJECT OR ANY COMPONENT THEREOF. THE CORPORATION IS NOT LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT FOR THE EXISTENCE, FURNISHING, FUNCTIONING OR USE OF THE PROJECT.

SECTION 5.2. *Release and Indemnification Covenants.* The City agrees to indemnify the Corporation, the Assignee and their respective officers, agents, successors and assigns, against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on or about the Wastewater System by the City, (b) any breach or default on the part of the City in the performance of any of its obligations under this Agreement, (c) any act or omission of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Wastewater System, and (d) any act or omission of any lessee of the City with respect to the Wastewater System. No indemnification is made under this Section or elsewhere in this Agreement for willful misconduct or gross negligence under this Agreement by the Corporation, the Assignee or their respective members, officers, agents, employees, successors or assigns. The provisions of this Section survive the expiration of the Term of this Agreement.

SECTION 5.3. *Sale or Eminent Domain of Wastewater System.* Except as provided herein, the City covenants that the Wastewater System will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or

substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the City to pay the Installment Payments, the 2014 Loan or the principal of or interest on any Parity Debt, or would materially adversely affect its ability to comply with the terms of this Agreement, the 2014 Loan Agreement or any Parity Debt Documents. The City may not enter into any agreement which impairs the operation of the Wastewater System or any part of it necessary to secure adequate Net Revenues to pay the Installment Payments, the 2014 Loan or any Parity Debt, or which otherwise would impair the rights of the Corporation or the Assignee with respect to the Net Revenues. If any substantial part of the Wastewater System is sold, the payment therefor will either (a) be used for the acquisition or construction of improvements and extensions to or replacement of the Project or (b) be applied on a pro rata basis to (i) prepay or redeem the Installment Payments on the next available prepayment or redemption date, (ii) prepay the 2014 Loan in accordance with the 2014 Loan Agreement, or (iii) prepay any Parity Debt in accordance with the related Parity Debt Documents.

Any amounts received as awards as a result of the taking of all or any part of the Wastewater System by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the City, will either (a) be used for the acquisition or construction of improvements and extension of the Wastewater System, or (b) be applied on a pro rata basis to (i) prepay or redeem the Installment Payments on the next available prepayment or redemption date, (ii) prepay the 2014 Loan in accordance with the 2014 Loan Agreement, or (iii) prepay any Parity Debt in accordance with the related Parity Debt Documents.

SECTION 5.4. *Insurance.* The City will at all times maintain with responsible insurers all such insurance on the Wastewater System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Wastewater System. All amounts collected from insurance against accident to or destruction of any portion of the Wastewater System will be used, at the option of the City, either (a) to repair or rebuild such damaged or destroyed portion of the Wastewater System, or (b) be applied on a pro rata basis to (i) prepay or redeem the Installment Payments on the next available prepayment or redemption date, (ii) prepay the 2014 Loan in accordance with the 2014 Loan Agreement, or (iii) prepay any Parity Debt in accordance with the related Parity Debt Documents.

The City will maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the interests of the City, the Corporation and the Assignee.

Any policy of insurance required under this Section may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance.

SECTION 5.5. *Records and Accounts.* The City will keep proper books of record and accounts of the Wastewater System in which complete and correct entries shall be made of all transactions relating to the Wastewater System. Said books shall, upon prior request, be subject to the reasonable inspection of the Corporation or the Assignee, or

their representatives authorized in writing, upon not less than two Business Days' prior notice to the City.

The City will cause the books and accounts of the Wastewater System to be audited annually by an independent certified public accountant or firm of certified public accountants, and shall file a copy of such report with the Corporation and the Assignee within 180 days of the close of each Fiscal Year or as soon thereafter as is practicable. Such report may be part of a combined financial audit or report covering all or part of the City's finances.

SECTION 5.6. *Rates and Charges.*

(a) Covenant With Respect to Gross Revenues. The City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year, which are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues sufficient to pay the following amounts in the following order of priority:

- (i) all Operation and Maintenance Costs estimated by the City to become due and payable during such Fiscal Year;
- (ii) all Installment Payments and payments of principal and interest on the 2014 Loan and any Parity Debt coming due and payable during such Fiscal Year, without preference or priority;
- (iii) all payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues during such Fiscal Year.

(b) Covenant With Respect to Net Revenues. In addition to its obligations under the foregoing subsection (a), the City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year which (taking into account allowances for contingencies) are sufficient to yield Net Revenues which are at least equal to 110% of the amount described in the preceding clause (a)(ii) for such Fiscal Year. For purposes of this covenant, the 10% coverage factor may be maintained in whole or in part from amounts transferred from a Rate Stabilization Fund as described in Section 5.10.

(c) Subject to 2014 Loan Agreement. So long as the 2014 Loan remains unpaid, the City shall comply with the provisions of Section 5.3 of the 2014 Loan Agreement with respect to the fixing of rates, fees and charges for the services and facilities furnished by the Wastewater System, notwithstanding that such provisions may differ in certain respects from the provisions set forth in this Section.

SECTION 5.7. *Superior and Subordinate Obligations.* The City may not issue or incur any additional bonds or other obligations during the Term of this Agreement having any priority in payment of principal or interest out of the Gross Revenues or the Net Revenues over the Installment Payments. Nothing herein limits or affects the ability of the City to issue or incur (a) Parity Debt under Section 5.8, or (b) obligations which are either unsecured or which are secured by an interest in the Net Revenues which is junior and subordinate to the pledge of and lien upon the Net Revenues established hereunder.

SECTION 5.8. *Issuance of Parity Debt.* Except for obligations incurred to prepay or post a security deposit for the Installment Payments in whole, the City may not issue or incur any Parity Debt unless:

- (a) The City is not then in default under the terms of this Agreement or any Parity Debt Documents.
- (b) The amount of Net Revenues as shown by the books of the City for the latest Fiscal Year for which audited financial statements are available, or as shown by the books of the City for any more recent 12 month period selected by the City, are at least equal to 110% of the amount of Maximum Annual Debt Service. For purposes of determining the amount of Net Revenues under this subsection (b), such amount may be increased by any or all of the following amounts as determined by the City:
 - (i) an allowance for Net Revenues from any additions or improvements to or extensions of the Wastewater System to be made by the City during the 36 month period following the issuance of such Parity Debt, in an amount equal to 90% of the estimated additional average annual Net Revenues to be derived from all properties which are improved with a structure the construction of which has been completed prior to the date of issuance of such Parity Debt and to which service will be provided by such additions, improvements and extensions; and
 - (ii) an allowance for Net Revenues arising from any increase in the charges made for service from the Wastewater System which has become effective prior to the incurring of such Parity Debt but which was not in effect during the Fiscal Year or other 12-month period described above, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or other 12-month period.
- (c) All conditions to the issuance of such Parity Debt as set forth in the 2014 Loan Agreement and any outstanding Parity Debt Documents shall be met, and the City shall file with the Assignee a written certificate to such effect, signed on behalf of the City by an authorized officer of the City.

SECTION 5.9. *Operation of Wastewater System in Efficient and Economical Manner.* The City covenants and agrees to operate the Wastewater System in an efficient and economical manner and to operate, maintain and preserve the Wastewater System in good repair and working order.

SECTION 5.10. *Establishment of Rate Stabilization Fund.* The City has the right at any time to establish a Rate Stabilization Fund to be held by it and administered in accordance with this Section, for the purpose of stabilizing the rates and charges imposed by the City with respect to the Wastewater System and for purposes of meeting the 10%

coverage factor set forth in Section 5.6(b). From time to time the City may deposit amounts in the Rate Stabilization Fund, from any source of legally available funds, including but not limited to Net Revenues which are released from the pledge and lien which secures the Installment Payments, as the City may determine. The Rate Stabilization Fund shall be accounted for as a separate fund, although amounts credited to it may be commingled with other funds of the City.

The City may, but is not required to, withdraw amounts on deposit in the Rate Stabilization Fund and deposit such amounts in the Wastewater Fund in any Fiscal Year for the purpose of paying the Installment Payments, the 2014 Loan Agreement and the principal of and interest on any outstanding Parity Debt coming due and payable in such Fiscal Year. Except as provided in the succeeding paragraph, amounts transferred from the Rate Stabilization Fund to the Wastewater Fund in any Fiscal Year shall be treated as additional Net Revenues for purposes of meeting the 10% coverage factor set forth in Section 5.6(b). Amounts transferred from the Rate Stabilization Fund to the Wastewater Fund shall not be treated as additional Net Revenues for purposes of Section 5.8(b) relating to the issuance of Parity Debt. The City has the right at any time to withdraw any or all amounts on deposit in the Rate Stabilization Fund and apply such amounts for any other lawful purposes of the City.

All interest or other earnings on deposits in the Rate Stabilization Fund shall be retained therein or, at the option of the City, be applied for any other lawful purposes. The City has the right at any time to withdraw any or all amounts on deposit in the Rate Stabilization Fund and apply such amounts for any other lawful purposes of the City. Amounts on deposit in the Rate Stabilization Fund are not pledged to and do not otherwise secure the Installment Payments, the 2014 Loan or any Parity Debt.

SECTION 5.11. *Assignment by the Corporation.* The Corporation's rights under this Agreement, including the right to receive and enforce payment of the Installment Payments, have been assigned to the Assignee. The City hereby consents to such assignment. Whenever in this Agreement any reference is made to the Corporation and such reference concerns rights which the Corporation has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

The Corporation or the Assignee has the right to make additional assignments of its interests herein, but no such assignment will be effective as against the City unless and until the Corporation or the Assignee files with the City written notice thereof. The City shall pay all Installment Payments pursuant to the written direction of the Corporation or the Assignee named in the most recent assignment or notice of assignment filed with the City. During the Term of this Agreement, the City will keep a complete and accurate record of all such notices of assignment.

SECTION 5.12. *Assignment by the City.* Neither the Installment Payments nor this Agreement may be assigned by the City, other than to a public agency which succeeds to the interests of the City in and to the Wastewater System and which (by operation of law, by contract or otherwise) becomes legally bound to all of the terms and provisions hereof.

SECTION 5.13. *Amendment of this Agreement.* This Agreement may be amended by the City and the Corporation, but only with the prior written consent of the Assignee (which consent may not be unreasonably withheld).

SECTION 5.14. *Tax Covenants.*

(a) Generally. The City may not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest components of the Installment Payments to become includable in gross income for federal income tax purposes.

(b) Private Activity Bond Limitation. The City shall assure that the financing proceeds are not so used as to cause the Installment Payments to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(c) Federal Guarantee Prohibition. The City may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Installment Payments to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The City may not take, or permit or suffer to be taken, any action with respect to the proceeds of the Installment Payments which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Installment Payments to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(e) Small Issuer Exemption from Bank Non-Deductibility Restriction. The City hereby designates this Agreement for purposes of paragraph (3) of Section 265(b) of the Tax Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Tax Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in Section 141 of the Tax Code, except qualified 501(c)(3) bonds as defined in Section 145 of the Tax Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including this Agreement, has been or will be issued by the City, including all subordinate entities of the City, during the calendar year 2022.

(f) Rebate Requirement. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Installment Payments.

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.1. *Events of Default Defined.* The following are Events of Default under this Agreement:

- (a) Failure by the City to pay any Installment Payment or other payment required hereunder within 15 days after the date on which such Installment Payment or other payment becomes due, and the continuation of such failure for a period of 10 days after written notice

specifying such failure and requesting that it be remedied has been given to the City by the Corporation.

- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Corporation; *provided, however*, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30 day period, the Corporation may not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such 30 day period and diligently pursued until the default is corrected.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.
- (d) The failure by the City to pay any installment of the 2014 Loan when due and payable, or the occurrence of any event of default under and as defined in the 2014 Loan Agreement.
- (e) The failure by the City to pay any outstanding Parity Debt when due and payable, or the occurrence of any event of default under and as defined in the related Parity Debt Documents.

SECTION 6.2. *Remedies on Default.* Upon the occurrence and during the continuation of an Event of Default, the Corporation may, at its option and without any further demand or notice:

- (a) declare all principal components of the unpaid Installment Payments, together with accrued interest thereon at the rate set forth in Section 4.3(c) from the immediately preceding Installment Payment Date on which payment was made, to be immediately due and payable, whereupon the same will immediately become due and payable; and
- (b) take whatever action at law or in equity may appear necessary or desirable to collect the Installment Payments then due or thereafter to become due during the Term of this Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Agreement.

The provisions of the preceding clause (a) are subject to the condition that if, at any time after the principal components of the unpaid Installment Payments shall have been so declared due and payable under the preceding clause (a), and before any

judgment or decree for the payment of the moneys due shall have been obtained or entered, the City deposits with the Corporation a sum sufficient to pay all principal components of the Installment Payments coming due prior to such declaration and all matured interest components (if any) of the Installment Payments, with interest on such overdue principal and interest components calculated at the rate set forth in Section 4.3(c), and a sum sufficient to pay all reasonable costs and expenses incurred by the Corporation in the exercise of its rights and remedies hereunder, and any and all other defaults known to the Corporation (other than in the payment of the principal and interest components of the Installment Payments due and payable solely by reason of such declaration) have been made good, then, and in every such case, the Corporation may, by written notice to the City, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

SECTION 6.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Corporation is exclusive, and every such remedy is cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article it is not necessary to give any notice, other than such notice as may be required in this Article or by law.

SECTION 6.4. *Agreement to Pay Attorneys' Fees and Expenses.* In the event either party to this Agreement defaults under any of the provisions hereof and the non-defaulting party employs attorneys (including in-house counsel) or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party will on demand therefor pay to the non-defaulting party the reasonable fees of such attorneys (including those of in-house counsel) and such other expenses so incurred by the non-defaulting party.

SECTION 6.5. *No Additional Waiver Implied by One Waiver.* If any agreement contained in this Agreement is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

SECTION 6.6. *Assignee to Exercise Rights.* Such rights and remedies as are given to the Corporation under this Article have been assigned by the Corporation to the Assignee and shall be exercised solely by the Assignee.

ARTICLE VII

PREPAYMENT OF INSTALLMENT PAYMENTS

SECTION 7.1. *Security Deposit.* Notwithstanding any other provision of this Agreement, the City may on any date secure the payment of Installment Payments in whole or in part, by irrevocably depositing with a fiduciary an amount of cash which, together with other available amounts, is either:

- (a) sufficient to pay all such Installment Payments, including the principal and interest components thereof, when due under Section 4.3(a) or upon the prepayment thereof under Section 7.2, or
- (b) invested in whole or in part in Federal Securities in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Installment Payments when due under Section 4.3(a) or, if such amounts are sufficient to prepay the Installment Payments in full under Section 7.2, when due on any optional prepayment date under Section 7.2, as the City instructs at the time of the deposit.

In the event of a security deposit under this Section for the payment of all remaining Installment Payments, (i) the City grants to Corporation a first priority security interest and lien in the security deposit and all proceeds thereof in favor of Corporation and the Assignee, and (ii) all obligations of the City under this Agreement, and the pledge of Net Revenues and all other security provided by this Agreement for said obligations, will cease and terminate, excepting only the obligation of the City to make, or cause to be made, all of Installment Payments from such security deposit. Said security deposit will constitute a special fund, subject to the lien described herein, for the payment of such Installment Payments in accordance with the provisions of this Agreement.

SECTION 7.2. *Optional Prepayment.* The Installment Payments cannot be prepaid by the City prior to December 1, 20___. The City may prepay the unpaid principal balance of the Installment Payments in whole or in part, on any Installment Payment Date on or after December 1, 20___, by paying a prepayment price equal to the principal amount of the Installment Payments to be prepaid, together with the Installment Payment required to be paid on such Installment Payment Date, together with a prepayment premium representing a percentage of the principal amount to be prepaid, as follows:

[to be provided]

Upon the prepayment of the Installment Payments in part but not in whole, the Corporation shall provide the City with a revised schedule of Installment Payments.

SECTION 7.3. *Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City shall prepay the unpaid principal balance of the Installment Payments in whole on any date, or in part on any Installment Payment Date, from and to the extent the City determines to apply any proceeds of insurance award or condemnation award with respect to the Wastewater System for such purpose under Sections 5.3 or 5.4 at a prepayment price equal to the principal amount to be prepaid, without premium. The City

and the Corporation hereby agree that such proceeds, to the extent remaining after payment of any delinquent Installment Payments, shall be credited towards the City's obligations under this Section.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.1. *Term.* The Term of this Agreement commences on the Closing Date, and ends on the date on which the Installment Payments are paid in full or provision for such payment is made as provided herein.

SECTION 8.2. *Notices.* Any notice, request, complaint, demand or other communication under this Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopier or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Corporation, the City or the Assignee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City: City of Riverbank
6707 3rd Street
Riverbank, California 95367
Attention: Finance Director

If to the Corporation: Municipal Finance Corporation
2945 Townsgate Road, suite 200
Westlake Village, California 91361
Attention: President

If to the Assignee:

Attention:

SECTION 8.3. *Binding Effect.* This Agreement inures to the benefit of and is binding upon the Corporation and the City and their respective successors and assigns.

SECTION 8.4. *Severability.* In the event any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

SECTION 8.5. *Net-net-net Contract.* This Agreement is a "net-net-net" contract, and the City hereby agrees that the Installment Payments are an absolute net return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 8.6. *Further Assurances and Corrective Instruments.* The Corporation and the City shall, from time to time, execute, acknowledge and deliver, or cause to be

executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

SECTION 8.7. *Execution in Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 8.8. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

SECTION 8.9. *Captions.* The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Agreement.

IN WITNESS WHEREOF, the Corporation has caused this Agreement to be executed in its corporate name by its duly authorized officer and the City has caused this Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

MUNICIPAL FINANCE CORPORATION

By _____
Stefan A. Morton
Treasurer

CITY OF RIVERBANK

By _____
Marisela Garcia
City Manager

Attest:

Annabelle Aguilar
City Clerk

APPENDIX A**SCHEDULE OF INSTALLMENT PAYMENTS**

Payment Date	Principal Component	Interest Component	Total Installment Payment
08/01/2022		\$ 40,315.38	\$ 40,315.38
02/01/2023		85,373.75	85,373.75
08/01/2023		85,373.75	85,373.75
02/01/2024		85,373.75	85,373.75
08/01/2024	\$ 160,000.00	85,373.75	245,373.75
02/01/2025		82,293.75	82,293.75
08/01/2025	170,000.00	82,293.75	252,293.75
02/01/2026		79,021.25	79,021.25
08/01/2026	175,000.00	79,021.25	254,021.25
02/01/2027		75,652.50	75,652.50
08/01/2027	180,000.00	75,652.50	255,652.50
02/01/2028		72,187.50	72,187.50
08/01/2028	190,000.00	72,187.50	262,187.50
02/01/2029		68,530.00	68,530.00
08/01/2029	195,000.00	68,530.00	263,530.00
02/01/2030		64,776.25	64,776.25
08/01/2030	205,000.00	64,776.25	269,776.25
02/01/2031		60,830.00	60,830.00
08/01/2031	210,000.00	60,830.00	270,830.00
02/01/2032		56,787.50	56,787.50
08/01/2032	220,000.00	56,787.50	276,787.50
02/01/2033		52,552.50	52,552.50
08/01/2033	230,000.00	52,552.50	282,552.50
02/01/2034		48,125.00	48,125.00
08/01/2034	235,000.00	48,125.00	283,125.00
02/01/2035		43,601.25	43,601.25
08/01/2035	245,000.00	43,601.25	288,601.25
02/01/2036		38,885.00	38,885.00
08/01/2036	255,000.00	38,885.00	293,885.00
02/01/2037		33,976.25	33,976.25
08/01/2037	265,000.00	33,976.25	298,976.25
02/01/2038		28,875.00	28,875.00
08/01/2038	275,000.00	28,875.00	303,875.00
02/01/2039		23,581.25	23,581.25
08/01/2039	290,000.00	23,581.25	313,581.25
02/01/2040		17,998.75	17,998.75
08/01/2040	300,000.00	17,998.75	317,998.75
02/01/2041		12,223.75	12,223.75
08/01/2041	310,000.00	12,223.75	322,223.75
02/01/2042		6,256.25	6,256.25
08/01/2042	325,000.00	6,256.25	331,256.25
	\$4,435,000.00	\$2,114,117.88	\$6,549,117.88

APPENDIX B

DESCRIPTION OF PROJECT

The Project consists of the following facilities, improvements and equipment in connection with the wastewater treatment plant of the City:

- solar arrays and energy efficiency upgrades,
- lighting efficiency upgrades, including retrofitting existing fluorescent light fixtures with LED lamps,
- HVAC improvements, and
- electrical controls upgrades.

As provided in Section 3.2, the City has the right to specify the exact scope, nature and identification of the Project and the respective components thereof, and to modify the description of the Project or any component thereof.



SOURCES AND USES REPORT

(Term Sheet)

Sources of Funds:

Installment Sale Agreement Principal Amount	4,435,000.00
Premium / Discount	-
Total SOURCES of Funds	4,435,000.00

Uses of Funds:

Project Funds Available	4,338,550.63
Cost of ISA Issuance (Includes Bond Attorney, Purchase's attorney, CDAIC Fee and all standard Cost of Issuance)	96,449.37
Total USES of Funds	4,435,000.00

Anticipated Delivery Date (Must close by 5/14)	5/6/2022
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ESTIMATED DEBT SERVICE SCHEDULE

(Term Sheet)

Maturity Dates	Bond Redemptions	Coupon Rate	Interest Amount	Total Debt Service	FY(ends 06/30) Debt Service
8/1/2022	-	-	40,315.38	40,315.38	-
2/1/2023	-	-	85,373.75	85,373.75	125,689.13
8/1/2023	-	-	85,373.75	85,373.75	-
2/1/2024	-	-	85,373.75	85,373.75	170,747.50
8/1/2024	160,000.00	3.85	85,373.75	245,373.75	-
2/1/2025	-	-	82,293.75	82,293.75	327,667.50
8/1/2025	170,000.00	3.85	82,293.75	252,293.75	-
2/1/2026	-	-	79,021.25	79,021.25	331,315.00
8/1/2026	175,000.00	3.85	79,021.25	254,021.25	-
2/1/2027	-	-	75,652.50	75,652.50	329,673.75
8/1/2027	180,000.00	3.85	75,652.50	255,652.50	-
2/1/2028	-	-	72,187.50	72,187.50	327,840.00
8/1/2028	190,000.00	3.85	72,187.50	262,187.50	-
2/1/2029	-	-	68,530.00	68,530.00	330,717.50
8/1/2029	195,000.00	3.85	68,530.00	263,530.00	-
2/1/2030	-	-	64,776.25	64,776.25	328,306.25
8/1/2030	205,000.00	3.85	64,776.25	269,776.25	-
2/1/2031	-	-	60,830.00	60,830.00	330,606.25
8/1/2031	210,000.00	3.85	60,830.00	270,830.00	-
2/1/2032	-	-	56,787.50	56,787.50	327,617.50
8/1/2032	220,000.00	3.85	56,787.50	276,787.50	-
2/1/2033	-	-	52,552.50	52,552.50	329,340.00
8/1/2033	230,000.00	3.85	52,552.50	282,552.50	-
2/1/2034	-	-	48,125.00	48,125.00	330,677.50
8/1/2034	235,000.00	3.85	48,125.00	283,125.00	-
2/1/2035	-	-	43,601.25	43,601.25	326,726.25
8/1/2035	245,000.00	3.85	43,601.25	288,601.25	-
2/1/2036	-	-	38,885.00	38,885.00	327,486.25
8/1/2036	255,000.00	3.85	38,885.00	293,885.00	-
2/1/2037	-	-	33,976.25	33,976.25	327,861.25
8/1/2037	265,000.00	3.85	33,976.25	298,976.25	-
2/1/2038	-	-	28,875.00	28,875.00	327,851.25
8/1/2038	275,000.00	3.85	28,875.00	303,875.00	-
2/1/2039	-	-	23,581.25	23,581.25	327,456.25
8/1/2039	290,000.00	3.85	23,581.25	313,581.25	-
2/1/2040	-	-	17,998.75	17,998.75	331,580.00
8/1/2040	300,000.00	3.85	17,998.75	317,998.75	-
2/1/2041	-	-	12,223.75	12,223.75	330,222.50
8/1/2041	310,000.00	3.85	12,223.75	322,223.75	-
2/1/2042	-	-	6,256.25	6,256.25	328,480.00
8/1/2042	325,000.00	3.85	6,256.25	331,256.25	331,256.25
Total	4,435,000.00	-	2,114,117.88	6,549,117.88	6,549,117.88

AGREEMENT FOR LEGAL SERVICES

BETWEEN THE CITY OF RIVERBANK AND JONES HALL, A PROFESSIONAL LAW CORPORATION, FOR BOND COUNSEL SERVICES IN CONNECTION WITH INSTALLMENT SALE FINANCING FOR ENERGY EFFICIENCY PROJECTS RELATING TO WASTEWATER SYSTEM

This AGREEMENT FOR LEGAL SERVICES is entered into this 26th day of April, 2022, between the CITY OF RIVERBANK (the "City") and JONES HALL, A PROFESSIONAL LAW CORPORATION, San Francisco, California ("Attorneys").

B A C K G R O U N D :

1. The City owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System"), and wishes to provide financing for improvements to the Wastewater System consisting generally of solar arrays and related electrical generating facilities, lighting efficiency upgrades, including retrofitting of existing fluorescent light fixtures with LED lamps, and HVAC improvements, including electrical controls upgrades (the "Project").

2. In order to provide financing for the Project, the City has proposed to enter into an Installment Sale Agreement with the Municipal Finance Corporation (the "Corporation"), under which the Corporation will provide funds for the Project and will agree to sell the completed Project to the City in consideration of the agreement by the City to pay the purchase price thereof in semiannual installments (the "Installment Payments") which are payable from and secured by a pledge of and lien on the net revenues of the Wastewater System.

3. The Corporation will assign its rights under the Installment Sale Agreement to NBH Bank, a subsidiary of National Bank Holdings Corporation, as lender (the "Lender"), including its right to receive the Installment Payments.

4. In connection with such financing and refinancing proceedings, the City requires the services of nationally-recognized bond counsel.

A G R E E M E N T :

In consideration of the foregoing and the mutual covenants contained in this Agreement, the City and Attorneys agree as follows:

Section 1. Identification of Client. Attorneys shall represent the City in connection with the proceedings for the execution and delivery of an Installment Sale Agreement with the Corporation for the purpose of financing the cost of acquisition and construction of the Project (the "Installment Sale Financing"). Attorneys shall not represent any other party, including but not limited to the financial advisor, Corporation or Lender.

Section 2. Duties of Attorneys. Attorneys shall perform all of the following services as bond counsel to the City in connection with the Installment Sale Financing:

- Consultation and cooperation with City staff and other consultants, staff and employees, and assisting them in the formulation of a coordinated financial and legal transaction.
- Preparation of all legal proceedings for the authorization, issuance and delivery of the necessary financing documents by the City; including (a) preparation of a resolution of the City Council of the City authorizing the Installment Sale Financing and approving related documents and actions, (b) review of all financing documents which are prepared by legal counsel to the Lender, (c) preparation of all documents required for the closing of the Installment Sale Financing, (d) supervising the closing, and (e) preparation of all other proceedings incidental to or in connection with the refinancing proceedings.
- Advising the City as to compliance with federal tax law as required to ensure that interest on the Installment Sale Financing is exempt from federal income taxation.
- Upon completion of proceedings to Attorneys' satisfaction, providing a legal opinion approving the validity and enforceability of the proceedings and stating that interest on the Installment Sale Financing is (a) excluded from gross income for purposes of federal income taxes and (b) exempt from California personal income taxation. This opinion will be addressed to the City and the Lender, and may also be addressed to the lender and other participants in the Installment Sale Financing.
- Any and all legal consultation requested by the City concerning the Installment Sale Financing, following the closing.
- Such other and further services as are normally performed by bond counsel in connection with similar financings.

Section 3. Compensation. For the bond counsel services of Attorneys listed in Section 1, the City will pay Attorneys a fixed fee equal to \$30,000. All costs and expenses incurred by Attorneys in the performance of their services under this Agreement shall be borne by Attorneys without additional compensation or reimbursement from the City, although in the event Attorneys elect to pay the filing fee for the California Debt and Investment Advisory Commission, Attorneys shall be entitled to reimbursement for such cost. Payment of said fees and expenses is entirely contingent upon the successful conclusion of the Installment Sale Financing by the City. The foregoing fees are not set by law but are negotiable between Attorneys and the City.

Section 4. Responsibilities of the City. The City will cooperate with Attorneys and furnish Attorneys with certified copies of all proceedings taken by the City, or other deemed necessary by Attorneys to render an opinion upon the validity of the proceedings. Attorneys are not responsible for costs and expenses incurred incidental to the completion of the Installment Sale Financing, including the cost of preparing certified copies of proceedings required by Attorneys.

Section 5. Independent Contractor. Attorneys will act as an independent contractor in performing the services required under this Agreement, and under no circumstances shall Attorneys be considered an agent, partner, or employee of the City.

Section 6. Liability Insurance. Attorneys shall maintain at their own expense at all times during the term of this Agreement policies of insurance, acceptable to the City, covering workers' compensation injuries, public liability and professional liability.

Section 7. Assignment. Attorneys shall not assign their rights or delegate their obligations under this Agreement, in whole or in part, except with the prior written consent of the City.

Section 8. Termination of Agreement. This Agreement may be terminated at any time by the City with or without cause upon written notice to Attorneys. In the event of such termination, all finished and unfinished documents shall at the option of the City become its property and shall be delivered to the City by Attorneys.

IN WITNESS WHEREOF, the City and Attorneys have executed this Agreement as of the date first above written.

CITY OF RIVERBANK

Marisela H. Garcia, City Manager

**JONES HALL, A PROFESSIONAL LAW
CORPORATION**



Vice President

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.4

SECTION 11: NEW BUSINESS

Meeting Date:	April 26, 2022
Subject:	A Resolution Establishing Formal Eligibility Guidelines for the Senior Solid Waste Rates
From:	Marisela H. Garcia, City Manager

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution which will formally establish the eligibility guidelines for residents applying for the Senior Solid Waste Rate.

SUMMARY

On April 12, 2022 the City concluded the Proposition 218 Public Hearing for the proposed rate increases for Solid Waste which come as a result of the implementation of SB 1383. There are currently rates established for senior or permanently-disabled residents who are considered low income. The eligibility guidelines were established over 30 years and tonight's proposal would bring these guidelines up to date and would mimic the Utility Rate Assistance Program guidelines established for Sewer and Water discounted rates.

BACKGROUND

On April 12, 2022 the City Council approved a Resolution which implemented new Solid Waste Rates for garbage services. These new rates were adopted in order to continue providing high-quality solid waste services to the City's residents and businesses, and to comply with federal, state, and local regulatory requirements. Although the rate increases are necessary they can be difficult for low-income households, many of which are led by seniors and permanently-disabled residents on fixed incomes. Current guidelines are as follows:

1. Resident must be over the age of 60 or permanently disabled, and
2. Average monthly income of \$1,400 (\$16,800 annually)

These guidelines were established over 30 years ago with no annual adjustments to the income limits. This has limited the amount of low-income senior and permanently-disabled residents who qualify for our program.

In 2016, the City Council established the Utility Rate Assistance Program which provides discounted rates for Water and Sewer. Guidelines were established which detail the eligibility requirements to participate in the program, including the use of the State of California Housing & Community Development Income Limits. These income limits are adjusted annually for inflation. This would allow senior or permanently-disabled residents on a fixed income to apply and continue to be eligible for this program even when they received inflationary adjustments to their monthly income.

Tonight's proposal asks Council to consider formalizing and updating the existing Solid Waste Senior Rate guidelines to mimic those of the Utility Rate Assistance Program. This will allow residents to apply for all three discounted rates and would provide for adjusted income limits on an annual basis.

The criteria for the proposed Solid Waste Senior Rate Guidelines are as follows:

- Senior, age 60 or older, or permanently-disabled resident.
- Available to residential customers only.
- Applicant must be the current account holder.
- Applicant must live at the address where the discount will be received.
- Applicant must be considered "Very Low Income" in Stanislaus County as established by the California Housing and Community Development (HCD) Annual Income Limits. Such limits are subject to change annually and may be located at [State and Federal Income Limits \(ca.gov\)](https://www.ca.gov/). Eligibility will be based on the income limits in effect at the time when the application is submitted. A sample of the current limits are as follows:

2021 Income Limits (currently in effect)			
# in Household	1	2	3
Annual Income	\$25,000	\$28,550	\$32,100
Monthly Income	\$2,083.33	\$2,379.17	\$2,675.00

- Proof of Residence is required.
- Proof of Income is required.
- Applicant must re-certify (re-apply) every two years.
- New applications will be accepted year round with the discount to become effective the next full billing cycle.

STRATEGIC PLAN

While this item is not a Strategic Plan Objective, this item does work towards the City's overall Strategic Plan goal to "Enhance Quality of Life" for our residents.

FINANCIAL IMPACT

The cost of the proposed Utility Rate Assistance Program (URAP) for low-income seniors and low-income permanently-disabled residents will be dependent upon the number of

residents that apply as it will result in a minimal decrease in Franchise Fee Revenue. There will be some associated staffing costs that are anticipated in order to administrate the program.

ATTACHMENTS

1. Draft City Council Resolution 2022-

CITY OF RIVERBANK

RESOLUTION 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, ESTABLISHING ELIGIBILITY GUIDELINES FOR THE SENIOR AND PERMANENTLY-DISABLED SOLID WASTE RATE DISCOUNT PROGRAM

WHEREAS, It is the desire of the City Council to assist its low-income senior and low-income permanently-disabled residents in paying their solid waste (garbage) bill; and

WHEREAS, On April 12, 2022 the City Council closed a public hearing for the adoption of a solid waste rate increase which was proposed in order to comply with the regulations of SB 1383; and

WHEREAS, the adopted rates include a discounted rate for Senior and Permanently-Disabled residents; and

WHEREAS, the current eligibility guidelines for the Senior and Permanently-Disabled solid waste rate were established over 30 years ago and are in need of updating for consistency with the City's Utility Rate Assistance Program; and

WHEREAS, in order to offer an assistance program that reflects the changing economic conditions affecting residents, the City will refer to the Income Limit Standards and Income Categories as defined by the California Housing and Community Development (HCD) Annual Household Income Limits for Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby establish the eligibility guidelines for the Senior and Permanently-Disabled solid waste rate discount program as follows:

- Senior, age 60 or older, or permanently-disabled resident.
- Available to residential customers only.
- Applicant must be the current account holder.
- Applicant must live at the address where the discount will be received.
- Applicant must be considered "Very Low Income" in Stanislaus County as established by the California Housing and Community Development (HCD) Annual Income Limits. Such limits are subject to change annually and may be located at [State and Federal Income Limits \(ca.gov\)](https://www.ca.gov/). Eligibility will be based on the income limits in effect at the time when the application is submitted.
- Proof of Residence is required.
- Proof of Income is required.
- Applicant must re-certify (re-apply) every two years.

- New applications will be accepted year round with the discount to become effective the next full billing cycle.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 26th day of April, 2022; 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:

Kathy Teixeira
Interim City Clerk

Richard D. O'Brien
Mayor