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

choose civility

AGENDA

TUESDAY, SEPTEMBER 27, 2022 – 6:00 P.M.

(THE AGENDA PACKET IS ONLINE AT 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. PRESENTATIONS (Informational only)

Item 7.1 **Proclamation Hispanic Heritage Month-** It is recommended that City Council present the Hispanic Heritage Month Proclamation to Norma Torres-Manriquez, Director of Viva Mexico Ballet Folklorico.

Any documents that are not privileged or part of a Closed Session provided to a majority of the City Council/LRA Board after distribution of the agenda packet, regarding any item on this agenda, will be made available for public inspection at the City Clerk's Office 6707 Third St., Suite A, Riverbank.

8. 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.

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 September 13, 2022 City Council and Local Redevelopment Authority Board Minutes.

Item 9.3 A **Resolution** to Adopt the 2022-2023 schedule of Park Amenity Rentals, Recreation Programs, and Facility Rental Fees for the City of Riverbank

Item 9.4 Adopt a **Resolution** to Award Bid for the Overlay Project 2022 to DSS Company dba Knife River Construction and Authorize Execution of Future Change Orders

Item 9.5 **Second Reading of an Ordinance** Amending Section 50.10, Method of Collection of Rates by City; Section 50.11, Payment; Section 51.02, Sanitary Sewer Permit; Billing Procedures; Section 51.03, Rates and Charges; Section 52.64, Payment of Bills; Section 52.65, Deposits; and Section 52.66, Disconnection for Late Payment, of the Riverbank Municipal Code to Update Utility Billing Practices.

10. PUBLIC HEARINGS -No Hearings Scheduled.

11. NEW BUSINESS

Item 11.1 **Progress Report and Preliminary Design Update on the Riverbank Regional Recycled Water Project**- It is recommended City Council receive a presentation with an update on the Riverbank Regional Recycled Water Project (RRRWP) as a result of progress on the preliminary design, environmental document preparation, and financial analysis. The progress report will revisit the purpose and need for the project as well as outline the project benefits. The preliminary design effort has proceeded to preparation of the draft Preliminary Design Report and development of the draft 15% design plans. This effort has included additional coordination with potential recycled water users, more in depth review of modifications to the exiting treatment systems to accommodate the project improvements, and coordination with the environmental document preparation to integrate appropriate measures to mitigate for any environmental impacts.

Item 11.2 **Presentation of the Draft Sewer Rate Study Prepared by Bartle Wells Associates and Request to Establish the Proposition 218 Public Hearing Date for the Adoption of the Proposed Sewer Rates on Tuesday, December 13, 2022-** It is recommended that the City Council accept a presentation of the Draft Sewer Rate Study and consider establishing the Public Hearing date for the adoption of the proposed Sewer rates for Tuesday, December 13, 2022.

Local Redevelopment Authority

Item 11.3 **Riverbank Industrial Complex – Resolution Authorizing Amendments to Lease Disposition and Development Agreement with Aemetis Properties Riverbank, Inc. to Include Parcels 2/2A-** It is recommended that the City Council and Local Redevelopment Authority **adopt a Resolution** approving an amendment to the Lease Disposition and Development Agreement with Aemetis Riverbank Properties, Inc. to include Parcels 2/2A.

12. COMMENTS/REPORTS

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

Item 12.1 Staff

Item 12.2 Council/Authority Member

Item 12.3 Mayor/Chair

13. CLOSED SESSION

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

Item 13.1 **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
(Pursuant to Government Code § 54956.8)
Property: APN:132-010-062 (6813 3rd Street) &
APN:132-010-014 (6825 3rd Street)
Agency Negotiator: City Manager Marisela H. Garcia
Property Negotiator: Dhirendra M. & Saroj D. Patel
Under Negotiation: Price, terms of payment, or both.

14. RECONVENE – REPORT FROM CLOSED SESSION

Item 14.1 Report from Closed Session **Item 13.1**
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Pursuant to Government Code § 54956.8)
Property: APN:132-010-062 (6813 3rd Street) &
APN:132-010-014 (6825 3rd Street)
Agency Negotiator: City Manager Marisela H. Garcia
Property Negotiator: Dhirendra M. & Saroj D. Patel
Under Negotiation: Price, terms of payment, or both.

15. ADJOURNMENT

The next regular City Council meeting will be on October 11, 2022 at 6:00 p.m.

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 and South City Hall and The Riverbank Community Center public exterior bulletin boards, and the City's website 72 hours prior to the meeting in accordance to the California Ralph M. Brown Act. **Posted this September 22nd, 2022** /s/ *Gabriela Hernandez, City Clerk*

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.

VIRTUAL PLATFORM PUBLIC PARTICIPATION COMMENT PROCEDURES FOR THE CITY COUNCIL MEETING HELD IN CONFORMANCE WITH THE BROWN ACT

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/85618117562

Join by accessing website: https://zoom.us/join , enter **Webinar ID: 856 1811 7562**

- Join by telephone:**1 669 900 9128 or 1 346 248 7799, plus Webinar ID: 856 1811 7562**

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

Any documents that are not privileged or part of a Closed Session provided to a majority of the City Council/LRA Board after distribution of the agenda packet, regarding any item on this agenda, will be made available for public inspection at the City Clerk's Office 6707 Third St., Suite A, Riverbank.

RIVERBANK CITY COUNCIL/ RIVERBANK LOCAL AUTHORITY

AGENDA ITEM NO. 7.1

SECTION 7: PRESENTATIONS

Meeting Date:	September 20, 2022
Subject:	Proclamation Hispanic Heritage Month September 15th to October 15th, 2022
From:	Marisela H. Garcia, City Manager
Submitted by:	Gabriela Hernandez, City Clerk/LRA Secretary

RECOMMENDATION

It is recommended that the City Council present the Proclamation for Hispanic Heritage Month from September 15th to October 15th, 2022, to Norma Torres- Manriquez, Director of Viva Mexico Ballet Folklorico.

SUMMARY

The month of September 15th to October 15th is recognized Nationally as Hispanic Heritage Month. The City of Riverbank is celebrating by distinguishing the rich history and contributions made by the Hispanic and Latino individuals.

According to the Library of Congress, the observation began in 1968 as Hispanic Heritage week under President Lyndon B. Johnson. In 1988, President Ronald Reagan expanded it to a month-long observance by celebrating histories, cultures and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean, and Central and South America. September 15 is significant because it is the anniversary for Latin American Countries Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Mexico and Chile celebrate independence days on September 16 and September 18.

Today, over 60 million people, or 18.5 percent of the American population, are of Hispanic or Latino origin. We celebrate Hispanic Heritage Month to recognize the achievements and contributions of Hispanic American champions who have inspired others to achieve success and expressing our appreciation of our Hispanic community.

FINANCIAL IMPACT

None

ATTACHMENT

1. Proclamation

CITY OF RIVERBANK
PROCLAMATION

HISPANIC HERITAGE MONTH
SEPTEMBER 15TH - OCTOBER 15TH

WHEREAS, The City of Riverbank is committed to continuing to build a welcoming and neighborly community, embracing diversity and fostering equity for every resident; and

WHEREAS, Latinos and Hispanics have enriched the Riverbank Community and play a vital role in Riverbank's economy and workforce with cultural, educational, and political influences, and

WHEREAS, residents of Latino and Hispanic origin make up fifty-seven (57%) percent of the city's population, making it the largest race or ethnic minoritized group in the City, and

WHEREAS, Latino and Hispanic Heritage Month is an opportunity to celebrate the vibrant traditions of people whose ancestry can be traced to Mexico, Central America, Caribbean Islands, South America, and Spain; and

WHEREAS, the Hispanic community has had a profound influence on our City through their strong commitment to family, faith, hard work, and service; and

NOW, THEREFORE, LET IT BE RESOLVED that the City Council of the City of Riverbank hereby proclaims September 15th to October 15th as Hispanic Heritage Month and invite all to celebrate the contributions that have been made to our City and our community by Hispanic Americans.

September 27, 2022

____
Richard D. O'Brien, Mayor

Cal Campbell, Vice Mayor	**Rachel Hernandez, District 2**
Luis Uribe, District 1	**Darlene Barber- Martinez, District 4**

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.1

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 27, 2022
Subject:	Waiver of Readings
From:	Marisela H. Garcia, City Manager
Submitted by:	Gabriela Hernandez, City Clerk/LRA Secretary

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 REDEVELPOMENT AUTHORITY

AGENDA ITEM NO. 9.2

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 27, 2022
Subject:	Approval of the September 13, 2022 City Council and Local Redevelopment Authority Board Minutes
From:	Marisela H. Garcia, City Manager
Submitted by:	Gabriela Hernandez, City Clerk/LRA Secretary

RECOMMENDATION

It is recommended that the City Council / LRA Board approve the City Council/ Local Redevelopment Authority Board approve the City Council/LRA Meeting Minutes of September 13, 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.

ATTACHMENTS

1. The September 13, 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 Meetings
Council Chambers, 6707 Third St., Suite B
Riverbank, CA 95367

choose civility

MINUTES

TUESDAY, SEPTEMBER 13, 2022 – 6:00 P.M.

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

1. CALL TO ORDER - *Mayor / Chair Richard D. O'Brien called the meeting to order at 6:00 P.M.*

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

5. AGENDA CHANGES – *There were no changes to the agenda.*

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.*

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7. PRESENTATIONS (Informational only)

No Presentations Scheduled.

8. 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.*

Mayor O'Brien stated the Public Comment would be limited to a total of nine minutes per topic wishing to be discussed, on any item not on the agenda.

Public Comment Opened at 6:04 p.m.

Carol Blomquist & Jane Manly Volunteers with the Stanislaus Library Foundation, besides Summer reading, library programs for families include:

- *Story Time for preschoolers*
- *"Read to Me Kits," in English and Spanish, on a variety of themes, for parents to enjoy with their preschoolers.*
- *1000 Books Before Kindergarten, encouraging caregivers to read to the little ones before they start school.*
- *For Teen and older children there are Coding Classes, general computer availability and online resources.*
- *There is also a wildly popular program called Teen Book Box. Each box contains a handpicked reading recommendation based on the teen's preferences, with swag and a treat.*
- *For seniors, some county residents are homebound and do not have ability to get to a library. Volunteers in the Home Delivery Program check out books on the customer's wish list to deliver and pick up later.*
- *Book Clubs can borrow multiple copies of books, often with a large print and CD edition available, to read and discuss together.*
- *A new program- An Author Talk Series of live and digital events with bestselling authors, hosted via zoom that started this summer.*
- *Overall, the libraries' materials collection is extensive, meeting the wide array of diverse interest in our community. We want to spread the word and look forward to more exciting news from the Riverbank Branch.*

Vicki Holt, Riverbank Library Branch Supervisor, Commented on the following events:

- *The Mayor will be reading for Story Time at 11:30 a.m. on Tuesday, September 20th, 2022*
- *Alternating in English and Spanish, bilingual Story Time is Tuesdays at 11:00 a.m. before opening the library.*
- *The book Club is reading "The House Girl" By Tara Conklin and the discussion is on Tuesday, Sept 27th at 4:00 p.m. there are extra copies at the library if anyone would like to pick up a copy.*
- *For the month of October there will be a Candy Jar placed at the entrance of the Library and everyone can come in and guess how many candies are in the jar, the winner will take the candy jar home.*
- *The Library will be Open on Saturday, Oct 8th during the Cheese & Wine Festival from 11:00 a.m. to 5:00 p.m. there will probably be limited parking.*
- *The Master Gardener Class is growing succulents on October 15th at 2:00 p.m.*

<u>Residents who spoke in opposition of the Riverwalk Project</u>

Jamie Aaggers
Karen Conratto
Fred Walton
Libby Loingstren

There being no further public comments, Mayor O'Brien closed the Public Comment period at 6:17 p.m.

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 August 23, 2022 City Council and Local Redevelopment Authority Board Minutes.

Item 9.3 Acceptance of the Castleberg Park Basketball Court Project and Authorization to File a Notice of Completion.

Item 9.4 Award the sole source bid for the pool plastering project to Burkett's Pool Plastering Inc.

Item 9.5 Reject Bids for the Oakdale Road Improvements Project and Authorize staff to re-bid the project Minus the Joint Trench Work.

Item 9.6 **Resolution 2022-108** to Approve the Employment Agreement between the City of Riverbank and Michael Riddell as Public Works Director and Interim Riverbank Local Redevelopment Authority Director and Authorize the City Manager to Execute the Agreement.

ACTION: *By motion moved and seconded (Uribe / Barber-Martinez 5/0) to approve the consent calendar as presented.*

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Campbell, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

10. PUBLIC HEARINGS

Item 10.1 **Introduction and first reading of the Ordinance Amending Section 50.10, Method of Collection of Rates by City; Section 50.11, Payment; Section 51.02, Sanitary Sewer Permit; Billing Procedures; Section 51.03, Rates and Charges; Section 52.64, Payment of Bills; Section 52.65, Deposits; and Section 52.66, Disconnection for Late Payment, of the Riverbank Municipal Code ("RMC"). Resolution Adopting a Residential Water Shut-Off Policy under SB 998.-** It is recommended that the City Council receive a presentation, take public comment, and consider adopting a Resolution establishing a Residential Shut-Off Policy for Water Service to comply with the requirements under Senate Bill 998 ("SB 998") and Introduction and First Reading of an Ordinance Amending Sections of the Riverbank Municipal Code.

Assistant Finance Director Alcantor presented a comprehensive staff report and Power Point Presentation recommending City Council to consider and adopt the Resolution and Ordinance for establishing a Residential Shut-Off Policy for Water Service to comply with the requirements under Senate Bill 998 ("SB 998") and Introduction and First Reading of an Ordinance Amending Sections of the Riverbank Municipal Code.

City Council discussed the item with staff.

Mayor O'Brien opened Public Comment at 6:17 p.m.

Resident Bill Brooks made comment, stating there are residents who are struggling to make their payments now every month. Agrees they need the 60 days to pay their water bill, not 30 days.

There being no public comments, Mayor O'Brien closed Public Comment at 6:37 p.m. brought the item back to the City Council.

ACTION: *By motion moved and seconded (Campbell /Uribe/5/0) to adopt* ***City Council Resolution 2022-109*** Resolution establishing a Residential Shut-Off Policy for Water Service to comply with the requirements under Senate Bill 998 ("SB 998") ***and Ordinance 2022-005*** *Amending Sections of the Riverbank Municipal Code.*

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Campbell, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

Public Comment made @ 6:38 p.m.

Resident Evelyn Halbert made comment on Public Hearing Item 10.1, stating the following:

- *Rate increases have to go through Prop 218*
- *7 days is not enough time to make payment, to not be delinquent.*
- *Residents do not have a way to know when their bill was mailed.*

City Staff clarified, this is not a proposed rate increase. The city offers multiple avenues and forms to make payment for utility bills. Dates on the bills do have and will continue have the mailing date.

11. NEW BUSINESS

Item 11.1 **Resolution Authorizing the Application and Adopting the PLHA Plan for the Permanent Local Housing Allocation Program**- It is recommended that the City Council consider adopting a Resolution that authorize staff City to submit an application for the 2020 and 2021 program year funding and adopt the PLHA Plan for the Permanent Local Housing Allocation Program.

*City Manager Garcia presented a comprehensive staff report recommending City Council consider approving the **Resolution 2022-110** authorizing the application and adopting the PLHA Plan for the Permanent Local Housing Allocation Program.*

City Council discussed item with Staff.

There being no public comments, Mayor O'Brien brought the item back to the City Council.

ACTION: *By motion moved and seconded (Uribe/ Barber-Martinez/5/0) approving the **Resolution 2022-110** to authorize the City Manager to apply for the 2020 and 2021 program year funding and adopt the PLHA Plan for the Permanent Local Housing Allocation Program.*

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Campbell, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

Item 11.2 **Resolution of Concurrence and Support of the Community Development Block Grant Consolidated Annual Performance and Evaluation Report (CAPER) for Fiscal Year 2021-2022-** It is recommended that the City Council hold a Community Meeting to gather input on the Fiscal Year 2021-2022 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) prepared by Stanislaus County.

City Manager Garcia recommending City Council consider, gather input, and adopt the resolution declaring the concurrence and support of the Consolidated Annual Performance and Evaluation Report (CAPER) for fiscal year 2021-2022.

City Council discussed item with staff.

There being no public comments, Mayor O'Brien brought the item back to the City Council.

ACTION: *By motion moved and seconded (Campbell/Hernandez/5/0) to adopt **Resolution 2022-111** declaring the concurrence and support of the Consolidated Annual Performance and Evaluation Report (CAPER) for fiscal year 2021-2022 for the Stanislaus Urban County.*

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Campbell, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

Item 11.3 **Resolution Approving the American Rescue Plan Act Spending Plan-** It is recommended that the City Council consider adopting a Resolution approving the allocation of American Rescue Act funding that has been received by the City of Riverbank in 2022.

City Manager Garcia presented a comprehensive staff report and Power Point Presentation recommending City council consider and adopt the resolution approving the allocation of the American Rescue Act funding.

City Council discussed item with staff.

City Manager Garcia clarified grant program policies will be brought back before City Council for Approval.

There being no public comments, Mayor O'Brien brought the item back to the City Council.

ACTION: *By motion moved and seconded (Uribe/Barber-Martinez/ 5/0) to adopt* ***Resolution 2022-112*** *approving the allocation of the American Rescue Act funding that has been received by the City of Riverbank in 2022.*

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Campbell, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

Item 11.4 **Authorize the City Manager to Submit an Application for Grant Funding under the CalOES Building Resilient Infrastructure and Communities (BRIC) Program, Direct the City's On-Call Utility Engineer to prepare a Grant Application and Preliminary Design Documents and to Repair and Reinstall the existing Well Pump, and Negotiate the Cost and Fee for such Services Not to Exceed $290,000 for Well #10.-** It is recommended that the City Council authorize the City Manager to submit an application for grant funding to the California Department of Emergency Services (CalOES) for design and construction of a nitrate treatment system for the City's Well No. 10 and direct the City's on-call Utility Engineer Kjeldsen, Sinnock & Neudeck, Inc. (KSN) to prepare grant application documents and associated preliminary engineering at a cost not to exceed $290,000.

Public Works Director Riddell presented a comprehensive staff report recommending City council consider and authorize the City Manager to submit an application for the Grant funding under CalOES Building Resilient Infrastructure and Communities (BRIC) Program, direct the City's On-Call Utility Engineer to prepare a Grant Application and Preliminary Design Documents and to Repair and Reinstall the existing Well Pump, and Negotiate the cost and fee for such services not to exceed $290,000 for Well #10.

City Council discussed item with staff.

There being no public comments, Mayor O'Brien brought the item back to the City Council.

ACTION: *By motion moved and seconded (Barber-Martinez/Uribe/5/0) to adopt* ***Resolution 2022-113*** *to authorize the City Manager to negotiate a task* *order with KSN, Inc. for the repair of the well and pump in Well No. 10, preparation of the preliminary design for the wellhead treatment, and to prepare and submit a grant application for the project funding.*

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Campbell, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

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 advised the City Council and the public on the following:

- *Ribbon Cutting for Countryside Park this Saturday, September 17th located at 6145 Beagle Drive. We hope everyone can join us.*
- *Water Supervisor, Eric Tackett after 41 years of Service to the city has retired. Stayed on for 41 years, which is one of the longest standing employees for the city. We wish him well in all his future endeavors, we hope he enjoys this time with his family.*

Planning & Building Manager Kenney advised on the following:

- *Code Enforcement issues concerning corner houses.*
- *Neighborhood Improvement Officers work on a complaint only basis.*
- *ADA Ramps at corners of houses, are being used as driveway ramps for their side of their home to drive in their RVS, Boats, etc. That is a health and Safety issue. Those cannot be used as driveways*
- *There is an ordinance that enforces front yards can only be paved over at 50% to allow the rain water to percolate.*
- *Along the front and around to the back of homes, we have 10-foot public utility easements, therefore we do not allow street side fences to be moved into that 10-foot public utility easement on corner homes.*
- *Before residents do any construction of type check Municipal Code Section 153, Residential Section, if they are confused, have questions, and if you do happen to receive a Code Enforcement Violation letter we are available to discuss with our residents and work with our residents. Planning & Building Department is available and can be reached at 209-863-7124. We are hoping to save our residents time and money.*

Item 12.2 Council/Authority Member

Councilmember Hernandez reported on the following:

- *Attended the League Annual Conference with City Council and City Manager with other State Local Elected officials. Personal highlight, was able to network and chat with other young elected officials.*

- *No longer leading the Love Riverbank Project, but will be inviting committee members come before City Council to present the updates on Love Riverbank.*

Councilmember Uribe reported on the following:

- *Riverbank was very well represented at the Annual Cal Cities Conference a great deal of meetings, workshops, lots of opportunities to network, and was nice to spend quality time with City Council. Bringing back all the knowledge learned at conference back to the city.*
- *Thank you, Marisela, for enduring and answering questions during the long ride.*
- *Hope everyone joins us for the Countryside Ribbon Cutting Ceremony.*
- *Congratulations to Eric Tackett on his retirement, 41 years!*

Councilmember Barber-Martinez reported on the following:

- *Enjoyed attending and spending time at the Annual Cal Cities Conference.*
- *Will be attending along with our City Manage the Stanislaus Homeless Alliance (SHA) meeting tomorrow, September 14, our City Manager will be giving a presentation on all the great strides Riverbank is doing to help our Homeless Community.*

Vice Mayor Campbell reported on the following:

- *Attended and voted on two items at the Annual League of Cal Cities Conference. One was to give more power to the Planning department and the other was on bylaws and changes to that. Both items were passed.*
- *Would like to thank Councilmember Barber-Martinez for helping out the Friends of Jacob Myers Park on their 501-(C)(3), as they are having some trouble with that and she will be helping them straightened that item out, so that can still be used with the city.*
- *Met with the Historical Society yesterday evening, working on the membership. Encourage people to join the society and more information can be found on their website. Also working on being a part of the Cheese and Wine Expo and how that can be done.*

Item 12.3 Mayor/Chair

Mayor O'Brien reported on the following:

- *Would like the staff to understand when we communicate with the public and the businesses we have to make sure that there is a balance in communication and not, were it can be taken out of content or we are not representing the city point of view properly. That can be spoken with Marisela privately.*
- *With the American Rescue Plan, do not want to tie the Translation Services to that plan. We need to look into hiring a translation service, because it is extremely important.*

- *Next Tuesday, would be starting Mayor's office hours from 3:00pm to 4:30pm at City Council Chambers for those who would like to speak to the mayor.*
- *Event, State of the City for the middle of March.*
- *An event for the middle of April at the Local Redevelopment Authority (LRA) with Aemetis, Circulus, Carbon Sequestration Station, and with Opportunity Stanislaus. We are investing in Opportunity Stanislaus and hoping those whoa re receiving those heavy equipment certifications are filtering back into the LRA.*

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.

Item13. 1 **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to Government Code §54956.9)
Name of Case: City of Riverbank v. Schneider Electric Buildings America, Inc.

Item 13.2 **CONFERENCE WITH LABOR NEGOTIATORS**
(Pursuant to Government Code § 54957.6)
Agency Representative: Marisela H. Garcia, City Manager
Unrepresented Employee: Parks & Recreation Director

Item 13.3 **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to Government Code §54956.9)
Name of Case: Riverbank Land LLC v. City of Riverbank

Mayor O'Brien opened Public Comment at 7:31 p.m.

There being no public comments, Mayor O'Brien brought the item back to the City Council and went into Closed Session at 7:32 p.m.

City Council Reconvened at 8:11 p.m.

RECONVENE – REPORT FROM CLOSED SESSION

Item 14.1 Report from Closed Session on **Item 13.1**
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Pursuant to Government Code §54956.9)
Name of Case: City of Riverbank v. Schneider Electric Buildings America, Inc.

ACTION: *Direction was provided to staff.*

Item 14.2 Report from Closed Session on **Item 13.2**
CONFERENCE WITH LABOR NEGOTIATORS
(Pursuant to Government Code § 54957.6)
Agency Representative: Marisela H. Garcia, City Manager
Unrepresented Employee: Parks & Recreation Director

ACTION: *Direction was provided to staff.*

Item 14.3 Report from Closed Session on **Item 13.3**
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Pursuant to Government Code §54956.9)
Name of Case: Riverbank Land LLC v. City of Riverbank

ACTION: *Direction was provided to staff.*

15. ADJOURNMENT OF THE REGULAR MEETING

There being no further business, Mayor / Chair O'Brien adjourned the regular meeting at 8:12 p.m. to the next regular scheduled City Council / LRA Meeting of September 27, 2022.

ATTEST: (Adopted 09/27/2022)	APPROVED:
Gabriela Hernandez City Clerk / LRA Recorder	Richard D. O'Brien Mayor / Chair

RIVERBANK CITY COUNCIL/ LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.3

SECTION 3: CONSENT CALENDAR

Meeting Date:	September 27, 2022
Subject:	A **Resolution** to Adopt the 2022-2023 schedule of Park Amenity Rentals, Recreation Programs, and Facility Rental Fees for the City of Riverbank
From:	Marisela H. Garcia, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council consider adopting a Resolution to approve the 2022-2023 fees for Park Amenity Rentals, Recreation Programs, and Facility Rentals. The recommended fee increases, and new classes/programs offered with associated fees are highlighted in Exhibit A.

SUMMARY

The schedule of Park Amenity Rentals, Recreation Programs and Facility Rental Fees for the 2022-2023 Fiscal year is attached as Exhibit A for the City Council consideration.

BACKGROUND

The City Parks and Recreation Department periodically conducts an analysis of its Park and Recreation Programs; the costs of providing those programs; the beneficiaries of those programs, as well as the revenues and expenses incurred with those programs. One-hundred percent (100%) cost recovery is the goal for the majority of the programs offered. We strive toward this goal through managing expenses as well as revenue. While active cost recovery does occur through most facility, park reservations, and special events; other programs struggle to achieve cost recovery while remaining affordable for the community. The aquatics program is a key example. While the swim team and swim lessons pay for a portion of the associated costs, the aquatics program recovers only about 70% of the annual operational costs. The Teen Center also requires General Fund support. In the past, the City Council has determined that these programs provide public safety benefits and serve as an investment in the City's youth and general public welfare thus ongoing General Fund subsidies have helped fund these programs.

SPECIFIC FEE INCREASES

The fee increases proposed this fiscal year are minimal. Our programs did very well over the past year. We are proposing to increase the fee for non-residents for day camps from $125 to $135 per week. Since our programs now have wait lists, we would like to serve Riverbank residents first and make it more affordable for them.

The Tot Time program has added an additional day this year so the cost increase reflects that additional day with the cost going from $100 per session to $125 per session.

Ballet Folklorico is one of our very popular contract classes. The fees for this program have not been adjusted for many years. The fee increase proposed is from $35.00 per session to $40 for beginner and $45 for Intermediate classes.

Slight fee adjustments are being proposed for Zumba Gold from $2.00 to $3.00 and Yoga from $5.00 to a $10.00 drop-in fee.

We are now offering guitar lessons at our teen center for $10 for a group lesson and $25 for a private lesson.

We are not proposing fee increases for group swim lessons or recreational swim but we are proposing an increase in pool rental fees, swim team and private swim lessons as shown in Exhibit A.

FINANCIAL IMPACT:

The Financial Impact is reflected within the 2022-2023 Budget. Many programs are now self-sufficient with 100% recovery of costs with the exception of the Teen Center, the Aquatics Program, the Christmas Parade, and a few minor programs that are offered throughout the year.

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

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

STRATEGIC PLAN

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

"Ensure Financial Stability" and "Maintain Quality of Life"

ATTACHMENTS:

1. Draft Resolution 2022-
2. Exhibit A: Schedule of Fees

CITY OF RIVERBANK

RESOLUTION 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK TO ADOPT THE 2022-2023 SCHEDULE OF PARK AMENITY RENTALS, RECREATION PROGRAM, AND FACILTY RENTAL FEES FOR THE CITY OF RIVERBANK

THE CITY OF RIVERBANK CITY COUNCIL (HEREAFTER REFERRED TO AS THE "CITY COUNCIL") DOES HEREBY RESOLVE THAT:

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approve and establish the 2022-2023 Park Amenity Rentals, Recreation Programs and Facility Rental Fees as outlined in Exhibit A to be effective November 1, 2022.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 27th day of September, 2022; motioned by Councilmember ______, seconded by Councilmember ______, and upon roll call was carried by the following vote of ___:

AYES:
NAYS:
ABSENT:
ABSTAIN:

ATTEST:	**APPROVED:**
______________________________	______________________________
Gabriela Hernandez	**Richard D. O'Brien**
City Clerk	**Mayor**

Attachments: 2022-2023 Parks, Recreation, and Facilities Fees

Exhibit A

CITY OF RIVERBANK

2022-2023 PARKS, RECREATION, AND FACILITIES FEES

PARKS – DESCRIPTIONS		
***Park Rental* (all parks with gazebos):**	**Current Fee**	**New Fee**
Resident	$100.00	-
Nonresident	$125.00	-
Silva Park	**Current Fee**	**New Fee**
Resident	$75.00	
Non-resident	$125.00	
***Park Rental (*JMP): Oak Grove, Rotary Area**	**Current Fee**	**New Fee**
Resident	$75.00	
Non-resident	$125.00	
***Park Rental* (JMP): Large Picnic Shelter**	**Current Fee**	New Fee
Resident	$100.00	
Non-resident	$200.00	
Wedding Gazebo @Jacob Myers Park	$500.00	-
Electricity (Jacob Myers/Pavilion)	$20.00	-
Bounce House permit (except JMP)	$25.00	-
Parking Fee (April– September, Fri. Sat. Sun, Holidays)	$7.00 residents $10.00 non-resident	
Castleberg Park – Ball Diamonds	**Current Fee**	**New Fee**
Lights (2 hour minimum)	$25.00/hour	-
Park Aide/Site Monitor	$18.00	-
Field Use (Exception RYBSA)	$25 per hour	-
Tournament (per field- includes maintenance)	$150.00	-
PROGRAM – DESCRIPTIONS		
Camps	**Current Fee**	**New Fee**
All Day Summer Camps (8 am to 5 pm)	$125.00 (2ND Child) $115	$125 resident $135 non-resident ($10 discount for 2nd child)
Half Day Camps (9 am to 12 noon)	$65.00	**-**
Mini Camps (ages 3 to 5)	$35	**-**
Classes	**Current Fee**	**New Fee**
Tot Time	$100.00/session	$125 per session (added additional day)

Ballet Folklorico (70/30) contract	$35.00/session	$40 Beginner $45 Intermediate $25 2nd child
Zumba Gold	$2.00	$3.00
Pound Fitness (70/30) contract	$5.00 drop-in	
Guitar Lessons	New Program	$10.00 group $25 private
Open Gym @ Cardozo	$2.00 drop in	
Yoga (70/30) contract	$5.00	10.00
Aquatics	**Current Fee**	**New Fee**
Aqua Fit	$5.00 drop in	
Recreational Swim	$3.00	
Lap Swim	$3.00	
Swim Lessons (Resident)	$70.00/session	
Swim Lessons (Non-resident)	$75.00/session	
Sharks & Mermaids (Per 6 week session with scholarships available)	$100/6-weeks	-
Private Swim Lessons	$200.00 per child	$250.00
Swim Team	$125.00	$135.00 2nd child $125
Pool Parties (Resident – with 1-60 guests)	$100.00/hr.	$150.00 per hr.
Pool Parties (Nonresident – with 1-60 guests)	$120.00/hour	$170.00 per hr.
Pool Parties (Resident – with 61-90 guests)	$120.00/hour	$170 per hr.
Pool Parties (Nonresident – with 61-90 guests)	$140.00/hour	$190 per hr.
Pool Parties (Resident – with 91-120 guests)	$140.00/hour	$190 per hr.
Pool Parties (Nonresident – with 91-120 guests)	$160.00/hour	$200 per hr.
Pool Pass (per individual)	$80.00	$100.00
Pool Pass (Family of 4)	$150.00 $20 each added person	-
Special Events	**Current Fee**	**New Fee**
Halloween Haunted Hayride	$12.00	-
Children (ages 3-12)	$6.00	-
Christmas Parade Entry Fee	$20.00	$25.00
Christmas Craft Faire Booth Fee	$50.00	-
FACILITY RENTALS – DESCRIPTIONS		
Community Center	**CURRENT FEE**	**NEW FEE**
Resident	$1,500	-

Non-resident	$1,800	-
FACILITY RENTALS – DESCRIPTIONS		
Community Center	**CURRENT FEE**	**NEW FEE**
Service Group (Includes set up/take down)	$600.00	-
Memorial Service (3 hours maximum)	$400.00	-
Options:		-
Stage	$150	$200.00
Sound system	$100.00	-
Set up the day before (4 hour max; prior to 10pm; **NOT available Saturdays**)	$300	
Meeting Fee (2 hrs.)	$50.00	-
Scout Hall	**Current Fee**	**New Fee**
Resident	$350.00	-
Non-resident	$400.00	-
Service Group	$100.00	-
Meeting Fee (2 hrs.)	$25.00	-
Memorial Service (3 hrs. max.)	$200.00	-
Teen Center		
Resident (per hour)	$100.00	-
Non-resident (per hour)	$125.00	-
Meeting fee: NO FOOD (2 hrs. max)	$50.00	
Gym Rental	**Current Fee**	**New Fee**
Refundable Deposit	$250.00	-
Profit Groups	$200.00/day	-
School/Non-profit (3 hours)	$50.00/day	-
Additional hours after 3	25.00/hour	**-**
Staff fee	$18.00 hr.	-
Scoreboard	$50.00	-
Sports Complex	**Current Fee**	**New Fee**
Deposit	$250.00	-
Field Use Per Field (East/West)- For Profit Groups	$25 hour	-
Field Use Per Field (East/West)- Non-Profit	$20 hour	
Tournament	$500/day	
Staff	$18.00/hour	-
Lights	$30.00/hour	-
Scoreboard Rental	$50.00/day	-
Snack Bar Rental	$200.00/day	-

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.4

SECTION 9: CONSENT

Meeting Date:	September 27, 2022
Subject/ Title:	Adopt a Resolution to Award Bid for the Overlay Project 2022 to DSS Company dba Knife River Construction and Authorize Execution of Future Change Orders
From:	Marisela H. Garcia, City Manager
Submitted by:	Kathleen Cleek, Development Services Administration Manager Laura Graybill, Senior Project Coordinator

RECOMMENDATION

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

1. Adopt a Resolution to Award bid to the lowest responsible bidder, DSS Company dba Knife River Construction; and

2. Authorize the City Manager to execute Change Orders within total project budget.

SUMMARY

The Overlay Project 2022, Patterson Road (Eighth to Claus) and First Street (Atchison to Bridge), will consist of a 2" uniform AC grind and an asphalt overlay, which is an operation that consists of a new layer of asphalt over an existing pavement surface. The project will also include the replacement of ADA accessible ramps that are found to be out of code. The purpose of the project is to repair areas of failing or damaged pavement, extend the roads service life, and installation of handicap ramps to improve Americans with Disabilities (ADA) accessibility.

The bid opening was held on Wednesday, September 21, 2022 to consider the bids for the Overlay Project 2022. The following bids were received:

DSS Company dba Knife River Construction	$ 629,555.55
JV Lucas Paving	$ 741,446.07
George Reed, Inc.	$ 749,972.00
Consolidated Engineering Inc.	$ 771,089.89
United Pavement Maintenance, Inc.	$ 774,931.12
Tom Mayo Construction, Inc.	$1,012,861.00

Work on the project includes, but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary to construct all curb, gutter, ADA ramps, sidewalk, valley gutter, grinding, aggregate base and asphalt concrete paving, striping, adjusting structures to grade and all other work included on the plans for the above mentioned project.

Bids have been reviewed and DSS Company dba Knife River Construction has been identified as the lowest responsible bidder for the project.

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

FINANCIAL IMPACT

Funding has been programmed for this project with Measure L Funds, $839,566.00.

ATTACHMENT

1. Draft Resolution 2022-
2. Site Map

CITY OF RIVERBANK

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO AWARD A CONTRACT FOR THE OVERLAY PROJECT 2022 WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTIONIN THE AMOUNT OF $629,555.50, AND AUTHORIZE THE CITY MANAGER TO EXECUTE SAID CONTRACT AND APPROVE THE CHANGE ORDERS UP TO THE PROJECT CONTINGENCY FUND OF $210,011

THE CITY OF RIVERBANK CITY COUNCIL (HEREAFTER REFERRED TO AS THE "CITY COUNCIL") DOES HEREBY RESOLVE THAT:

WHEREAS, the Overlay Project 2022 includes to construct all curb, gutter, ADA ramps, sidewalk, valley gutter, grinding, aggregate base and asphalt concrete paving, striping, adjusting structures to grade; and

WHEREAS, the City published a Notice to Bidders inviting interested bidders to submit their sealed bids for the Project; and

WHEREAS, on September 21, 2022, the City of Riverbank received six (6) bids and publicly opened and read the bids; and

WHEREAS, the apparent responsive and responsible low bidder is DSS Company dba Knife River Construction, in the amount of $629,555.50; and

WHEREAS, staff also recommends that the City Council approve a project contingency of $210,011 for the Project to fund additional work as needed during renovation and construction; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves a contract with DSS Company dba Knife River Construction, in the amount of $629,555.50; and

AND NOW THEREFORE BE IT FURTHER RESOLVED that the City Council of the City of Riverbank authorizes the City Manager to execute the said contract and approve change orders up to the project contingency funds of $210,011.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 27th day of September, 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:**
____________________________	_________________________________
Gabriela Hernandez	**Richard D. O'Brien**
City Clerk	**Mayor**

Attachment: DSS Company dba Knife River Construction Contract

First Street Overlay Project

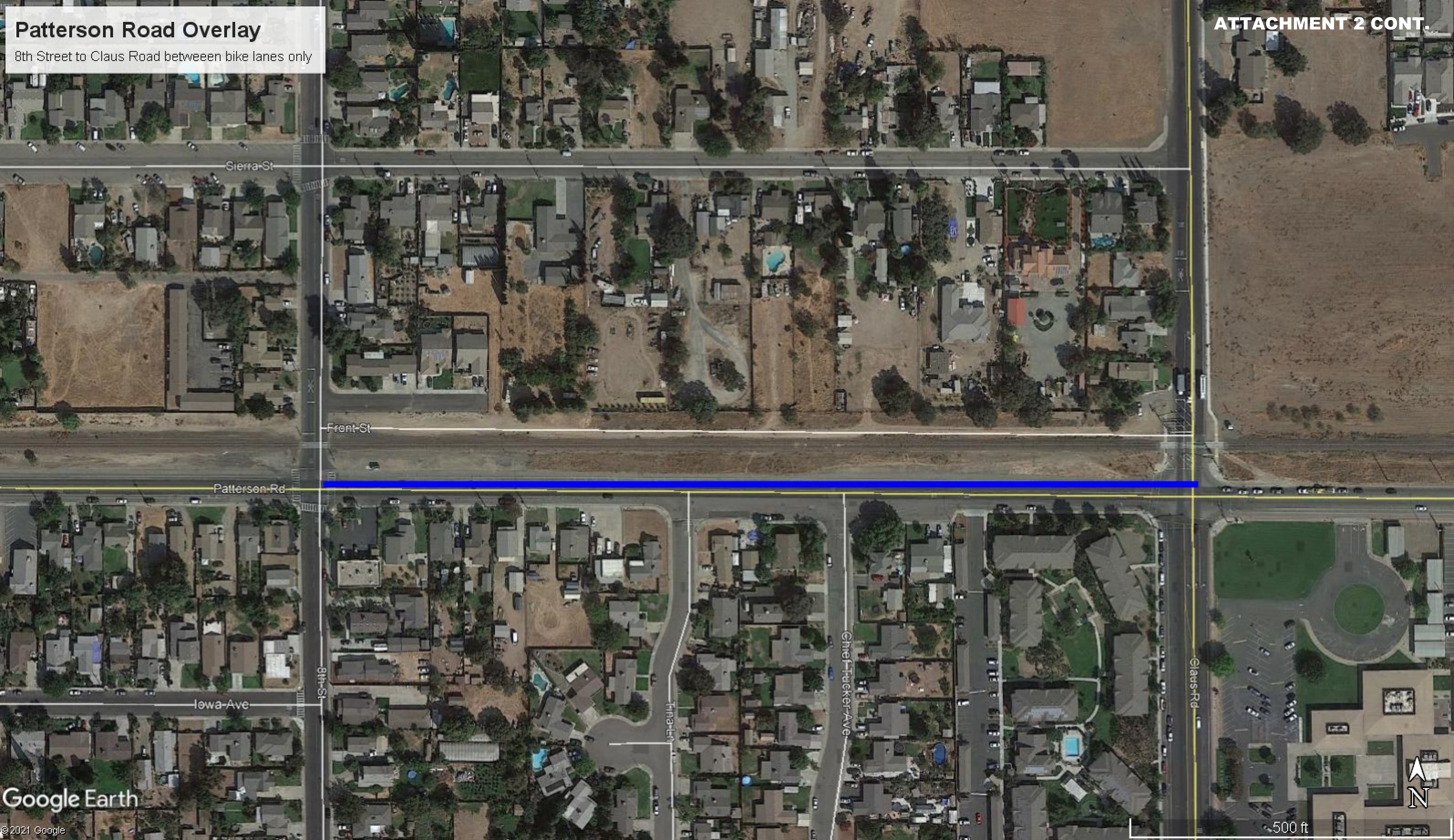
Atchison Street to the Bridge

ATTACHMENT 2

Patterson Road Overlay

8th Street to Claus Road betweeen bike lanes only

ATTACHMENT 2 CONT.



RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.5

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 27, 2022
Subject/ Title:	**Second Reading** of an Ordinance Amending Section 50.10, Method of Collection of Rates by City; Section 50.11, Payment; Section 51.02, Sanitary Sewer Permit; Billing Procedures; Section 51.03, Rates and Charges; Section 52.64, Payment of Bills; Section 52.65, Deposits; and Section 52.66, Disconnection for Late Payment, of the Riverbank Municipal Code to Update Utility Billing Practices
From:	Marisela H. Garcia, City Manager
Submitted by:	Tammy Alcantor, Assistant Finance Director Douglas L. White, Assistant City Attorney

RECOMMENDATION

It is recommended that the City Council approve the Ordinance amending Section 50.10, Method of Collection of Rates by City; Section 50.11, Payment; Section 51.02, Sanitary Sewer Permit; Billing Procedures; Section 51.03, Rates and Charges; Section 52.64, Payment of Bills; Section 52.65, Deposits; and Section 52.66, Disconnection for Late Payment, of the Riverbank Municipal Code ("RMC").

BACKGROUND / SUMMARY

In 2018, the California Legislature ("Legislature") enacted SB 998, "Discontinuation of Residential Water Service: Urban and Community Water Systems." SB 998 requires that public water service providers adopt a policy that provides protection to residential water service customers from termination of water service for nonpayment of water bills.

The California Health and Safety Code requires water service providers to follow certain procedures before discontinuing water service to residential customers for nonpayment. In passing SB 998, the Legislature found that water rates had been increasing and that many residents were losing water service due to their inability to pay. SB 998's goal is to give delinquent residential users more time and options before losing water service for nonpayment of a water bill.

Water service providers must adopt or update discontinuance policies for delinquent residential customers in accordance with SB 998. Updated policies must incorporate notice procedures, deferred or reduced payment plans, and an appeal process as detailed in SB 998. Written notices must be made available in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any language spoken by at least 10 percent of people within the service area.

SB 998 also contains specific protections for customers who qualify as low-income. First, SB 998 limits reconnection fees and interest charges for discontinued or delinquent customers. Second, there is a scenario where SB 998 prohibits discontinuing water service altogether. SB 998 prohibits discontinuing service where the customer is unable to pay, where there would be a serious health or safety threat to the customer from suspending water service, and where the customer agrees to an amortization agreement.

In reviewing the City's billing procedures to comply with SB 998, City staff also noted that several provisions of the RMC no longer accurately reflect the City's billing practices with regard to water, wastewater, and solid waste services. Some of the provisions that need to be updated have not been revised since the 1970s. With the advancement in technology and changes to state law, updates are necessary to ensure that the RMC is in compliance with all legal requirements.

DISCUSSION

The first reading and public hearing for the ordinance were held at the meeting of September 13, 2022. The following sections in Chapter 52 ("Water"), Title V ("Public Works") of the RMC have been amended to comply with SB 998: Section 52.64: Payment of Bills and Section 52.66: Disconnection for Late Payment. Section 52.64 has been amended to provide that discontinuation of water service will only occur after a bill has been delinquent for sixty (60) days as required under SB 998 and the proposed Residential Water Shut Off Policy ("Policy"). The amendments to Section 52.66 propose that the City may elect to provide for the deferment or waiver of payment for a water bill.

The Policy adopted at the September 13, 2022 meeting contains all of the required elements under SB 998. The Policy addresses a plan for deferred or reduced payment of residential water bills, alternative payment schedules, a process for a customer to contest or appeal a bill, a telephone number for a customer to contact to discuss payment options to avoid discontinuation of service, and the City's approach to notice of termination of residential water service following a sixty (60) day period of delinquency.

The additional provisions of the RMC that the Ordinance proposes to amend are also within Title 5, Public Works of the RMC: Section 50.10: Method of Collection of Rates by City, Section 50.11: Payment, Section 51.02: Sanitary Sewer Permit, and Section 51.03: Rates and Charges. The revisions to Section 50.10 make clear that the rates for the City's solid waste service are set by resolution rather than including outdated rate information within the RMC. Section 50.11 no longer reflects the requirements for payment of solid waste service rates. Instead, Section 50.11 has been revised to reflect the City's deposit requirement for solid waste services. Section 51.02, subdivision (F) has been updated to reflect the City's current late penalty of a ten percent (10%) penalty where a sewer service bill is not paid by the close of business of the thirty-fifth (35^{th}) day after the bill was issued. Finally, Section 51.03 has been updated to reflect the City's deposit requirement for providing sewer services and allows for the adoption of sewer rates in the future by resolution. The shift to adopting sewer rates by resolution conforms the process for adopting all of the City's rates related to water, sanitary sewer, and solid waste services to resolution rather than restricting only sanitary sewer rates to adoption by ordinance.

As indicated in the ordnance changes is the addition of a deposit requirement for both the sewer and solid waste services. Deposits are collected to ensure payment of a final bill when a service is stopped. The City currently only collects a $60 deposit for water services, which is sufficient to cover a residential bi-monthly bill. The sewer deposit is proposed at $100, sufficient to cover a residential bi-monthly bill. We have proposed the sold-waste deposit at $40 which is slightly below a bi-monthly bill. We have also proposed the ability for a customer to have their deposit waived by providing a letter of credit from another utility provider. Below is a table summarizing the changes in the deposits:

Service	Current Deposit	Proposed Deposit
Water	$ 60.00	$ 60.00
Sewer	$ 0.00	$100.00
Garbage	$ 0.00	$ 40.00

ENVIRONMENTAL DETERMINATION

Adoption of the Ordinance is not a project subject to environmental review under CEQA because the action does not result in any direct or indirect change to the environment.

FINANCIAL IMPACT

Adoption of the Ordinance amendments does not have a financial impact on the City other than City staff time. Implementation of the Policy may have an impact on the City's water fund where water bills remain unpaid.

ATTACHMENTS

1. Draft Ordinance No. 2022-XXX amending Section 50.10, Method of Collection of Rates by City; Section 50.11, Payment; Section 51.02, Sanitary Sewer Permit; Billing Procedures; Section 51.03, Rates and Charges; Section 52.64, Payment of Bills, Section 52.65, Deposits; and Section 52.66, Disconnection for Late Payment, of the Riverbank Municipal Code
2. Adopted Residential Water Shut-Off Policy

CITY OF RIVERBANK

ORDINANCE 2022-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK AMENDING SECTION 50.10, METHOD OF COLLECTION OF RATES BY CITY, SECTION 50.11, PAYMENT, SECTION 51.02, SANITARY SEWER PERMIT; BILLING PROCEDURES, SECTION 51.03, RATES AND CHARGES, SECTION 52.64, PAYMENT OF BILLS, SECTION 52.65, DEPOSITS, AND SECTION 52.66, DISCONNECTION FOR LATE PAYMENT OF THE RIVERBANK MUNICIPAL CODE.

WHEREAS, The City of Riverbank ("City") provides solid waste, wastewater, and water services to customers of the City; and

WHEREAS, The California Legislature passed, and the Governor signed into law, Senate Bill No. 998 ("SB 998"), which added and expanded procedural safeguards for terminating water service to customers who are delinquent in payment of water charges; and

WHEREAS, To comply with SB 998, the City is adopting a Residential Water Shut-Off Policy ("Policy") that establishes procedural safeguards for terminating water service where a customer has a delinquent water bill; and

WHEREAS, The Riverbank Municipal Code ("RMC") currently provides procedures for terminating water service; and

WHEREAS, The RMC needs to be amended to reflect the requirements under the Policy for the City to terminate water service to residential customers with delinquent water bills; and

WHEREAS, The City's billing procedures related to solid waste, wastewater, and water services are no longer accurately reflected in the RMC; and

WHEREAS, To clarify the City's current practices and ensure the health, safety, and welfare of City's residents the RMC is to be amended to accurately reflect the City's current billing practices.

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

SECTION 1: Section 50.10, Rates to be Charged, is repealed in its entirety and amended with a new Section 50.10, which shall read as follows:

§ 50.10 RATES TO BE CHARGED.

(A) *Rates established.* Rates, fees, and charges for automatic garbage and refuse collection services specified in this Chapter are established by resolution, which may be amended from time to time, and shall be charged for those services.

(B) *Billing.* All garbage, refuse, and recycling fees shall be billed on a bimonthly basis. The bimonthly bill shall reflect double the monthly rate for garbage, refuse, and recycling services.

(C) *Increase or decrease in rates.* The rates for garbage collection set forth herein shall be increased or decreased by resolution of the City Council.

SECTION 2: Section 50.11, Payment, is repealed in its entirety and amended with a new Section 50.11, which shall read as follows:

§ 50.11 DEPOSITS

(A) Applicants for utility services are required to establish credit before receiving such service. Credit shall be deemed established if the applicant meets one of the following options:

(1) Makes a cash deposit of forty dollars ($40) as a guarantee for the payment of future bills.

(2) Has been a customer of City utility services for twelve (12) consecutive months within the last eighteen (18) months, and during such time has paid all bills without any delinquency.

(3) Provide the City with a letter of credit reference from another utility company showing an on-time payment record for the period of at least the twelve (12) consecutive months directly prior to the date of the requested service.

(B) If a consumer fails to pay a bill for garbage and refuse collection services, the City may apply the deposit insofar as necessary to liquidate the account and may require that the deposit be restored to an amount twice the original deposit amount.

(C) After a cash deposit to guarantee payment for garbage and refuse service has stood unimpaired for twelve (12) months, such deposit shall be applied to the depositor's current account balance. Upon closing any account, the balance of any deposit remaining, after the closing bill for service has been paid, shall be returned promptly to the depositor.

SECTION 3. Section 51.02, Sanitary Sewage Permit; Billing Procedures, is repealed in its entirety and amended with a new Section 51.02, which shall read as follows:

§ 51.02 SANITARY SEWAGE PERMIT; BILLING PROCEDURES.

(A) It shall be unlawful for any person, other than the Director of Public Works to commence or make any connection with any public or house connection sewer or to do or cause to be done, or to construct or cause to be constructed, or to use or cause to be used, or to alter or cause to be altered, any public or house connection sewer within the city without first obtaining a permit from the Plumbing Inspector so to do.

(B) Any person desiring a permit for any of the purposes enumerated in this section, shall make application in writing to the Plumbing Inspector, giving such information as the Inspector may require, on blanks to be furnished for that purpose, and if it appears that the work to be performed thereunder is to be done according to the regulations contained in this chapter and otherwise provided by law governing the construction of said work, a permit shall be issued upon payment of the fees as fixed by ordinance.

(C) Rates and charges for domestic sewage disposal service are hereby established as hereinafter set forth. The charges herein fixed for any premises shall be billed and collected with the charges and rates for city utility services furnished by the city to the premises. The charges herein fixed shall be due and payable in advance at the same time that such charges for city utility services are due and payable.

(D) In the event the premises to be charged for sewer service shall not be connected to the water distribution system then and in that event, Water Department shall bill and collect for the appropriate sewer service charges.

(E) All sewer service revenues collected, shall be retained by the city regardless of the date of termination of sewer service and no rebate will be made for mid-month disconnection.

(F) For any sewer service bill that is not paid by the close of business thirty-five (35) days after the bill was issued shall be subject to a ten percent (10%) penalty.

(G) Charges for services and facilities furnished by the city shall constitute a lien against the lot or parcel of land against which charge is imposed if such charges remain delinquent for a period of 60 days.

(H) In the event the owner, occupant or lessee of premises connected to the sewer system shall fail to pay the sewer charges within sixty (60) days after it becomes delinquent,, the city may in addition to all of the remedies it may have, discontinue furnishing sewer service by means of water service disconnection pursuant to the procedures set forth in § 52.66 herein, and shall not resume the same until all delinquent charges and penalties hereunder together with any service charge necessitated by the resumption of sewer service have been fully paid.

(I) As an alternative to any of the other procedures herein provided or given by law, city may bring an action against the owner, occupant or lessee of the premises to whom the service was rendered for the collection of the amount of the delinquent rate and all penalties and costs of collection including reasonable attorney's fees.

SECTION 4. Section 51.03, Rates and Charges, is repealed in its entirety and amended with a new Section 51.03, which shall read as follows:

§ 51.03 RATES AND CHARGES.

(A) *Inspection fee.* An inspection fee of $30 for Building Inspection services shall be paid to the city.

(B) *Connection fees.* Connection fees for sewer service for properties not in the city on October 14, 1963 shall be paid to the city as follows:

(1) Single-family residence (when connection is made to existing lateral): $4,420;

(2) Single-family residence (when connection is made to house connection stub behind the curb or at the property line in the alley): $400;

(3) Duplex or triplex (each unit): $400;

(4) Multiple housing (apartments, condominiums, mobile homes or in manufactured housing in parks or special projects, each unit): $400;

(5) Commercial establishments (domestic sewage only, each unit): $1,000;

(6) Commercial establishments discharging dishwater, including, but not limited to, laundromats, carwashes or discharges from garbage grinders. First 1,000 square feet of floor area: $1,200 each, and 100 square feet, or fraction, additional floor area: S100 each;

(7) Industrial establishments (domestic sewage only) each unit: $1,000; and

(8) Industrial establishments (discharges from industrial use); to be negotiated.

(C) *Front footage assessment.*

(1) A front footage charge of $7 per lineal foot shall be paid to the city at the time application is made for sewer service connection to an existing sewer lateral for which no previous front footage assessment or fee has been paid for the particular lot or parcel. Subdivision lots shall be exempt from the front footage charge when service laterals have been installed, by the sub-divider, to serve properties within the development.

(2) Front footage assessments will be made and paid to the city based upon the property frontage along the street or alley where the connection is made.

(D) *Extension of sewer lateral.* Whenever the installation of a new sewer line is required to serve an applicant for sewer service, the applicant's obligation or cost for sewer service will be the established front footage assessment, inspection and connection fees, and monthly service charge. The applicant shall advance to the city 100% of the cost of extending sewer service to his or her property and the cost of the line across the full width of applicant's property. The city will reimburse to the applicant the difference between the applicant's obligation or costs and the total cost of the sewer lateral extension over a ten-year period in equal annual installments, with no interest, commencing one-year following the city's acceptance of the completed project, provided however, that in the event it appears for any reason unfeasible to extend a sewer lateral under the terms of this section, the city may refuse to extend the sewer lateral or it may agree to extend the sewer lateral under a separate agreement containing terms, conditions and provisions for payment which are mutually agreed upon by the city and the property owner or owners requesting the extension.

(E) *Charges for connection to sewer lines financed by state or federal funds.*

(1) In the event state or federal funds are used in construction of a sewer line, the front footage assessment and connection fees will be reduced 50%, for single-family residential applicants who hook on to the sewer line within a 12-month period following the completion of the project. Following the 12-month period, single-family residential applicants for sewer service involving connections to state or federal funded sewer lines will be assessed the regular front footage and connection fees.

(2) All applicants other than single-family residential applicants shall not receive a reduced connection and front footage assessment rate.

(F) *Monthly sewer service charges.* The following monthly sewer service charges are hereby established for properties served by the city.

(1) Base monthly rates for residential, commercial and all other users shall be as follows:

	October 1, 2015	July 1, 2016	July 1, 2017	July 1, 2018	July 1, 2019
Base Monthly Rate	$25.79	$33.01	$40.28	$47.12	$49.48

(2) In addition to the base monthly rates, all non-residential users will be charged a variable rate, based on gallon usage over 7,480 gallons. The rate shall be assessed as follows:

Commercial Classification	***Class***	***Variable Rate***
Group 1: Schools without cafeterias, offices	Low	$0.002512
Group 2: Commercial, hospitals, extended care facilities, markets without delis, automobile servicers, laundromats	Domestic	$0.00335
Group 3: Schools with cafeterias, restaurants, short order facilities, markets with delis	Medium	$0.004523
Group 4: Restaurants with full kitchens	High	$0.00737

(3) *Multiple accounts on one meter.* Where more than one residence or business is served by a common meter, a composite sewer rate shall be determined, based on the

number and type of residences and businesses served by the meter. The composite rate shall be computed as a weighted average of the respective sewer rates for the individual residences and businesses based on categories and rates established previously in this section. The composite rate shall be determined on a case-by-case basis by the city, using estimated flows for the individual businesses and the respective sewer rates established for specific categories.

(a) The weighted average is computed by estimating the amount of flow by their individual rate (assuming they were on individual meters), and summing the total cost and flow for the multiple account meters.

(b) Composite rates will vary from multiple accounts to multiple accounts, depending on the mix of user types for the shared meter.

(4) All sewer service charges shall be billed on a bimonthly basis. The bimonthly rates shall double the monthly rates during the time the bimonthly billings are in effect.

(5) All sewer service charges are due and payable upon receipt and shall be considered delinquent if not paid seven (7) days after mailing or e-mailing by the City. Any bills not paid within such period are considered delinquent.

(6) Any sewer charges, which are not paid by close of business thirty-four (34) calendar days after the bill is issued, shall have a service charge of 10% of the billing assessed at the time of payment.

(7) *Deposit.* Applicants for utility services are required to establish credit before receiving such service. Credit shall be deemed established if the applicant meets one of the following options:

(a) Makes a cash deposit of one hundred dollars ($100) as a guarantee for the payment of future bills.

(b) Has been a customer of City utility services for twelve (12) consecutive months within the last eighteen (18) months, and during such time has paid all bills without any delinquency.

(c) Provide the City with a letter of credit reference from another utility company showing an on-time payment record for the period of at least the twelve (12) consecutive months directly prior to the date of the requested service.

If a consumer fails to pay a bill for sewer services, the City may apply the deposit insofar as necessary to liquidate the account and may require that the deposit be restored to an amount twice the original deposit amount. After a cash deposit to guarantee payment for sewer service has stood unimpaired for twelve (12) months, such deposit shall be applied to the depositor’s current account balance. Upon closing any account, the balance of any deposit remaining, after the closing bill for service has been paid, shall be returned promptly to the depositor.

(8) Sewer service charges set forth herein may be increased or decreased by resolution of the City Council.

(G) *Septic tank destruction permit.* Any property owner seeking to abandon his or her septic tank must first obtain a septic tank destruction permit from the City of Riverbank Public Works Department. The fee for the permit shall be $75.

(H) *Annual fees for the food service establishment discharge permit.*

(1) Permit fees will be calculated based on the following tasks:

FOG Permit review and approval	1.5 hours
Annual compliance visit	1.0 hours
Administration	1.0 hours
Total annual permit fee	3.5 hours

(2) At the time the permit is issued, the final fee as determined by the then current staff rate as determined by inflation will be paid annually for the management, administration and inspection of the grease removal device for the food service establishment discharge permit.

(3) This fee shall be updated as necessary using the consumer price (CIP) index to cover the cost of inflation for implementing the fats oils and grease reduction program.

(4) Re-inspection fees necessary as a result of a violation of the permit shall be in the amount set forth in division (A) above.

(I) *Other fees associated with the installation of a grease interceptor as required by the food service establishment discharge permit.*

(1) Additional fees to cover the cost of engineering and inspection of a new grease interceptor shall be calculated as follows:

Business license review	0.5 hours
Plan review	1.5 hours
Construction inspection	1.0 hours
Total annual permit fee:	3.0 hours

(2) At the time the permit is issued, the final fee as determined by the then current staff rate as determined by inflation must be paid prior to the issuance of a building permit.

<u>SECTION 5</u>. Section 52.64, Payment of Bills, is repealed in its entirety and amended with a new Section 52.64, which shall read as follows:

§ 52.64 PAYMENT OF BILLS.

(A) Water bills shall be rendered on a bimonthly basis and are due and payable upon receipt and shall be considered delinquent if not paid seven (7) days after mailing or e-mailing by the City.

(B) Any bill which is not paid by close of business thirty-five (35) calendar days after the bill is issued, shall be subject to a ten percent (10%) penalty. If the bill is not paid within sixty (60) days after it becomes delinquent, the water service may be discontinued and an additional charge for the subsequent turn-on shall be paid by the consumer according to the requirements established in the City's Residential Water Shut-Off Policy adopted by resolution of the City Council.

(C) When a service is discontinued due to nonpayment of bills, service shall not be resumed until all charges and penalties are paid pursuant to the procedures set forth in Section 52.66 herein. All charges and penalties which are not paid shall become a lien on the property. Termination of service shall not be effective to a residential dwelling for nonpayment while an investigation of a customer dispute or complaint is pending or in progress by the City. Termination of water service shall not be affected on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the City are not open to the public.

<u>SECTION 6</u>. Section 52.65 Deposits, is repealed in its entirety and amended with a new Section 52.65, which shall read as follows:

§ 52.65 DEPOSITS

(A) Applicants for utility services are required to establish credit before receiving such service. Credit shall be deemed established if the applicant meets one of the following options:

(1) Makes a cash deposit of $60 as a guarantee for the payment of future bills.

(2) Has been a customer of City utility services for 12 consecutive months within the last 18 months, and during such time has paid all bills without any delinquency.

(3) Provide the City with a letter of credit reference from another utility company showing an on-time payment record for the period of at least the 12 consecutive months directly prior to the date of the requested service.

(B) If a consumer's service is disconnected for nonpayment, the City may apply the deposit insofar as necessary to liquidate the account and may require that the deposit be restored to an amount twice the original deposit amount.

(C) After a cash deposit to guarantee payment for metered or measured water service has stood unimpaired for 12 months, such deposit shall be applied to the depositor's current account balance. Upon closing any account, the balance of any deposit remaining, after the closing bill for service has been paid, shall be returned promptly to the depositor.

SECTION 7. Section 52.66, Disconnection for Late Payment, is repealed in its entirety and amended with a new Section 52.66, which shall read as follows:

§ 52.66 DISCONNECTION FOR LATE PAYMENT.

(A) It is the policy of the City to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The City's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, a written cut-off notice will be sent to the customer in accordance with the City's Residential Water Shut-Off Policy, detailing the date by which payment or arrangement for payment is required to avoid discontinuation of service and options for payment to avert discontinuation of service; and

(3) That any customer disputing the correctness of his or her bill, shall have a right to a hearing at which time he or she may be represented in person and by counsel, or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the City official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) The City may adjust or delay payment of water bills in accordance with the City's Residential Water Shut-Off Policy that has been adopted by resolution of the City Council.

(C) When it becomes necessary for the City to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge, the amount of which shall be governed by the City's Residential Water Shut-Off Policy, adopted by resolution of the City Council.

SECTION 8. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Riverbank hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 9. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, and publication of the Ordinance shall occur in a newspaper of general circulation at least fifteen (15) days prior to its effective date, or a summary of the Ordinance published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the 13th day of September 2022; motioned by Councilmember _________, seconded by Councilmember _________, and upon roll call was carried by the following vote ___: said Ordinance was given a second reading by title only at a regular meeting of the City Council held on the ____ day of ____, ____, and after such reading, by title only, Councilmember __________ moved its adoption, seconded by Councilmember __________ and said Ordinance was thereupon adopted upon roll call was carried by the following roll call vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

____

Gabriela Hernandez
City Clerk

____

Richard D. O'Brien
Mayor

POLICY ON DISCONTINUATION OF RESIDENTIAL WATER SERVICE

Adopted by Resolution No. 2022- 109 of the City Council of the City of Riverbank on September 13, 2022

1. **Application of Policy.** This Policy on Discontinuation of Residential Water Service (this “Policy”) shall apply to all City accounts for residential water service, but shall not apply to any accounts for non-residential service. To the extent this Policy conflicts with any other rules, regulations, or policies of the City, this Policy shall control.

2. **Contact Information.** For questions or assistance regarding your water bill, the City’s Customer Service staff can be reached at (209)863-7109. Customers may also visit the City’s Customer Service desk in person Monday through Thursday, from 7:30 a.m. to 5:30 p.m., except on City holidays.

3. **Billing Procedures.** Water service charges are payable to the City once every two months or at such other frequency as determined by the City Council from time to time.

3.1 All bills for water service are due and payable upon receipt and shall be considered delinquent if not paid seven (7) days after mailing or e-mailing by the City. Any bills not paid within such period are considered delinquent.

3.2 Any bill which is not paid by close of business thirty-four (34) calendar days after the bill is issued shall be subject to a ten percent (10%) penalty.

3.3 At the request of the customer, the City will waive the late fee once every 12 months if there are extenuating circumstances and the customer has not been assessed a late fee for delinquent payment in the preceding 6 months.

4. **Discontinuation of Water Service for Nonpayment.** If a bill is delinquent for at least sixty (60) days, the City may discontinue water service to the service address and will be charged the $50.00 Reconnection Fee, to be paid in cash.

4.1 <u>Written Notice to Customer</u>. The City will provide a mailed notice to the customer of record at least ten (10) business days before discontinuation of water service. The notice will contain:

(a) the name and address of the customer;

(b) the amount of the delinquency;

(c) the date by which payment or payment arrangements must be made to avoid discontinuation of service;

(d) the procedure by which the customer may initiate a complaint or request an investigation or appeal concerning service or charges;

(e) a description of the procedure by which the customer may request an alternative payment arrangement, which may include an extension, amortization, alternative payment schedule, or payment reduction;

(f) the procedure for the customer to obtain information on financial assistance, if applicable; and

(g) the telephone number where the customer may request a payment arrangement or receive additional information from the City.

4.2 Written Notice to Occupants or Tenants.

(a) The City will also send a notice to the occupants living at the service address at least ten (10) business days before discontinuation of water service under the following circumstances: (1) the City furnishes individually metered service to a single-family dwelling, multi-unit residential structure, mobile home park, or farm labor camp and the owner, manager, or operator is the customer of record; or (2) the customer of record's mailing address is not the same as the service address. The notice will be addressed to "Occupant," will contain the information required in Section 4.1 above, and will inform the residential occupants that they have the right to become customers of the City without being required to pay the amount due on the delinquent account. Terms and conditions for occupants to become customers of the City are provided in Section 8 below.

(b) If the City furnishes water through a master meter in a multi-unit residential structure, mobile home park, or permanent residential structures in a labor camp and the owner, manager, or operator is the customer of record, the City will make a good faith effort to inform the occupants, by means of written notice posted on the door of each residential unit at least fifteen (15) days prior to termination, that the account is in arrears and the service will be terminated on a date specified in the notice. If it is not reasonable or practicable to post the notice on the door of each unit, the City will post two (2) copies of the notice in each accessible common area and at each point of access to the structure or structures. The notice will inform the residential occupants that they have the right to become customers of the City without being required to pay the amount due on the delinquent account. The notice will also specify what the occupants are required to do in order to prevent termination of, or to reestablish service; the estimated monthly cost of service; the title, address, and telephone number of a representative of the City who can assist the occupants in continuing service; and the address or telephone number of a qualified legal services project that has been recommended by the local county bar association. Terms and conditions for occupants to become customers of the City are provided in Section 8 below.

4.3 Posting of Notice at Service Address. If the City receives the written notice returned through the mail as undeliverable and is unable to make contact with the customer or an adult occupying the residence by telephone, the City will make a good faith effort to visit the residence and leave a notice of imminent discontinuation of residential service in a conspicuous place at the service address. The notice will be left at the residence at least forty-eight (48) hours before discontinuation of service. The notice will include:

(a) the name and address of the customer;

(b) the amount of the delinquency;

(c) the date by which payment or payment arrangements must be made to avoid discontinuation of service;

(d) the procedure for the customer to obtain information on financial assistance, if applicable; and

(e) the telephone number where the customer may request a payment arrangement or receive additional information from the City.

4.4 Circumstances Under Which Service Will Not Be Discontinued. The City will not discontinue residential water service for nonpayment under the following circumstances:

(a) During an investigation by the City of a customer dispute or complaint under Section 5.1 below;

(b) During the pendency of an appeal to the City Council under Section 5.3 below; or

(c) During the period of time in which a customer's payment is subject to a City-approved extension, amortization, alternative payment schedule, or reduction under Section 6 below, and the customer remains in compliance with the approved payment arrangement.

(d) As provided in the Riverbank Municipal Code section 52.66

4.5 Special Medical and Financial Circumstances Under Which Services Will Not Be Discontinued.

(a) The City will not discontinue water service if all of the following conditions are met:

(i) The customer, or a tenant of the customer, submits to the City the **certification of a licensed primary care provider** that discontinuation of water service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential service is provided;

(ii) The customer demonstrates that he or she is **financially unable to pay for residential service within the City's normal billing cycle**. The customer is deemed financially unable to pay during the normal billing cycle if: **(a) any member of the customer's household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or (b) the customer declares under penalty of perjury that the household's annual income is less than 200 percent of the federal poverty level; and**

(iii) **The customer is willing to enter into an alternative payment arrangement, including an extension, amortization, alternative payment schedule, or payment reduction with respect to the delinquent charges.**

(b) For any customers who meet all of the above conditions, the City shall offer the customer one of the following options, to be selected by the City in its discretion: (1) an extension of the payment period; (2) **an alternative payment schedule or amortization of the unpaid balance**. The City Manager or designee will select the most appropriate payment arrangement, taking into consideration the information and documentation provided by the customer, as well as the City's payment needs.

(c) The customer is responsible for demonstrating that the conditions in subsection (a) have been met. Upon receipt of documentation from the customer, which must be provided to the City **at least 48 hours prior to the disconnection date**, the City will review the documentation within seven (7) days and: (1) notify the customer of the alternative payment arrangement selected by the City and request the customer's signed assent to participate in that alternative arrangement; (2) request additional information from the customer; or (3) notify the customer that he or she does not meet the conditions in subsection (a). The City reserves the right to extend the customer documentation submission period at the City's discretion.

(d) The City may discontinue water service if a customer who has been granted an alternative payment arrangement under this section fails to do any of the following for sixty (60) days or more: (a) to pay his or her unpaid charges by the extended payment date; (b) to pay any amortized amount due under the amortization schedule or (c) to pay his or her current charges for water service. The City will post a final notice of intent to disconnect service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the City.

4.6 Time of Discontinuation of Service. The City will not discontinue water service due to nonpayment on a Saturday, Sunday, legal holiday, or at any time during which the City's office is not open to the public.

4.7 Restoration of Service. The City provide customers whose water service has been discontinued information on how to restore residential service. Such information shall indicate that the customer may contact the City by telephone or in person regarding restoration service. Restoration shall be subject to payment of: (a) any past-due amounts, including applicable interest or penalties; (b) any reconnection fees, subject to the limitations in Section 7.1, if applicable; (c) and a security deposit, if required by the City.

5. Procedures to Contest or Appeal a Bill.

5.1 Time to Initiate Complaint or Request an Investigation. A customer may initiate a complaint or request an investigation regarding the amount of a bill within ten (10) days of receiving a disputed bill. For purposes of this Section 5.1 only, a bill shall be deemed received by a customer ten (10) days after mailing and immediately upon e-mailing.

5.2 Review by City. A timely complaint or request for investigation shall be reviewed by a manager of the City, who shall provide a written determination to the customer. The review will include consideration of whether the customer may receive an extension, amortization, alternative payment schedule, or payment reduction under Section 6. The City may, in its discretion, review untimely complaints or requests for investigation; however, such complaints or requests are not subject to appeal.

5.3 Appeal to City Council. Any customer whose timely complaint or request for an investigation pursuant to this Section 5 has resulted in an adverse determination may appeal the determination to the City Council by filing a written notice of appeal with the City Clerk within ten (10) business days of the City's mailing of its determination. Upon receiving the notice of appeal, the City Clerk will set the matter to be heard at an upcoming City Council meeting and mail the customer written notice of the time and place of the hearing at least ten (10) days before the meeting. The decision of the City Council shall be final.

6. Extensions and Other Alternative Payment Arrangements.

6.1 Time to Request an Extension or Other Alternative Payment Arrangement. If a customer is unable to pay a bill during the normal payment period, the customer may request an extension or other alternative payment arrangement described in this Section 6. If a customer submits his or her request within seven (7) days after mailing of a written notice of discontinuation of service by the City, the request will be reviewed by a manager of the City. City decisions regarding extensions and other alternative payment arrangements are final and are not subject to appeal to the City Council.

6.2 Extension. If approved by the City, a customer's payment of his or her unpaid balance may be temporarily extended for a period not to exceed six (6) months after the balance was originally due. The City Manager or designee shall determine, in his or her discretion, how long an extension shall be provided to the customer. The customer shall pay the full unpaid balance by the date set by the City and must remain current on all water service charges accruing during any subsequent billing periods. The extended payment date will be set forth in writing and provided to the customer.

6.3 Alternative Payment Schedule or Amortization. If approved by the City, a customer's payment of his or her unpaid balance may be amortized over a period not to exceed twelve (12) months, as determined by the City Manager or designee, in his or her discretion. If approved, an alternative payment schedule may allow periodic lump-sum payments that do not coincide with the City's established payment date or may provide for payments made more or less frequently than the City's regular payment date. If amortization is approved, the unpaid balance will be divided by the number of months in the amortization period, and that amount will be added to the customer's monthly bills for water service until fully paid. During the period of the alternative payment schedule or amortization, the customer must remain current on all water service charges accruing during any subsequent billing periods. The alternative payment or amortization schedule and amounts due will be set forth in writing and provided to the customer.

6.4 Failure To Comply. If a customer has been granted a payment arrangement under this Section 6 and fails to: (1) pay the unpaid charges by the extension date; (2) pay an amount due under an alternative payment schedule or amortization schedule, then the

City may terminate water service. The City will post a final notice of intent to disconnect service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the City.

6.5 Payment Reductions or Waivers. Reductions or waivers of water service charges are not available at this time.

7. Specific Programs for Low-Income Customers.

7.1 Reconnection Fee Limits and Waiver of Interest. For residential customers who demonstrate to the City a household income below 200 percent of the federal poverty line, the City will:

(a) Limit any reconnection fees during normal operating hours to fifty dollars ($50), and during non-operational hours to one hundred fifty dollars ($150). The limits will only apply if the City's reconnection fees actually exceed these amounts. These limits are subject to an annual adjustment for changes in the Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers (CPI-U) beginning January 1, 2021.

(b) Waive interest charges on delinquent bills once every 12 months. The City will apply the waiver to any interest charges that are unpaid at the time of the customer's request.

7.2 Qualifications. The City will deem a residential customer to have a household income below 200 percent of the federal poverty line if: (a) any member of the household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or (b) the customer declares under penalty of perjury that the household's annual income is less than 200 percent of the federal poverty level.

8. Procedures for Occupants or Tenants to Become Customers of the City.

8.1 Applicability. This Section 8 shall apply only when the property owner, landlord, manager, or operator of a residential service address is listed as the customer of record and has been issued a notice of intent to discontinue water service due to nonpayment.

8.2 Agreement to City Terms and Conditions of Service. The City will make service available to the actual residential occupants if each occupant agrees to the terms and conditions of service and meets the requirements of the City's rules and regulations. Notwithstanding, if one or more of the occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the City, or if there is a physical means, legally available to the City, of selectively discontinuing service to those occupants who have not met the requirements of the City's rules and regulations, the City shall make service available to the occupants who have met those requirements.

8.3 Verification of Tenancy. To be eligible to become a customer without paying the amount due on the delinquent account, the occupant shall verify that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling. Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code, at the discretion of the City.

8.4 Methods of Establishing Credit. If prior service for a period of time is a condition for establishing credit with the City, residence and proof of prompt payment of rent for that period of time is a satisfactory equivalent.

9. **Third Party Notification Service for Seniors and Dependent Adults**. The City will make available, to residential customers who are 65 years or older, or who are dependent adults (as defined in Welfare and Institutions Code Section 15610(b)(1)), a third-party notification service whereby the City will attempt to notify a person designated by the customer to receive notification when the customer's account is past-due and subject to termination. The notification will include information on what is required to prevent termination of service. The City will mail the notification to the designated third party at least ten (10) days before termination of service. To participate, the customer must submit a request for third-party notification on a form provided by the City, and must include the written consent of the designated third party. The notification service does not obligate the third party to pay any overdue charges, nor shall it prevent or delay termination of service.

10. **Language for Certain Written Notices.** All written notices under Section 4 and Section 6.6 of this Policy shall be provided in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any other language spoken by ten percent (10%) or more people within the City's service area.

11. **Other Remedies.** In addition to discontinuation of water service, the City may pursue any other remedies available in law or equity for nonpayment of water service charges, including, but not limited to: securing delinquent amounts by filing liens on real property, filing a claim or legal action, or referring the unpaid amount to collections. In the event a legal action is decided in favor of the City, the City shall be entitled to the payment of all costs and expenses, including attorneys' fees and accumulated interest.

12. **Discontinuation of Water Service for Other Customer Violations.** The City reserves the right to discontinue water service for any violations of City ordinances, rules, or regulations other than nonpayment.

13. **Fees and Charges Incurred.** Except as otherwise expressly stated in this Policy, any fees and charges incurred by a customer under any other rules, regulations, or policies of the City, including, but not limited to, delinquent charges, shall be due and payable as set forth therein.

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.1

SECTION 11: NEW BUSINESS

Meeting Date:	September 27, 2022
Subject:	Progress Report and Preliminary Design Update on the Riverbank Regional Recycled Water Project.
From:	Marisela H. Garcia, City Manager
Submitted by:	Michael Riddell, Public Works Director

SUMMARY

Staff will present an update to City Council on the Riverbank Regional Recycled Water Project (RRRWP) as a result of progress on the preliminary design, environmental document preparation, and financial analysis. The progress report will revisit the purpose and need for the project as well as outline the project benefits. The preliminary design effort has proceeded to preparation of the draft Preliminary Design Report and development of the draft 15% design plans. This effort has included additional coordination with potential recycled water users, more in depth review of modifications to the exiting treatment systems to accommodate the project improvements, and coordination with the environmental document preparation to integrate appropriate measures to mitigate for any environmental impacts.

The presentation will include a review of the following:

1. Project purpose and objectives.
2. Review of existing facilities capacity and condition.
3. Current and future water quality and capacity needs for the City's wastewater treatment system.
4. Detailed review of system process components to meet the project purpose and objectives.
5. Current projected project costs.
6. Update on efforts to secure grant funding and project financial assistance.
7. Scheduled tasks and activities for project implementation based on Council input and direction.

STRATEGIC PLAN

The RRRWP and this action addresses the following August 10, 2021 Strategic Plan Goals:

Goal 1.3 Continue to seek local, regional and federal grant opportunities to support City projects, programs and initiatives.

Goal 6, Promoting Sustainable Development, by providing for facilities that sustainably support the City's thoughtful and careful planning.

FINANCIAL IMPACT

There is no financial impact associated with this report.

ATTACHMENTS

1. Engineer's Opinion of Probable Construction Costs – Complete Project
2. Engineer's Opinion of Probable Construction Costs – Phased Project

KJELDSEN SINNOCK NEUDECK inc.
CIVIL ENGINEERS & LAND SURVEYORS

Stephen K. Sinnock, P.E.
Christopher H. Neudeck, P.E.
Neal T. Colwell, P.E.
Barry O'Regan, P.E.

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS SUMMARY

CLIENT NAME:	CITY OF RIVERBANK
PROJECT:	RIVERBANK REGIONAL RECYCLED WATER PROJECT
SCENARIO:	COMPLETE RW PROJECT UP TO 2.29 Mgal/d ADWF
PROJECT LOCATION:	RIVERBANK, CA
PROJECT NO.	2249-0052
SUBMITTAL:	15%
COST ESTIMATE DATE:	9/20/2022
CONSTRUCTION MIDPOINT DATE:	7/18/2025

ALLOWANCES & MARKUPS	
CONTRACTOR OVERHEAD & PROFIT:	15%
TAXES:	8.25%
CONTINGENCY:	15%
MIDPOINT OF CONSTRUCTION ESCALATION:	13%
ENGINEERING & ADMINISTRATION	25%
ENVIRONMENTAL & PERMITTING	10%

ESTIMATE SUMMARY DESCRIPTION	COSTS
ELEMENT 01 - ACCESS ROAD CONSTRUCTION, SWPPP, GENERAL CONTRACT CONDITIONS:	$805,100
ELEMENT 02 - MASS EARTHWORK, SLUDGE DISPOSAL, PAVING & GRADING, BUILDINGS, ELECTRICAL SITEWORK, AND DEMOLITION:	$10,666,200
ELEMENT 03 - HEADWORKS SCREENING, VAC TRUCK STATION & EMERGENCY STORAGE IMPROVEMENTS:	$3,041,200
ELEMENT 04 - SECONDARY TREATMENT SYSTEM:	$16,589,400
ELEMENT 05 - SOLIDS STORAGE & PROCESSING FACILITIES:	$4,941,300
ELEMENT 06 - TERTIARY TREATMENT SYSTEM:	$11,222,200
ELEMENT 07 - RW STORAGE, PUMP STATION & DISTRIBUTION:	$4,685,400
ELEMENT 08 - STORM DRAIN PS, PLANT DRAIN PS, PLANT WATER PS, & MISC YARD PIPING:	$3,058,600
FACILITIES COST SUBTOTAL:	**$55,009,400**
CONTRACTOR OVERHEAD & PROFIT:	$8,251,400
TAXES:	$4,538,300
CONTINGENCY:	$8,251,400
MIDPOINT OF CONSTRUCTION ESCALATION:	$7,378,900
TOTAL ESTIMATED CONSTRUCTION COST:	**$83,429,400**
ENGINEERING & ADMINISTRATION	$20,857,400
ENVIRONMENTAL & PERMITTING:	$8,342,900
TOTAL ESTIMATED PROJECT COST:	**$112,629,700**

KJELDSEN SINNOCK NEUDECK inc.
CIVIL ENGINEERS & LAND SURVEYORS

Stephen K. Sinnock, P.E.
Christopher H. Neudeck, P.E.
Neal T. Colwell, P.E.
Barry O'Regan, P.E.

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS SUMMARY

CLIENT NAME:	CITY OF RIVERBANK
PROJECT:	RIVERBANK REGIONAL RECYCLED WATER PROJECT
SCENARIO:	PHASED PROJECT APPROACH
PROJECT LOCATION:	RIVERBANK, CA
PROJECT NO.	2249-0052
SUBMITTAL:	15%
COST ESTIMATE DATE:	9/8/2022
CONSTRUCTION MIDPOINT DATE:	7/18/2025

ALLOWANCES & MARKUPS	
CONTRACTOR OVERHEAD & PROFIT:	15%
TAXES:	8.25%
CONTINGENCY:	15%
MIDPOINT OF CONSTRUCTION ESCALATION:	13%
ENGINEERING & ADMINISTRATION	25%
ENVIRONMENTAL & PERMITTING	10%

ESTIMATE SUMMARY DESCRIPTION	COSTS
ELEMENT 01 - ACCESS ROAD CONSTRUCTION, SWPPP, GENERAL CONTRACT CONDITIONS:	$805,100
ELEMENT 02 - MASS EARTHWORK, SLUDGE DISPOSAL, PAVING & GRADING, BUILDINGS, ELECTRICAL SITEWORK, AND DEMOLITION:	$6,849,900
ELEMENT 03 - HEADWORKS SCREENING, VAC TRUCK STATION & EMERGENCY STORAGE IMPROVEMENTS:	$2,266,600
ELEMENT 04 - SECONDARY TREATMENT SYSTEM:	$16,589,400
ELEMENT 05 - SOLIDS STORAGE & PROCESSING FACILITIES:	$3,988,500
ELEMENT 06 - TERTIARY TREATMENT SYSTEM:	$7,126,800
ELEMENT 07 - RW STORAGE, PUMP STATION & DISTRIBUTION:	$3,519,800
ELEMENT 08 - STORM DRAIN PS, PLANT DRAIN PS, PLANT WATER PS, & MISC YARD PIPING:	$3,058,600
FACILITIES COST SUBTOTAL:	**$44,204,700**
CONTRACTOR OVERHEAD & PROFIT:	$6,630,700
TAXES:	$3,646,900
CONTINGENCY:	$6,630,700
MIDPOINT OF CONSTRUCTION ESCALATION:	$5,833,100
TOTAL ESTIMATED CONSTRUCTION COST:	**$66,946,100**
ENGINEERING & ADMINISTRATION	$16,736,500
ENVIRONMENTAL & PERMITTING:	$6,694,600
TOTAL ESTIMATED PROJECT COST:	**$90,377,200**

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.2

SECTION 11: NEW BUSINESS

Meeting Date:	September 27, 2022
Subject:	Presentation of the Draft Sewer Rate Study Prepared by Bartle Wells Associates and Request to Establish the Proposition 218 Public Hearing Date for the Adoption of the Proposed Sewer Rates on Tuesday, December 13, 2022.
From:	Marisela H. Garcia, City Manager

RECOMMENDATION

It is recommended that the City Council accept a presentation of the Draft Sewer Rate Study and consider establishing the Public Hearing date for the adoption of the proposed Sewer rates for Tuesday, December 13, 2022.

SUMMARY

On February 8, 2022, the City Council authorized a contract with Bartle Wells Associates for the preparation of a Sewer Rate Study prepared pursuant to Proposition 218. The Rate Study is part of the required Financial Package that will be submitted to granting and state loan agencies for potential funding of the City's Regional Recycled Water Project. Should the City Council decide to move forward with the potential adoption of the proposed rates, it is recommended that the public hearing date be set for Tuesday, December 13, 2022.

BACKGROUND

Upon completion of the City of Riverbank Recycled Water Production Study and Recycled Water Use Study reports and as directed by the City Council, applications for financial assistance for proceeding with the Phase I Regional Recycled Water Project (RRRWP) have been prepared and submitted to the State Water Resources Control Board under the Clean Water State Revolving Fund (CWSRF). Additional application documentation will be submitted to the United States Bureau of Reclamation (USBR) for consideration of funding under the Title XVI program and funding from other sources will be identified and pursued.

To complete the CWSRF financial assistance application for project implementation, preparation of a Financial Security Package, a Wastewater (Sewer) Rate Study, and Recycled Water Fee Study, and completion of rate setting under the requirements of

Prop. 218, are necessary. Following an open Request for Proposals (RFP) process for the preparation of these necessary financial documents and a review committee's selection of Bartle Wells Associates based on submitted proposals and the firm's qualifications and experience.

The goals and objectives of the Sewer Rate Study included:

1. Develop a financial plan for the City's sewer enterprise that:
    a. supports the City's sewer operating and capital programs
    b. funds the wastewater treatment plant project
    c. provides an ongoing funding stream for sewer collection system improvements
    d. prudently uses sewer fund reserves to help minimize debt financing needs while maintaining an adequate level of fund reserves in future years
    e. maintains the long-term financial sustainability of the sewer enterprise
2. Develop sewer rates that:
    a. recover the City's costs of providing sewer service
    b. are fair and equitable to all customer classes
    c. are easy to understand and implement
    d. comply with the legal requirements of Proposition 218 and other California law
3. Aim for steady, gradual annual rate increases, to the extent possible, to help minimize the annual impact on customers.

Bartle Wells has prepared a Draft Sewer Rate Study Report which takes into consideration three scenarios which include:

- Scenario 1: Original Recycled Water Project
- Scenario 2: Phased-In Recycled Water Project
- Scenario 3: Minimum Project (no project)

Basic financial assumptions incorporated into each scenario include:

Revenue Assumptions

- Sewer rate revenues are based on estimated revenues for the current fiscal year. The City is anticipating 347 single-family equivalent connections over the next five years based on current development projects.
- Future investment earnings are projected at 1.5% of beginning annual fund reserves.

Expense Assumptions

- Operating and maintenance costs are primarily based on the 2022/23 budget. Operating costs are projected to escalate at the annual rate of projected inflation. Inflation projections used in this report are 4.5% in FY 23/24 and 4.0% thereafter. Inflation is currently uncharacteristically high but the general economic consensus, including projections from the Federal Reserve, is that inflation will drop back to normal levels over the next two years.

- Based on feedback from City staff and City engineering consultants, the new wastewater treatment plant will increase operating costs by a net amount of about $800,000 per year. This amount was incorporated into Scenarios 1 & 2.
- Capital improvement plan costs (excluding the new wastewater treatment plant) were provided by the City. Capital costs are adjusted for inflation.

In order to be eligible for State Revolving Fund Loan financing, the City must adopt rates that include no assumptions for grant financing. The rates shown in the following scenarios are the maximum rates the City can implement. However, the City can review the enterprise's financial position and may not need to raise rates to the maximum noticed amounts.

SCENARIO 1

Scenario 1 is the original project designed with reliability and redundancy to meet all current and projected future treatment capacity requirements. This project includes a full recycled water treatment system. This scenario allows for new growth, produces recycled water, is eligible for recycled water grants, and will not require additional construction to meet the capacity requirements of additional growth.

In order to achieve the level of funding required for Scenario #1 the Maximum Rates would be set as follows:

Proposed Rates	**FY 21-22**	**FY 22-23**	**FY 23-24**	**FY 24-25**	**FY 25-26**	**FY 26-27**
	Existing	*Proposed*	*Proposed*	*Proposed*	*Proposed*	*Proposed*
Residential Sewer Rates						
Monthly Fixed Rate	**$49.48**	**$59.38**	**$71.26**	**$85.51**	**$102.61**	**$123.13**
Commercial Sewer Rates						
Min. Monthly Base Charge	**$49.48**	**$59.38**	**$71.26**	**$85.51**	**$102.61**	**$123.13**
Volumetric Rates ($/CF) for Usage Greater Than 1,000 Cubic Feet per Month						
Schools w/o cafeterias, Offices	**$0.002512**	**$0.003014**	**$0.003617**	**$0.004340**	**$0.005208**	**$0.006250**
Commercial, hospitals, extended care facilities, markets (w/o deli's), automobile shops	**$0.003350**	**$0.004020**	**$0.004824**	**$0.005789**	**$0.006947**	**$0.008336**
Schools w/ cafeterias, Restaurants, Short order facilities, markets w/ deli's	**$0.004523**	**$0.005428**	**$0.006514**	**$0.007817**	**$0.009380**	**$0.011256**
Restaurants w/ full kitchens	**$0.007370**	**$0.008844**	**$0.010613**	**$0.012736**	**$0.015283**	**$0.018340**

SCENARIO 2

Scenario 2 is a phased-in version of the original project. It will require additional construction to meet projected future treatment capacity requirements. This project includes a recycled water treatment system. This scenario allows for new growth, produces recycled water, is eligible for recycled water grants but will require additional construction to meet the capacity requirements of additional growth.

In order to achieve the level of funding required of Scenario #2 the Maximum Rates would be set as follows:

Proposed Rates	**FY 21-22**	**FY 22-23**	**FY 23-24**	**FY 24-25**	**FY 25-26**	**FY 26-27**
	Existing	*Proposed*	*Proposed*	*Proposed*	*Proposed*	*Proposed*
Residential Sewer Rates						
Monthly Fixed Rate	**$49.48**	**$58.39**	**$68.90**	**$81.30**	**$95.12**	**$109.39**
Commercial Sewer Rates						
Min. Monthly Base Charge	**$49.48**	**$58.39**	**$68.90**	**$81.30**	**$95.12**	**$109.39**
Volumetric Rates ($/CF) for Usage Greater Than 1,000 Cubic Feet per Month						
Schools w/o cafeterias, Offices	**$0.002512**	**$0.002964**	**$0.003498**	**$0.004128**	**$0.004830**	**$0.005555**
Commercial, hospitals, extended care facilities, markets (w/o deli's), automobile shops	**$0.003350**	**$0.003953**	**$0.004665**	**$0.005505**	**$0.006441**	**$0.007407**
Schools w/ cafeterias, Restaurants, Short order facilities, markets w/ deli's	**$0.004523**	**$0.005337**	**$0.006298**	**$0.007432**	**$0.008695**	**$0.009999**
Restaurants w/ full kitchens	**$0.007370**	**$0.008697**	**$0.010262**	**$0.012109**	**$0.014168**	**$0.016293**

SCENARIO 3

Scenario 3 is the minimum plant required to meet the needs of existing capacity. It will require additional construction to meet projected future treatment capacity requirements. This project does not include a recycled water treatment system. This scenario does not allow for new growth, produces no recycled water, is not eligible for recycled water grants and will require additional construction to meet the capacity requirements of additional growth.

Proposed Rates	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27
	Existing	*Proposed*	*Proposed*	*Proposed*	*Proposed*	*Proposed*
Residential Sewer Rates						
Monthly Fixed Rate	**$49.48**	**$56.90**	**$65.44**	**$75.26**	**$84.29**	**$92.72**
Commercial Sewer Rates						
Min. Monthly Base Charge	**$49.48**	**$56.90**	**$65.44**	**$75.26**	**$84.29**	**$92.72**
Volumetric Rates ($/CF) for Usage Greater Than 1,000 Cubic Feet per Month						
Schools w/o cafeterias, Offices	**$0.002512**	**$0.002889**	**$0.003322**	**$0.003820**	**$0.004278**	**$0.004706**
Commercial, hospitals, extended care facilities, markets (w/o deli's), automobile shops	**$0.003350**	**$0.003853**	**$0.004431**	**$0.005096**	**$0.005708**	**$0.006279**
Schools w/ cafeterias, Restaurants, Short order facilities, markets w/ deli's	**$0.004523**	**$0.005201**	**$0.005981**	**$0.006878**	**$0.007703**	**$0.008473**
Restaurants w/ full kitchens	**$0.007370**	**$0.008476**	**$0.009747**	**$0.011209**	**$0.012554**	**$0.013809**

NEXT STEPS

With the Draft Sewer Rate Study now complete and in order to proceed with the adoption of the proposed rates the City Council should consider the following next steps:

1. City Council should set a public hearing and send notices to customers as required by the Government Code under Proposition 218.
2. Hold public hearing to discuss the rate increases and adopt rates by Resolution.

The Government Code requires a minimum 45-day protest period before holding the public hearing. This would set the public hearing date for Tuesday, December 13, 2022.

Proposition 218 notices with all of the required information, will be sent to all current property owners within the City of Riverbank and will be sent in both an English and Spanish.

STRATEGIC PLAN

The RRRWP and this action address the following August 10, 2021 Strategic Plan Goals:

Goal 1.1 Maintain sound, responsible fiscal policies regulating debt and establishing parameters for reserves.

Goal 1.3 Continue to seek local, regional, and federal grant opportunities to support City projects, programs, and initiatives.

Goal 1.5 Provide transparency in all activities related to municipal finance and ensure that financial records are accurate, reliable, and timely.

Goal 6, Promoting Sustainable Development, by providing for facilities that sustainably support the City's thoughtful and careful planning.

FINANCIAL IMPACT

Moving forward with a Proposition 218 process for Sewer Rate Increases will require coordination for printing and mailing of the notices to all property owners with the City of Riverbank.

ATTACHMENT

1. Sewer Rate Study – DRAFT Report

ATTACHMENT 1

CITY OF RIVERBANK

SEWER RATE STUDY
DRAFT REPORT

September 19, 2022

BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS

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BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS

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

September 20, 2022

City of Riverbank
6707 Third Street
Riverbank, CA 95367

Attn: Michael Riddell

Re: Sewer Rate Study

Bartle Wells Associates is pleased to submit to the City of Riverbank the attached Draft Sewer Rate Study. The study presents BWA's analysis of the operating and non-operating expenses of the City's sewer system and provides a five-year cash flow projection. The primary purpose of this study was to analyze the City's sewer enterprise and make recommendations that would achieve financial sustainability. Another important purpose of this study was to review rates to ensure that they adhere to the State's legal requirements.

BWA finds that the water rates and charges proposed in our report to be based on the cost of service, follow generally accepted rate design criteria, and adhere to the substantive requirements of Proposition 218. BWA believes that the proposed rates are fair and reasonable to the City's customers.

We enjoyed working with you on the rate study and appreciate the assistance and cooperation of City staff throughout the project. Please contact us if you ever have any future questions about this study and the rate recommendations.

Sincerely,

Douglas Dove, PE, CIPMA
Principal/ President

Erik Helgeson, MBA
Assistant Vice President

Contents

Appendix A - Sewer Rate Study Tables

LIST OF TABLES

1 BACKGROUND & OBJECTIVES

1.1 Background & Wastewater Facility Improvements

The revenues from the City's sewer utility are primarily derived from charges for services. The City must establish rates and charges adequate to fund the cost of providing sewer services, including costs for operations and capital improvements needed to keep the City's utility infrastructure in safe and in reliable operating condition.

The City's wastewater utility is a financially self-supporting enterprise. Revenues are derived primarily from sewer service charges. As such, the City's sewer rates must be set at adequate levels to fund the costs of providing service and:

- Fund ongoing operating and maintenance expenses
- Address State mandates & wastewater regulatory requirements
- Fund the treatment plant project
- Provide funding for sewer collection system maintenance and upgrades

The prior sewer rate increases strengthened the financial condition of the sewer enterprise. However, current rates are not adequate to fund the needed wastewater facility improvements.

1.2 Goals & Objectives

In 2022, the City retained Bartle Wells Associates (BWA) via a competitive RFP process to develop a financial plan and rate study for the sewer enterprise. Key goals and objectives of the study include:

1. Develop a financial plan for the City's sewer enterprise that:
    a. supports the City's sewer operating and capital programs
    b. funds the wastewater treatment plant project
    c. provides an ongoing funding stream for sewer collection system improvements
    d. prudently uses sewer fund reserves to help minimize debt financing needs while maintaining an adequate level of fund reserves in future years
    e. maintains the long-term financial sustainability of the sewer enterprise
2. Develop sewer rates that:
    a. recover the City's costs of providing sewer service
    b. are fair and equitable to all customer classes
    c. are easy to understand and implement

   d. comply with the legal requirements of Proposition 218 and other California law

3. Aim for steady, gradual annual rate increases, to the extent possible, to help minimize the annual impact on customers.

BWA worked closely with City staff to incorporate information and input, evaluate alternatives, and develop recommendations. This report summarizes key findings and recommendations for sewer rates over the next five years.

1.3 Procedural Requirements of Proposition 218

Proposition 218, the "Right to Vote on Taxes Act", was approved by California voters in November 1996 and is codified as Articles XIIIC and XIIID of the California Constitution. Proposition 218 establishes requirements for imposing any new or increasing any existing property-related fees and charges. For many years, there was no legal consensus on whether water and sewer service fees met the definition of "property-related fees." In July 2007, the California Supreme Court essentially confirmed that Proposition 218 applies to water and sewer service fees.

The City must follow the procedural requirements of Proposition 218 for all sewer rate increases. These requirements include:

1. **Noticing Requirement** – The City must mail a notice of the proposed rate increases to all affected property owners or ratepayers. The notice must specify the amount of the fee, the basis upon which it was calculated, the reason for the fee, and the date/time/location of a public rate hearing at which the proposed rates will be considered/adopted.
2. **Public Hearing** – The City must hold a public hearing prior to adopting the proposed rate increases. The public hearing must be held not less than 45 days after the required notices are mailed.
3. **Rate Increases Subject to Majority Protest** - At the public hearing, the proposed rate increases are subject to majority protest. If more than 50% of affected property owners or ratepayers submit written protests against the proposed rate increases, the increases cannot be adopted.

Proposition 218 also established substantive requirements that apply to sewer rates and charges, including:

1. **Cost of Service** - Revenues derived from the fee or charge cannot exceed the funds required to provide the service. In essence, fees cannot exceed the "cost of service".

2. **Intended Purpose** - Revenues derived from the fee or charge can only be used for the purpose for which the fee was imposed.

3. **Proportional Cost Recovery** - The amount of the fee or charge levied on any customer shall not exceed the proportional cost of service attributable to that customer.

4. **Availability of Service** - No fee or charge may be imposed for a service unless that service is used by, or immediately available to, the owner of the property.

5. **General Government Services** - No fee or charge may be imposed for general governmental services where the service is available to the public at large.

Charges for water, sewer, and refuse collection are exempt from additional voting requirements of Proposition 218, provided the charges do not exceed the cost of providing service and are adopted pursuant to procedural requirements of Proposition 218

2 SEWER FINANCIAL OVERVIEW

2.1 Current Sewer Rates

Table 1 shows the City's current sewer rates.

Table 1. Current Sewer Rates

Current Sewer Rates	**FY 22-23**
Residential Sewer Rates	
Monthly Fixed Rate	**$49.48**
Commercial Sewer Rates	
Min. Monthly Base Charge	**$49.48**
Volumetric Rates ($/G) for Usage Greater Than 7,480 Gallons per Month	
Schools w/o cafeterias, Offices	**$0.002512**
Commercial, hospitals, extended care facilities, markets (w/o deli's), automobile shops	**$0.003350**
Schools w/ cafeterias, Restaurants, Short order facilities, markets w/ deli's	**$0.004523**
Restaurants w/ full kitchens	**$0.007370**

The City's sewer rate structure varies by customer class:

- **Residential** customers pay a fixed monthly charge per dwelling unit. These fixed charges reflect the system capacity needs for serving a typical residential unit. The City incurs a substantial amount of fixed costs ensuring that sewer system capacity is available at all times to meet customer needs on demand.

- **Commercial** and other non-residential customers pay the minimum monthly base charge then and pay volumetric sewer charges, per cubic foot of water used, for use greater than 7,480 gallons per month. Commercial customers are grouped into four customer classes rate classes with different volumetric rates. Customer classes with higher strength wastewater pay higher rates reflecting the higher costs of wastewater treatment.

2.2 Cost of Service Review

BWA conducted a review of the cost of service basis for the strength factors used to determine the commercial rates and found that the current allocation factors reflect the cost of service.

The cost of service analysis consisted of assigning wastewater system costs to functional cost components flow, BOD (biochemical oxygen demand), and TSS (total suspended solids). This process is intended to proportionately allocate costs to each customer based on how they utilize wastewater service.

Table 2. Cost of Service Allocation

Functional Allocation	5-year Average Expenditures	Flow	BOD	TSS
Existing Debt	$558,891		100.0%	
Treatment	$1,399,391	33.3%	33.3%	33.3%
Collection	$2,215,121	100.0%		
CIP	$887,306	100.0%		
Avg. WWTP Cash Funding	$3,200,000	33.3%	33.3%	33.3%
Allocation Amounts $	$8,260,709	$4,635,864	$2,091,868	$1,532,977
Allocation Amounts %		56%	25%	19%
Allocation Factors (Rounded)		**0.55**	**0.25**	**0.20**

Commercial Rate Classes	**Strength Factor**	**Class Characteristics**		
		Flow (gpd)	*Strength (mg/l)*	
Group 1 - Low	**0.75**	250	135	80
Group 2 - Domestic	**1.00**	250	250	250
Group 3 - Medium	**1.35**	250	500	380
Group 4 - High	**2.20**	250	1000	810

2.3 Sewer Financial Overview

BWA conducted an independent evaluation of sewer enterprise finances. Key observations include:

- Previous rate increases have put the sewer enterprise in a sound financial position, but the City faces substantial financial challenges going forward.
- Sewer fund reserves are currently at healthy levels but are projected to be partially drawn down in upcoming years to help fund wastewater treatment facility improvements. Financial projections are designed to maintain a prudent minimum level of fund reserves in future years.
- The City will need to implement significant sewer rate increases over the next 5 years to support funding for a new wastewater treatment plant.

2.4 Financial Challenges / Key Drivers of Rate Increases

The sewer enterprise is facing a number of financial challenges that will require the City to increase sewer rates in upcoming years. Key drivers of future rate increases are summarized as follows.

2.4.1 Sewer Capital Upgrades & Maintenance

The largest capital expense the City is facing is the wastewater treatment plant project. Project scenarios will be explored later in this report. Excluding the wastewater treatment plant project, the City is anticipating $5.66 million in capital improvement plan spending through FY 2026-27.

2.4.2 Ongoing Operating Cost Inflation

The City faces ongoing operating cost inflation due to annual increases in a range of expenses including staffing, utilities, chemicals, insurance, supplies, etc. Sewer cost inflation has historically been significantly higher than the Consumer Price Index (CPI) for consumer goods and services.

2.4.3 Sewer Reserve Funds

Maintaining a prudent minimal level of fund reserves provides a financial cushion for dealing with unanticipated expenses, revenue shortfalls, and non-catastrophic emergency capital repairs. BWA developed a financial plan designed to maintain prudent reserve levels.

2.4.4 Financial Plan Assumptions

The financial projections incorporate the latest information available and a number of reasonable and slightly conservative assumptions for planning purposes. Key assumptions include:

Revenue Assumptions

- Sewer rate revenues are based on estimated revenues for the current fiscal year. The City is anticipating 347 single family equivalent connection over the next five years based on current development projects.
- Future investment earnings are projected at 1.5% of beginning annual fund reserves.

Expense Assumptions

- Operating and maintenance costs are primarily based on the 2022/23 budget. Operating costs are projected to escalate at the annual rate of projected inflation. Inflation projections used in this report are 4.5% in FY 23/24 and 4.0% thereafter. Inflation is currently uncharacteristically high but the general economic consensus, including projections from the Federal Reserve, is that inflation will drop back to normal levels over the next two years.
- Based on feedback from City staff and City engineering consultants, the new wastewater treatment plant will increase operating costs by a net amount of about $800,000 per year.
- Capital improvement plan costs (excluding the new wastewater treatment plant) were provided by the City. Capital costs are adjusted for inflation.

3 WASTEWATER TREATMENT PLANT SCENARIOS

The City needs to construct a new wastewater treatment plant to meet current and future treatment capacity needs. The City's Engineering consultant developed three treatment plant options: Scenario 1 - The original recycled water treatment plant project, Scenario 2 - A phased recycled treatment plant project, and Scenario 3 – The minimum project (no recycled water and only serving existing capacity). A comparison of these scenarios is shown in the following table.

Table 3 – Treatment Plant Scenario Comparisons

Project Scenario Comparison	Estimated Cost	Max Residential Monthly Rate FY 26/27	New Development	Recycled Water	Grant Funding
Original RW Project	$112.4M	$123.13	x	x	x
Phased RW Project Approach	$90.4M	$109.39	x	x	x
Min. Project for Existing Users	$58.4M	$92.72			

3.1 Treatment Plant Scenario Considerations

3.1.1 Maximum Rates

In order to be eligible for State Revolving Fund Loan financing the City must adopt rates which include no assumptions for grant financing. The rates shown in the following scenarios are the maximum rates the City can implement. However, the City can review the enterprise's financial position and may not need to raise rates to the maximum noticed amounts.

3.1.2 Recycled Water

Two of the treatment plant scenarios include the capability of producing recycled water. The benefits of producing recycled water are as follows:

- Improves groundwater quality and supply to both the City and adjacent agricultural users through continued percolation disposal and in-lieu recharge
- Allows for a portion of the operating cost to be defrayed based on recycled water delivery fees to users
    - Projected annual recycled water sales revenue $100,000
- Recycled water component makes project eligible for grants.
    - State Water Resources Control Board Clean Water State Revolving Fund $15 million recycled water grant likely, Title XVI grant funding for recycled water $25 million grant possible, the City is also seeking other grant opportunities
- Provides for future opportunities for cost recovery under continuing water scarcity

3.1.3 Growth Capacity

Two of the treatment plant scenarios add capacity for new growth. New growth brings numerous benefits including more customers to defray utility costs and new connection fees. The City has engaged BWA to update the City's sewer capacity charges to ensure that new growth will pay for its share of the sewer system.

3.2 Scenario 1: Original Recycled Water Project

Scenario 1 is the original project as designed with reliability and redundancy to meet an all current and projected future treatment capacity requirements. This project includes a full recycled water treatment system. This scenario allows for new growth, produces recycled water, is eligible for recycled water grants and will not require additional construction to meet the capacity requirements of additional growth.

The Scenario 1 cashflow projections and maximum rates for a 218 notice are shown in the following tables.

Table 4 – Scenario 1 Sewer Cash Flow Projections

Draft Cashflow	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
	Years Included in 218 Notice						
New SFR Connections	*95*	*63*	*63*	*63*	*63*		
Beginning Reserve Balance	**$10,490,000**	**$11,066,317**	**$14,182,489**	**$10,547,187**	**$6,618,446**	**$6,665,806**	**$9,246,730**
Rate Revenue Increase	*20.0%*	*20.0%*	*20.0%*	*20.0%*	*20.0%*	*4.0%*	*4.0%*
Revenues							
Rate Revenue	$4,600,000	$5,526,770	$6,637,511	$7,971,477	$9,573,530	$11,496,304	$11,956,156
Rate Increase Revenue	920,000	1,105,354	1,327,502	1,594,295	1,914,706	459,852	478,246
Rate Increase Timing Adju	-460,000						
Recycled Water Sales						50,594	101,188
Other Revenue							
DEVELOPER FEES	344,500	226,485	226,485	226,485	226,485		
INSPECTION FEES	7,500	7,500	7,500	7,500	7,500	7,500	7,500
FINES,	81,000	81,000	81,000	81,000	81,000	81,000	81,000
INTEREST INCOME	157,350	165,995	212,737	158,208	99,277	99,987	138,701
INDUSTRIAL PERMITS	20,000	20,000	20,000	20,000	20,000	20,000	20,000
TRANSFERS IN	$81,421						
Total Revenue	*$5,751,771*	*$7,133,103*	*$8,512,735*	*$10,058,966*	*$11,922,498*	*$12,215,237*	*$12,782,791*
Expenses							
O&M Expense	$4,022,800	$3,219,101	$3,347,865	$3,481,780	$4,001,016	$4,565,392	$4,748,007
New O&M Recycled Plant				0	499,720	1,039,418	1,080,994
Rate Funded Capital	$710,000	$313,500	$8,179,322	$9,881,903	$6,751,805	$1,222,502	$1,271,402
2013 Sewer Loan	$335,780	$335,780	$335,780	$335,780	$335,780	$335,780	$335,780
Energy Financing	106,874	148,550	285,071	288,244	286,816	285,221	287,724
New WWTP Debt Service*	0	0	0	0	0	2,186,000	4,372,000
Total Expenses	*$5,175,454*	*$4,016,931*	*$12,148,038*	*$13,987,707*	*$11,875,137*	*$9,634,313*	*$12,095,908*
Net Revenues	**$576,317**	**$3,116,172**	**-$3,635,302**	**-$3,928,741**	**$47,360**	**$2,580,924**	**$686,883**
Ending Reserve Balance	**$11,066,317**	**$14,182,489**	**$10,547,187**	**$6,618,446**	**$6,665,806**	**$9,246,730**	**$9,933,614**
Debt Coverage (Target 1.3)	***3.91***	***8.08***	***8.32***	***10.54***	***11.92***	***2.35***	***1.39***

*New WWTP debt assumptions: SRF loan, 30-year term, 2.5% interest rate, $500,000 issuance cost

Capital Funding	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
Capital Expenditures							
WWTP Expenses			$38,000,000	$38,000,000	$36,400,000		
CIP Expenses	$710,000	$313,500	$179,322	$1,881,903	$1,351,805	$1,222,502	$1,271,402
Total Capital Expenditures	**$710,000**	**$313,500**	**$38,179,322**	**$39,881,903**	**$37,751,805**	**$1,222,502**	**$1,271,402**
Capital Funding Source							
Use of Debt Proceeds			$30,000,000	$30,000,000	$31,000,000		
Grant Revenue							
Rate Funded Capital	$710,000	$313,500	$8,179,322	$9,881,903	$6,751,805	$1,222,502	$1,271,402
Total Capital Funding	**$710,000**	**$313,500**	**$38,179,322**	**$39,881,903**	**$37,751,805**	**$1,222,502**	**$1,271,402**

The following table shows the recommended maximum rates for a 218 notice if the City chooses Scenario 1.

Table 5 – Scenario 1: Recommended Maximum Rates

Proposed Rates	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27
	Existing	*Proposed*	*Proposed*	*Proposed*	*Proposed*	*Proposed*
Residential Sewer Rates						
Monthly Fixed Rate	**$49.48**	**$59.38**	**$71.26**	**$85.51**	**$102.61**	**$123.13**
Commercial Sewer Rates						
Min. Monthly Base Charge	**$49.48**	**$59.38**	**$71.26**	**$85.51**	**$102.61**	**$123.13**
Volumetric Rates ($/G) for Usage Greater Than 7,480 Gallons per Month						
Schools w/o cafeterias, Offices	**$0.002512**	**$0.003014**	**$0.003617**	**$0.004340**	**$0.005208**	**$0.006250**
Commercial, hospitals, extended care facilities, markets (w/o deli's), automobile shops	**$0.003350**	**$0.004020**	**$0.004824**	**$0.005789**	**$0.006947**	**$0.008336**
Schools w/ cafeterias, Restaurants, Short order facilities, markets w/ deli's	**$0.004523**	**$0.005428**	**$0.006514**	**$0.007817**	**$0.009380**	**$0.011256**
Restaurants w/ full kitchens	**$0.007370**	**$0.008844**	**$0.010613**	**$0.012736**	**$0.015283**	**$0.018340**

3.3 Scenario 2: Phased-In Recycled Water Project

Scenario 2 is a phased-in version of the original project. It will require additional construction to meet projected future treatment capacity requirements. This project includes a recycled water treatment system. This scenario allows for new growth, produces recycled water, is eligible for recycled water grants but will require additional construction to meet the capacity requirements of additional growth.

The Scenario 2 cashflow projections and maximum rates for a 218 notice are shown in the following tables.

Table 6 – Scenario 2 Sewer Cash Flow Projections

	Years Included in 218 Notice						
Draft Cashflow	**FY 22-23**	**FY 23-24**	**FY 24-25**	**FY 25-26**	**FY 26-27**	**FY 27-28**	**FY 28-29**
New SFR Connections	95	63	63	63	63		
Beginning Reserve Balance	**$10,490,000**	**$11,020,317**	**$13,916,439**	**$11,885,238**	**$9,278,339**	**$7,082,963**	**$8,789,268**
Rate Revenue Increase	*18.0%*	*18.0%*	*18.0%*	*17.0%*	*15.0%*	*4.0%*	*4.0%*
Revenues							
Rate Revenue	$4,600,000	$5,434,546	$6,417,886	$7,579,098	$8,874,436	$10,212,769	$10,621,279
Rate Increase Revenue	828,000	978,218	1,155,219	1,288,447	1,331,165	408,511	424,851
Rate Increase Timing Ac	-414,000						
Recycled Water Sales						50,594	101,188
Other Revenue							
DEVELOPER FEES	344,500	226,485	226,485	226,485	226,485		
INSPECTION FEES	7,500	7,500	7,500	7,500	7,500	7,500	7,500
FINES,	81,000	81,000	81,000	81,000	81,000	81,000	81,000
INTEREST INCOME	157,350	165,305	208,747	178,279	139,175	106,244	131,839
INDUSTRIAL PERMITS	20,000	20,000	20,000	20,000	20,000	20,000	20,000
TRANSFERS IN	$81,421						
Total Revenue	*$5,705,771*	*$6,913,053*	*$8,116,837*	*$9,380,808*	*$10,679,761*	*$10,886,618*	*$11,387,658*
Expenses							
O&M Expense	$4,022,800	$3,219,101	$3,347,865	$3,481,780	$4,001,016	$4,565,392	$4,748,007
New O&M Recycled Plant				0	499,720	1,039,418	1,080,994
Rate Funded Capital	$710,000	$313,500	$6,179,322	$7,881,903	$7,751,805	$1,222,502	$1,271,402
2013 Sewer Loan	$335,780	$335,780	$335,780	$335,780	$335,780	$335,780	$335,780
Energy Financing	106,874	148,550	285,071	288,244	286,816	285,221	287,724
New WWTP Debt Service	0	0	0	0	0	1,732,000	3,464,000
Total Expenses	*$5,175,454*	*$4,016,931*	*$10,148,038*	*$11,987,707*	*$12,875,137*	*$9,180,313*	*$11,187,908*
Net Revenues	**$530,317**	**$2,896,122**	**-$2,031,201**	**-$2,606,899**	**-$2,195,376**	**$1,706,305**	**$199,750**
Ending Reserve Balance	**$11,020,317**	**$13,916,439**	**$11,885,238**	**$9,278,339**	**$7,082,963**	**$8,789,268**	**$8,989,018**
Debt Coverage (Target 1.3)	***3.80***	***7.63***	***7.68***	***9.45***	***9.92***	***2.24***	***1.36***

*New WWTP debt assumptions: SRF loan, 30-year term, 2.5% interest rate, $500,000 issuance cost

Capital Funding	**FY 22-23**	**FY 23-24**	**FY 24-25**	**FY 25-26**	**FY 26-27**	**FY 27-28**	**FY 28-29**
Capital Expenditures							
WWTP Expenses			$30,000,000	$30,000,000	$30,400,000		
CIP Expenses	$710,000	$313,500	$179,322	$1,881,903	$1,351,805	$1,222,502	$1,271,402
Total Capital Expenditures	**$710,000**	**$313,500**	**$30,179,322**	**$31,881,903**	**$31,751,805**	**$1,222,502**	**$1,271,402**
Capital Funding Source							
Use of Debt Proceeds			$24,000,000	$24,000,000	$24,000,000		
Grant Revenue							
Rate Funded Capital	$710,000	$313,500	$6,179,322	$7,881,903	$7,751,805	$1,222,502	$1,271,402
Total Capital Funding	**$710,000**	**$313,500**	**$30,179,322**	**$31,881,903**	**$31,751,805**	**$1,222,502**	**$1,271,402**

The following table shows the recommended maximum rates for a 218 notice if the City chooses Scenario 2.

Table 7 – Scenario 2: Recommended Maximum Rates

Proposed Rates	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27
	Existing	*Proposed*	*Proposed*	*Proposed*	*Proposed*	*Proposed*
Residential Sewer Rates						
Monthly Fixed Rate	**$49.48**	**$58.39**	**$68.90**	**$81.30**	**$95.12**	**$109.39**
Commercial Sewer Rates						
Min. Monthly Base Charge	**$49.48**	**$58.39**	**$68.90**	**$81.30**	**$95.12**	**$109.39**
Volumetric Rates ($/G) for Usage Greater Than 7,480 Gallons per Month						
Schools w/o cafeterias, Offices	**$0.002512**	**$0.002964**	**$0.003498**	**$0.004128**	**$0.004830**	**$0.005555**
Commercial, hospitals, extended care facilities, markets (w/o deli's), automobile shops	**$0.003350**	**$0.003953**	**$0.004665**	**$0.005505**	**$0.006441**	**$0.007407**
Schools w/ cafeterias, Restaurants, Short order facilities, markets w/ deli's	**$0.004523**	**$0.005337**	**$0.006298**	**$0.007432**	**$0.008695**	**$0.009999**
Restaurants w/ full kitchens	**$0.007370**	**$0.008697**	**$0.010262**	**$0.012109**	**$0.014168**	**$0.016293**

3.4 Scenario 3: Minimum Project

Scenario 3 is the minimum plant required to meet the needs of existing capacity. It will require additional construction to meet projected future treatment capacity requirements. This project does not include a recycled water treatment system. This scenario does not allow for new growth, produces no recycled water, is not eligible for recycled water grants and will require additional construction to meet the capacity requirements of additional growth.

The Scenario 3 cashflow projections and maximum rates for a 218 notice are shown in the following tables.

Table 8 – Scenario 3 Sewer Cash Flow Projections

	Years Included in 218 Notice						
Draft Cashflow	**FY 22-23**	**FY 23-24**	**FY 24-25**	**FY 25-26**	**FY 26-27**	**FY 27-28**	**FY 28-29**
New SFR Connections	95	63	63	63	63		
Beginning Reserve Balance	**$10,490,000**	**$10,951,317**	**$13,297,805**	**$11,467,434**	**$9,617,049**	**$8,643,585**	**$9,323,618**
Rate Revenue Increase	*15.0%*	*15.0%*	*15.0%*	*12.0%*	*10.0%*	*4.0%*	*4.0%*
Revenues							
Rate Revenue	$4,600,000	$5,296,217	$6,095,391	$7,015,010	$7,862,652	$8,654,992	$9,001,192
Rate Increase Revenue	690,000	794,433	914,309	841,801	786,265	346,200	360,048
Rate Increase Timing Adju	-345,000						
Recycled Water Sales							
Other Revenue							
DEVELOPER FEES	344,500						
INSPECTION FEES	7,500	7,500	7,500	7,500	7,500	7,500	7,500
FINES,	81,000	81,000	81,000	81,000	81,000	81,000	81,000
INTEREST INCOME	157,350	164,270	199,467	172,012	144,256	129,654	139,854
INDUSTRIAL PERMITS	20,000	20,000	20,000	20,000	20,000	20,000	20,000
TRANSFERS IN	$81,421						
Total Revenue	*$5,636,771*	*$6,363,419*	*$7,317,666*	*$8,137,322*	*$8,901,673*	*$9,239,346*	*$9,609,594*
Expenses							
O&M Expense	$4,022,800	$3,219,101	$3,347,865	$3,481,780	$4,001,016	$4,565,392	$4,748,007
New O&M Recycled Plant				0	499,720	1,039,418	1,080,994
Rate Funded Capital	$710,000	$313,500	$5,179,322	$5,881,903	$4,751,805	$1,222,502	$1,271,402
2013 Sewer Loan	$335,780	$335,780	$335,780	$335,780	$335,780	$335,780	$335,780
Energy Financing	106,874	148,550	285,071	288,244	286,816	285,221	287,724
New WWTP Debt Service*	0	0	0	0	0	1,111,000	2,222,000
Total Expenses	*$5,175,454*	*$4,016,931*	*$9,148,038*	*$9,987,707*	*$9,875,137*	*$8,559,313*	*$9,945,908*
Net Revenues	**$461,317**	**$2,346,488**	**-$1,830,371**	**-$1,850,385**	**-$973,464**	**$680,033**	**-$336,314**
Ending Reserve Balance	**$10,951,317**	**$13,297,805**	**$11,467,434**	**$9,617,049**	**$8,643,585**	**$9,323,618**	**$8,987,304**
Debt Coverage (Target 1.3)	***3.65***	***6.49***	***6.39***	***7.46***	***7.07***	***2.10***	***1.33***

*New WWTP debt assumptions: SRF loan, 30-year term, 2.5% interest rate, $500,000 issuance cost

Capital Funding	**FY 22-23**	**FY 23-24**	**FY 24-25**	**FY 25-26**	**FY 26-27**	**FY 27-28**	**FY 28-29**
Capital Expenditures							
WWTP Expenses			$20,000,000	$20,000,000	$18,400,000		
CIP Expenses	$710,000	$313,500	$179,322	$1,881,903	$1,351,805	$1,222,502	$1,271,402
Total Capital Expenditures	**$710,000**	**$313,500**	**$20,179,322**	**$21,881,903**	**$19,751,805**	**$1,222,502**	**$1,271,402**
Capital Funding Source							
Use of Debt Proceeds			$15,000,000	$16,000,000	$15,000,000		
Grant Revenue							
Rate Funded Capital	$710,000	$313,500	$5,179,322	$5,881,903	$4,751,805	$1,222,502	$1,271,402
Total Capital Funding	**$710,000**	**$313,500**	**$20,179,322**	**$21,881,903**	**$19,751,805**	**$1,222,502**	**$1,271,402**

The following table shows the recommended maximum rates for a 218 notice if the City chooses Scenario 3.

Table 9 – Scenario 3: Recommended Maximum Rates

Proposed Rates	**FY 21-22**	**FY 22-23**	**FY 23-24**	**FY 24-25**	**FY 25-26**	**FY 26-27**
	Existing	*Proposed*	*Proposed*	*Proposed*	*Proposed*	*Proposed*
Residential Sewer Rates						
Monthly Fixed Rate	**$49.48**	**$56.90**	**$65.44**	**$75.26**	**$84.29**	**$92.72**
Commercial Sewer Rates						
Min. Monthly Base Charge	**$49.48**	**$56.90**	**$65.44**	**$75.26**	**$84.29**	**$92.72**
Volumetric Rates ($/G) for Usage Greater Than 7,480 Gallon per Month						
Schools w/o cafeterias, Offices	**$0.002512**	**$0.002889**	**$0.003322**	**$0.003820**	**$0.004278**	**$0.004706**
Commercial, hospitals, extended care facilities, markets (w/o deli's), automobile shops	**$0.003350**	**$0.003853**	**$0.004431**	**$0.005096**	**$0.005708**	**$0.006279**
Schools w/ cafeterias, Restaurants, Short order facilities, markets w/ deli's	**$0.004523**	**$0.005201**	**$0.005981**	**$0.006878**	**$0.007703**	**$0.008473**
Restaurants w/ full kitchens	**$0.007370**	**$0.008476**	**$0.009747**	**$0.011209**	**$0.012554**	**$0.013809**

4 CONCLUSION AND RECOMMENDATIONS

Rates were developed as part of a collaborative process that included Staff and the City's engineering consultant KSN. This rate study report presents a comprehensive review of the City of Riverbank's sewer revenue requirements and rates. The City will need regular annual rate increases to keep up with cost inflation and be able to complete necessary capital projects while maintaining prudent reserves. Current rates will need to be updated to reflect the cost of service.

4.1 Conclusion

The City practices sound financial planning that has provided for the financial health of the sewer enterprise. However, the City is facing large capital expenditures which require rates to increase more than inflation. Adoption of rates corresponding to the treatment plant scenario selected by the City reflect the City's commitment to stewarding financially sound utilities and providing reliable, high quality water service that will benefit the community many years into the future.

4.2 Recommendations

BWA recommends that the City adopt the rates shown in this report which reflect the treatment plant scenario selected by the City. BWA recommends reviewing the financial position of the wastewater enterprise in FY 24/25 to access if rates in FY 25/26 and FY 26/27 need to be raise to the maximum notices amounts. At minimum, BWA recommends that the City review and update its sewer rate study every five years and/or concurrent with Master Plan Updates. Proposition 218 allows public agencies to adopt rates over a five-year planning period. Any further rate increases must be supported by a comprehensive rate study.

APPENDIX A

Sewer Rate Study Tables

Table 1
City of Riverbank
Projected Operating Expenses
Sewer Rate Study

Expenses[1]	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
	Actual	*Budgeted*	*Projected*	*Projected*	*Projected*	*Projected*	*Projected*
General Inflation Factor			*4.5%*	*4.0%*	*4.0%*	*4.0%*	*4.0%*
Treatment							
PERSONNEL REGULAR	$222,500	$240,600	$251,427	$261,484	$271,943	$282,821	$294,134
PERSONNEL OVERTIME	$36,000	$36,000	$37,620	$39,125	$40,690	$42,317	$44,010
SALARY REQUEST	$0	$90,900	$94,991	$98,790	$102,742	$106,851	$111,125
MAINT. OPERATION EQUIP	$65,000	$65,000	$67,925	$70,642	$73,468	$76,406	$79,463
RENTS & LEASES	$35,000	$35,000	$36,575	$38,038	$39,560	$41,142	$42,788
PROFESSIONAL/SPECIAL SERV	$172,700	$175,000	$182,875	$190,190	$197,798	$205,710	$213,938
OTHER CONTRACT SERVICES	$696,000	$621,000					
PIRTS & APPRAISALS,TAXES	$2,500	$2,500	$2,613	$2,717	$2,826	$2,939	$3,056
OFFICE EXPENSE	$5,000	$5,000	$5,225	$5,434	$5,651	$5,877	$6,113
CHEMICALS	$5,700	$5,700	$5,957	$6,195	$6,443	$3,221	
UTILITIES	$220,000	$220,000	$229,900	$239,096	$248,660	$142,330	$36,000
COMMUNICATIONS	$1,700	$1,700	$1,777	$1,848	$1,921	$1,998	$2,078
MISCELLANEOUS EXPENSE	$2,800	$2,800	$2,926	$3,043	$3,165	$3,291	$3,423
BOOT & JACKET ALLOWANCE	$600	$1,000	$1,045	$1,087	$1,130	$1,175	$1,223
SMALL TOOLS	$3,000	$3,000	$3,135	$3,260	$3,391	$3,526	$3,668
MAIN OF BLDG/STRUCTURES/GRDS	$35,000	$35,000	$36,575	$38,038	$39,560	$41,142	$42,788
MEMBERSHIPS,DUES,BOOKS,ETC	$3,500	$3,500	$3,658	$3,804	$3,956	$4,114	$4,279
STAFF DEVELOPMENT	$4,500	$4,500	$4,703	$4,891	$5,086	$5,290	$5,501
SAFETY EQUIPMENT	$3,300	$3,300	$3,449	$3,586	$3,730	$3,879	$4,034
LEVEE REPAIR AND A.C.	$10,000	$10,000	$10,450	$10,868	$11,303	$11,755	$12,225
UNIFORMS & RAGS	$2,000	$2,500	$2,613	$2,717	$2,826	$2,939	$3,056
BOND INTEREST EXPENSE	$600	$600	$627	$652	$678	$705	$734
CAPITAL EXPENDITURES	$66,300	$0	$0	$0	$0	$0	$0
MEDICARE	$3,100	$3,500	$3,658	$3,804	$3,956	$4,114	$4,279
PERS RETIREMENT	$46,600	$54,200	$56,639	$58,905	$61,261	$63,711	$66,260
PAYROLL TAXES	$1,000	$800	$836	$869	$904	$940	$978
HEALTH DENTAL VISION INSURANCE	$39,300	$44,700	$46,712	$48,580	$50,523	$52,544	$54,646
NATIONAL RETIREMENT	$14,200	$14,200	$14,839	$15,433	$16,050	$16,692	$17,360
SELF INS. PREMIUM	$32,100	$36,700	$38,352	$39,886	$41,481	$43,140	$44,866
DEFERRED COMPENSATION	$3,400	$5,000	$5,225	$5,434	$5,651	$5,877	$6,113
Project Additional O&M						$499,720	$1,039,418

Table 1
City of Riverbank
Projected Operating Expenses
Sewer Rate Study

Expenses[1]	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
	Actual	*Budgeted*	*Projected*	*Projected*	*Projected*	*Projected*	*Projected*
General Inflation Factor			*4.5%*	*4.0%*	*4.0%*	*4.0%*	*4.0%*
Collection							
PERSONNEL REGULAR	$104,000	$109,500	$114,428	$119,005	$123,765	$128,715	$133,864
PERSONNEL OVERTIME	$1,000	$1,000	$1,045	$1,087	$1,130	$1,175	$1,223
STANDBY PAY	$15,000	$15,000	$15,675	$16,302	$16,954	$17,632	$18,338
SALARY REQUEST	$0	$87,200	$91,124	$94,769	$98,560	$102,502	$106,602
MAINT. OPERATION EQUIP	$15,000	$15,000	$15,675	$16,302	$16,954	$17,632	$18,338
RENTS & LEASES	$40,000	$40,000	$41,800	$43,472	$45,211	$47,019	$48,900
PROFESSIONAL/SPECIAL SERV	$38,700	$38,700	$40,442	$42,059	$43,742	$45,491	$47,311
OTHER CONTRACT SERVICES	$40,000	$41,000	$42,845	$44,559	$46,341	$48,195	$50,123
ADVERTISING	$300	$300	$314	$326	$339	$353	$367
POSTAGE	$7,200	$7,200	$7,524	$7,825	$8,138	$8,463	$8,802
OFFICE EXPENSE	$2,000	$2,000	$2,090	$2,174	$2,261	$2,351	$2,445
CHEMICALS	$1,500	$1,500	$1,568	$1,630	$1,695	$1,763	$1,834
URAP	$7,500	$7,500	$7,838	$8,151	$8,477	$8,816	$9,169
UTILITIES	$32,000	$32,000	$33,440	$34,778	$36,169	$37,615	$39,120
COMMUNICATIONS	$4,000	$4,000	$4,180	$4,347	$4,521	$4,702	$4,890
MISCELLANEOUS EXPENSE	$2,000	$2,500	$2,613	$2,717	$2,826	$2,939	$3,056
BOOT & JACKET ALLOWANCE	$400	$1,500	$1,568	$1,630	$1,695	$1,763	$1,834
SMALL TOOLS	$1,000	$1,000	$1,045	$1,087	$1,130	$1,175	$1,223
MAIN OF BLDG/STRUCTURES/GRDS	$21,400	$21,400	$22,363	$23,258	$24,188	$25,155	$26,162
MEMBERSHIPS,DUES,BOOKS,ETC	$500	$500	$523	$543	$565	$588	$611
CONFERENCES & MEETINGS	$0	$1,000	$1,045	$1,087	$1,130	$1,175	$1,223
STAFF DEVELOPMENT	$2,000	$2,000	$2,090	$2,174	$2,261	$2,351	$2,445
SAFETY EQUIPMENT	$2,000	$2,000	$2,090	$2,174	$2,261	$2,351	$2,445
STATE/COUNTY FEES	$4,000	$4,000	$4,180	$4,347	$4,521	$4,702	$4,890
DEBT SERVICE	$74,000	$74,000	$77,330	$80,423	$83,640	$86,986	$90,465
UNIFORMS & RAGS	$800	$1,600	$1,672	$1,739	$1,808	$1,881	$1,956
EQUIPMENT/PROJECTS	$449,900	$0	$0	$0	$0	$0	$0
MEDICARE	$1,500	$1,600	$1,672	$1,739	$1,808	$1,881	$1,956
PERS RETIREMENT	$21,600	$23,500	$24,558	$25,540	$26,561	$27,624	$28,729
PAYROLL TAXES	$700	$500	$523	$543	$565	$588	$611
HEALTH DENTAL VISION INSURANCE	$30,200	$27,300	$28,529	$29,670	$30,856	$32,091	$33,374
NATIONAL RETIREMENT	$9,400	$9,400	$9,823	$10,216	$10,625	$11,050	$11,492
SELF INS. PREMIUM	$15,900	$16,700	$17,452	$18,150	$18,876	$19,631	$20,416
TRANSFERS OUT	$1,573,250	$1,706,700	$1,447,722	$1,505,630	$1,565,856	$1,628,490	$1,693,629
Total Operating Expenses	**$4,252,150**	**$4,022,800**	**$3,219,101**	**$3,347,865**	**$3,481,780**	**$4,001,016**	**$4,565,392**
% Change from Previous Year		*-5.4%*	*-20.0%*	*4.0%*	*4.0%*	*14.9%*	*14.1%*

[1]Based on City Budget

Table 2
City of Riverbank
Capital Improvement Costs
Sewer Rate Study

Project Description	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
	Budgeted	*Actual*	*Projected*	*Projected*	*Projected*	*Projected*	*Projected*
CIP (Current Dollars)*							
Utility Service Seperation	$36,000						
Cross Connection Reduction							
Biolac System	$3,549,843						
6" SS, Stanislaus - Sierra Alley from 1st to 3rd		$90,000					
6" SS, Sierra - Patterson Alley from 1st to 8th		$325,000					
6" SS, Topeka - 108 Alley 4th to 5th		$65,000					
6" SS, Topeka - Santa Fe Alley 7th to 8th		$65,000					
6" SS, Santa Fe - Stanislaus Alley 7th to 8th		$65,000					
6" SS, Terminal from Kentucky to Castle Park Drive			$100,000				
6" SS, Texas - Kansas Alley from 8th to Chief Tucker			$100,000				
8" SS, Galaxy to Jackson Ave.				$65,000			
6" & 8" SS, 7 State Streets from Terminal to 8th					$1,250,000		
8" SS, Oakdale Road from Patterson to Cedarwood					$165,000		
6" SS in Cedarwood from Oakdale Road to Wood Haven					$150,000		
6" SS, Orange Ave from Bruneyville to 2nd St.						$1,000,000	
CCTV all sanitary sewer lines city wide							
Upgrade all electrical panels on SS lift stations		$100,000	$100,000	$100,000	$100,000	$100,000	
Survey all lift stations						$50,000	
General CIP							$1,000,000
Total CIP (Current Dollars)	**$3,585,843**	**$710,000**	**$300,000**	**$165,000**	**$1,665,000**	**$1,150,000**	**$1,000,000**

*CIP does not include treatment plant project costs. Projected treatment plat project costs shown in cashflow.

CIP (Escelatated for Inflation)	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
Annual Inflation Rate			*4.5%*	*4.0%*	*4.0%*	*4.0%*	*4.0%*
Total CIP (Escelatated for Inflation)	**$36,000**	**$710,000**	**$313,500**	**$179,322**	**$1,881,903**	**$1,351,805**	**$1,222,502**

RIVERBANK CITY COUNCIL/LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.3

SECTION 11: NEW BUSINESS

Meeting Date:	September 27, 2022
Subject:	Riverbank Industrial Complex – Resolution Authorizing Amendments to Lease Disposition and Development Agreement with Aemetis Properties Riverbank, Inc. to Include Parcels 2/2A
From:	Marisela H. Garcia, City Manager

RECOMMENDATION

It is recommended that the City Council and Local Redevelopment Authority adopt a Resolution approving an amendment to the Lease Disposition and Development Agreement with Aemetis Riverbank Properties, Inc. to include Parcels 2/2A.

SUMMARY

Before the City Council and Local Redevelopment Authority ("LRA") for approval is an amendment to the Lease Disposition and Development Agreement with Aemetis Riverbank Properties, Inc. ("Aemetis"). Under the existing Lease Disposition and Development Agreement, Aemetis subleases Parcel A and the Stormwater Parcel from the City. (*See* attached site map for reference of parcel descriptions). The City currently leases Parcel A (Main Parcel) and the Stormwater Parcel from the U.S. Army ("Army") under a lease agreement with the Army. The attached amendment would make Aemetis the sublessee of Parcels 2 and 2A (collectively, "Parcels 2/2A"). Transferring control of Parcels 2/2A to Aemetis, until such time that Aemetis acquires Parcels 2/2A from the City, will continue the handoff of site management obligations and will help facilitate development plans for the site.

BACKGROUND

The attached site map shows the different parcels at the Riverbank Industrial Complex.

On August 24, 2021, the City Council approved three (3) agreements with Aemetis to establish the purchase and sale terms for the different parcels and to begin transferring control of the site to Aemetis:

Lease Disposition & Development Agreement for Parcel A and Stormwater Parcel. The City currently leases Parcel A, also known as the Main Parcel, (~78 acres) and the Stormwater Parcel (~3 acres) from the Army under the lease agreement with the Army. The Lease Disposition and Development Agreement with Aemetis (hereafter, "Parcel A Agreement") made Aemetis the sublessee of Parcel A and the Stormwater Parcel. Aemetis also acquired an option to purchase Parcel A and the Stormwater Parcel from the City in the future. Aemetis pays the City $145,000 per year during the term of the sublease. The price for the option to purchase Parcel A and the Stormwater Parcel is $8,800,000. Aemetis also agreed to spend at least $450,000 on capital improvements within one (1) year of taking possession of the property.

Purchase & Sale Agreement for Parcel B. The City Council also approved a Purchase and Sale Agreement with Aemetis for Parcel B (~24 acres), where Aemetis purchased Parcel B from the City in fee ("Parcel B Agreement"). The purchase price for Parcel B was $1,200,000. The City acquired Parcel B from the Army in 2017. Execution of the Parcel B Agreement made Aemetis the fee owner of Parcel B.

Purchase & Sale Agreement for Parcels 2/2A. The City Council also approved a Purchase and Sale Agreement with Aemetis for Parcels 2/2A (~22 acres) ("Parcels 2/2A Agreement"). The City currently leases Parcels 2/2A from the Army. Parcels 2/2A are not subject to the *Economic Development Conveyance Agreement* between the Army and the City ("EDC Agreement"). The EDC Agreement only applies to Parcel A, the Stormwater Parcel, and Parcel B. The Army agreed to do a negotiated sale with the City for Parcels 2/2A once the Army is ready to convey Parcels 2/2A to the City. The Parcels 2/2A Agreement provides the purchase and sale terms between Aemetis and the City for Parcels 2/2A, after the City acquires Parcels 2/2A from the Army. The purchase price for Parcel 2 will be $927,000, and the purchase price for Parcel 2A will be $500,000.

With these three (3) agreements, Aemetis assumed near full control of the Riverbank Industrial Complex, excluding Parcels 2/2A and Parcels 1/1A. The Proposed Amendment to the Parcel A Agreement would make Aemetis the sublessee of Parcels 2/2A, until such time that Aemetis acquires Parcels 2/2A from the City.

SUMMARY OF PROPOSED AMENDMENT TO PARCEL A AGREEMENT

Attached is a brief amendment to the Parcel A Agreement, which Aemetis proposed to the City ("Proposed Amendment"). Under the Proposed Amendment, Aemetis would sublease Parcels 2/2A pursuant to the terms of the Parcel A Agreement. Transferring control of Parcels 2/2A would involve Aemetis assuming all management and maintenance obligations over Parcels 2/2A. Once the City acquires Parcels 2/2A from the Army, then Aemetis would purchase Parcels 2/2A in accordance with the Parcels 2/2A

Agreement. The Proposed Amendment would therefore give Aemetis a possessory interest in Parcels 2/2A.
There are two (2) main reasons for the Proposed Amendment:

- Aemetis is the master developer of the entire site. Aemetis currently has control of Parcel A, the Stormwater Parcel, and Parcel B, but not Parcels 2/2A. Transferring control of Parcels 2/2A would make Aemetis responsible for leasing, management, and maintenance of Parcels 2/2A. Transferring possession of Parcels 2/2A continues the transfer of control to Aemetis, helps Aemetis access financing, and facilitates development plans for the entire site.

- Parcel 2A is currently used for storage of recreational vehicles ("RV"), where the LRA has individual leases with tenants for each RV. There are currently about 140 RVs using Parcel 2A. The Proposed Amendment would transfer tenant obligations to Aemetis, similar to what occurred for tenants on Parcel A.

STATUS OF PARCEL A TRANSFER TO AEMETIS, CAPITAL IMPROVEMENTS, AND DEVELOPMENT PLANS

Transfer of Parcel A to Aemetis. The Parcel A Agreement became effective on December 14, 2021. Since December 2021, LRA staff worked with Aemetis to transfer control of Parcel A. There are about forty (40) business tenants who operate on Parcel A. Aemetis has assumed control over the leases for these 40 tenants. LRA staff has also transferred all utility services to Aemetis. Aemetis has two (2) individuals present at the site who manage operations.

Capital Improvements to the Site. Under the Parcel A Agreement, Aemetis must spend at least $450,000 on capital improvements to the site. City staff and Aemetis have agreed to certain capital improvements, which include:

- New landscaping design plans;
- Fire suppression system repairs;
- Refurbishment of three (3) existing wells for potable water;
- Lighting upgrades;
- New painting and flooring for Buildings 16, 17, and 18;
- New security fencing along Claus Road.

Status of Development Plans. Development of the site and the biofuels plant will take time, especially given that the City has not yet acquired fee title to Parcel A, the Stormwater Parcel, or Parcels 2/2A. City staff has begun having bi-weekly meetings with Aemetis regarding development plans for the site. The City has contracted a planning firm, at Aemetis' expense, to review development applications submitted by Aemetis. The first new construction at the site may involve construction of a test well for carbon sequestration on Parcel B. Aemetis would have to obtain certain permits and do environmental review prior to beginning any test well construction.

TIMELINE FOR CITY ACQUISITION OF PARCEL A, STORMWATER PARCEL, AND PARCELS 2/2A

The City has not yet acquired fee ownership to Parcel A, the Stormwater Parcel, and Parcels 2/2A. The timeline for City acquisition of these remaining parcels is the second (2nd) quarter of 2023. The Army, along with federal and state agencies, must complete environmental due diligence before the Army can transfer these parcels to the City. Aemetis can acquire these parcels from the City once the City acquires them from the Army, in accordance with the terms of the different parcel agreements.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")

The City Council approved the Riverbank Army Ammunition Plant Specific Plan ("RAAP Specific Plan") in February 2014, and also certified the Final Environmental Impact Report ("Final EIR"). Subleasing Parcels 2/2A to Aemetis pursuant to the Proposed Amendment does not involve any new environmental impacts not analyzed in the EIR. This action only transfers control of Parcels 2/2A to Aemetis, which involves Aemetis assuming tenant and facility management obligations on Parcels 2/2A. Approval of the Proposed Amendment involves no changes to existing circumstances on Parcels 2/2A, and is therefore exempt from environmental review at this time. (CEQA Guidelines, § 15061(b)(3)). Any new development on Parcels 2/2A would be subject to the Final EIR and any necessary subsequent environmental review.

FINANCIAL IMPACT

The Proposed Amendment has no significant financial impact and would not involve any use of the General Fund. By transferring control of Parcels 2/2A to Aemetis, City staff anticipates lower administrative costs, and LRA staff would no longer have maintenance obligations associated with Parcels 2/2A. City staff did not request additional payment from Aemetis under the Proposed Amendment, given that Aemetis has existing financial commitments under the Parcel A Agreement and will also eventually purchase Parcels 2/2A from the City.

COMPLIANCE WITH SURPLUS LAND ACT:

The City is not yet the fee owner of Parcels 2/2A, and therefore Parcels 2/2A are not yet subject to the Surplus Land Act (Gov. Code, 54220 et seq.). The Parcels 2/2A Agreement provides that the City will comply with the requirements of the Surplus Land Act prior to conveying Parcels 2/2A to Aemetis.

ATTACHMENTS

1. Resolution 2022-
2. Site Map
3. Exhibit A: Proposed Amendment to Lease Disposition & Development Agreement (also includes Lease Disposition & Development Agreement, without exhibits)

CITY OF RIVERBANK

RESOLUTION 2022-

A RESOLUTION OF THE RIVERBANK CITY COUNCIL AND LOCAL REDEVELOPMENT AUTHORITY APPROVING AN AMENDMENT TO THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH AEMETIS PROPERTIES RIVERBANK, INC.

WHEREAS, beginning in 2010, the Riverbank Local Redevelopment Authority ("LRA") became the lessee of certain parcels of real property owned by the United States Army ("Army") located at 5300 Claus Road in the City of Riverbank ("City"), which are collectively known as the "Riverbank Industrial Complex". The Riverbank Industrial Complex encompasses approximately 146 acres; and

WHEREAS, under its lease agreement with the Army, the LRA is responsible for operating and maintaining the Riverbank Industrial Complex; and

WHEREAS, in February 2014, the City adopted the Riverbank Army Ammunition Plant Specific Plan ("RAAP Specific Plan") to guide future development at the Riverbank Industrial Complex, and certified the Final Environmental Impact Report for the RAAP Specific Plan ("Specific Plan EIR") (SCH No. 2011022015); and

WHEREAS, the City and the Army have executed certain agreements where the Army will convey the different parcels at the Riverbank Industrial Complex to the City; and

WHEREAS, effective as of September 11, 2017, the City and the U.S. Army executed an agreement providing for an *Economic Development Conveyance of the Former Riverbank Army Ammunition Plant* ("EDC Agreement"). The EDC Agreement provides for the conveyance of three (3) parcels to the City: Parcel A (approximately 78 acres), Parcel B (approximately 24 acres), and the Stormwater Parcel (approximately 3 acres); and

WHEREAS, on December 13, 2017, the Army conveyed Parcel B in fee to the City. The Army has not yet conveyed Parcel A or the Stormwater Parcel in fee to the City, as certain federal and state agencies must still complete environmental due diligence for Parcel A and the Stormwater Parcel. The lease between the City and the Army for Parcel A and the Stormwater Parcel remains in effect; and

WHEREAS, Parcels 2 and 2A (collectively, "Parcels 2/2A") are not included in the EDC Agreement. The Army agreed to a negotiated sale process where the Army would sell Parcels 2/2A directly to the City; and

WHEREAS, in 2017, the City decided that transferring the Riverbank Industrial Complex to private ownership was the most feasible course to redevelop the site. The City issued a Request for Proposals to seek master developer interest in the Riverbank Industrial Complex. The City selected Aemetis, Inc. ("Aemetis") as the top respondent, and proceeded to negotiate various purchase and sale agreements to transfer control of the different parcels to Aemetis; and

WHEREAS, on August 24, 2021, the LRA Board approved a Lease Disposition and Development Agreement between the City and Aemetis for Parcel A and the Stormwater Parcel ("Lease Disposition Agreement"). The Army is currently the fee owner of Parcel A and the Stormwater Parcel. Under the Lease Disposition Agreement, Aemetis became the City's sublessee and acquired an option to purchase Parcel A and the Stormwater Parcel in the future; and

WHEREAS, on August 24, 2021, the LRA Board also approved a Purchase and Sale Agreement between the City and Aemetis to convey Parcel B to Aemetis ("Parcel B Agreement"). Aemetis is now the fee owner of Parcel B; and

WHEREAS, on August 24, 2021, the LRA Board also approved a Purchase and Sale Agreement between the City and Aemetis to convey Parcels 2/2A to Aemetis ("Parcels 2/2A Agreement"). The Parcels 2/2A Agreement provides the purchase and sale terms between the City and Aemetis, after the City acquires Parcels 2/2A from the Army; and

WHEREAS, since the approval of the three (3) parcel agreements between the City and Aemetis, City staff has transferred control of Parcel B, Parcel A, and the Stormwater Parcel to Aemetis in accordance with their respective agreements. Aemetis now maintains the site, manages existing tenants, and has begun making capital improvements to the site; and

WHEREAS, City staff and Aemetis have negotiated an amendment to the Lease Disposition Agreement, attached hereto as **Exhibit A**, whereby Aemetis would sublease Parcels 2/2A from the City until such time that Aemetis acquires Parcels 2/2A in fee ("Proposed Amendment"); and

WHEREAS, the purpose of this Resolution is to authorize the execution of the Proposed Amendment and transfer control of Parcels 2/2A to Aemetis. With execution of the Proposed Amendment, Aemetis would assume control of most parcels at the Riverbank Industrial Complex (excluding Parcels 1 and 1A), which will help Aemetis in its overall development efforts and management of the site prior to acquiring Parcel A, the Stormwater Parcel, and Parcels 2/2A in fee from the City.

NOW, THEREFORE, BE IT RESOLVED, based on the testimony presented and its independent review and judgment, the City of Riverbank City Council and LRA hereby approve the Proposed Amendment with Aemetis, attached and incorporated hereto as **Exhibit A**. The City Council and LRA hereby authorize the Mayor or his or her appointee to execute the Proposed Amendment. The City Manager and his or her appointee shall take all acts necessary and incidental to carry out the terms of the Proposed Amendment and the purpose of this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City of Riverbank City Council and LRA that the transfer of Parcels 2/2A to Aemetis shall not occur until the City has completed compliance with the Surplus Land Act (Gov. Code, § 54220 et seq.), as provided for by the conditions in the Parcels 2/2A Agreement.

PASSED AND ADOPTED by the City Council and Local Redevelopment Authority of the City of Riverbank at a regular meeting held on the _____ day of _______________, 2022; motioned by Councilmember ______, seconded by Councilmember ______, and upon roll call was carried by the following vote of ___:

AYES:

NAYS:

ABSENT:

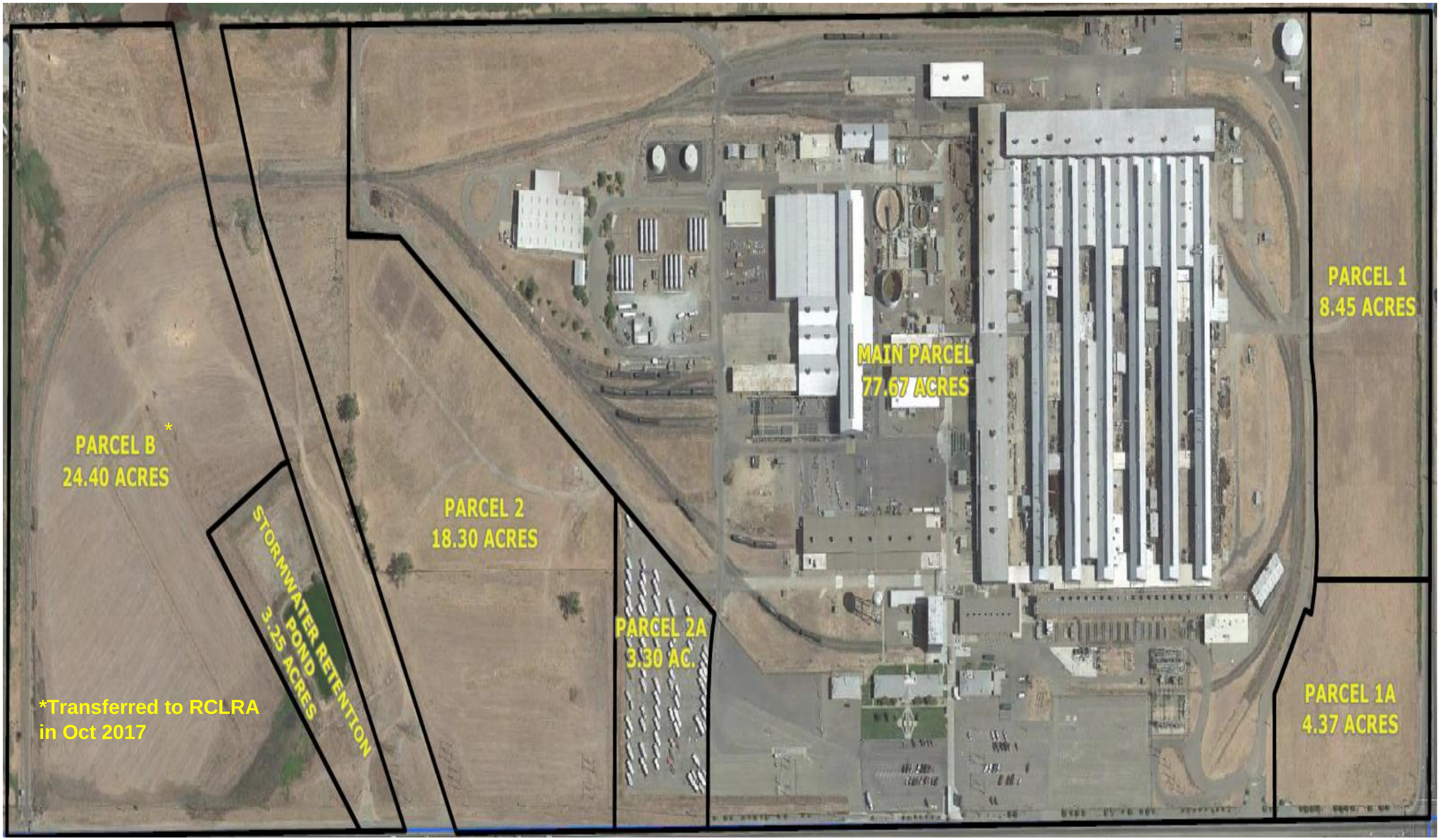
ABSTAIN:

ATTEST:	**APPROVED:**
________________________	________________________
Gaby Hernandez **City Clerk**	**Richard D. O'Brien** **Mayor**

Attachment: Exhibit A_Proposed Amendment to Lease Disposition and Development Agreement

ATTACHMENT 2

Site Map



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AMENDMENT #2 TO LEASE DISPOSITION AND DEVELOPMENT AGREEMENT

ADD PARCELS 2 AND 2A TO LEASE

This AMENDMENT #2 TO LEASE DISPOSITION AND DEVELOPMENT AGREEMENT (this "***Amendment #2***") is entered into as of September __, 2022 ("***Amendment Date***") by the CITY OF RIVERBANK, CALIFORNIA ("***City***"), and AEMETIS PROPERTIES RIVERBANK, INC**.**, a Delaware corporation ("***Master Developer***").

Recitals

A. The City and Master Developer entered into a "Lease Disposition and Development Agreement" ("***Lease Agreement***"), effective as of December 14, 2021, related to certain parcels of real property within the Riverbank Industrial Complex, as specified therein (the "***Property***").

B. Recital H of the Lease Agreement defines the term "Property," as used within the Lease Agreement, to mean the portions of the Riverbank Industrial Complex that are referred to as "Parcel A" and the "Stormwater Parcel." Prior to this Amendment #2, the area leased by the City to Master Developer pursuant to the Lease Agreement included only those parcels within this definition of "Property."

C. Concurrent with the Lease Agreement, the City and Master Developer entered into a "Real Estate Purchase and Sale Agreement" applicable to the portions of the Riverbank Industrial Complex that are referred to as "Parcel 2" and "Parcel 2A" and shown in the parcel map included at Exhibit B to the Lease Agreement. Pursuant to that Agreement, the City agreed to acquire Parcels 2 and 2A from the Army and sell them to Master Developer. As of the date hereof, the City has executed an "Offer to Purchase" for each of Parcel 2 and 2A and submitted them to the Army, along with the required down payments, which were provided to the City by Master Developer.

D. The Parties are entering this Amendment #2 to modify the Lease Agreement so that the area leased by Master Developer from the City pursuant to the Lease Agreement will also include Parcel 2 and Parcel 2A during the interim period prior to the transfer of title to those parcels to Master Developer.

Agreement

1. **Change to Definition of Property**. Except as specified herein, the definition of "Property" in Recital H of the Lease Agreement is hereby replaced in its entirety with the following: "Collectively, Parcel A, the Stormwater Parcel, Parcel 2, and Parcel 2A are referred to herein as the "**Property**."

2. **Excluded Sections**. Notwithstanding Section 1 above, the definition of Property in the following sections of the Lease Agreement shall, after the Amendment Date hereof, continue to include only Parcel A and the Stormwater Parcel and shall not include Parcel 2 and Parcel 2A: Sections 4.1, 4.2, 4.3, 4.6, 4.7, 4.8, and 4.9 (inadvertently labeled 4.7 in the Lease Agreement).

3. **Transition of Tenants**. City hereby assigns, transfers, and conveys to Master Developer all of its existing agreements and rights related to tenants of Parcels 2 and 2A, including but not limited to agreements with persons renting space in the RV storage area located on Parcel 2A. Master Developer hereby assumes all liabilities and obligations of City under these assigned agreements which first arise on or after the Amendment Date. City shall pay to Master Developer all security deposits that it holds related to any of these assigned agreements and any rents received for periods on or after April 1, 2022 and Master Developer shall pay City any rents received applicable to periods prior to April 1, 2022.

4. **Effect of Transfer of Parcels 2 and 2A.** Upon the effectiveness of the transfer of title to Parcel 2 and/or Parcel 2A to Master Developer, such Parcel or Parcels that are transferred shall at that time be automatically removed from the definition of "Property" in the Lease Agreement, with no further action required of the Parties, and consequently such Parcel or Parcels shall no longer be subject to the terms of the Lease Agreement.

5. **Clarification of Waiver**: Section 6.10 of the Lease Agreement is hereby revised by replacing the existing provision in its entirety with the following

> **"6.10 <u>Waiver of Claims</u>**. The Master Developer, as the tenant under the Ground Lease, hereby waives for itself (and for its successors, assigns, subtenants, and other Persons claiming by or through the same) any and all claims to or awards of damages against the City, if any, to compensate for the closing, vacating, and/or change of grade of any street, alley, or other public right-of-way within or fronting or abutting on, or adjacent to, the Property in connection with the Project."

6. **Form of Signatures**. Signatures to this Amendment #2 that are exchanged electronically by email/pdf or DocuSign shall be binding the same as originals.

7. **Effective Upon Army Consent**. This Amendment #2 shall not be effective until the Army approves the sublease of Parcels 2 and 2A to Master Developer under this Amendment #2, as required by the Master Lease (as defined in the Lease Agreement) between the Army and City.

<u>Signatures</u>

CITY OF RIVERBANK, CALIFORNIA

By:________________________________
Print Name: _________________________
Title: ______________________________

AEMETIS PROPERTIES RIVERBANK, INC., a Delaware corporation

By:________________________________
Print Name: _________________________
Title: ______________________________

ATTACHMENT 4

LEASE DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

CITY OF RIVERBANK, CALIFORNIA

and

AEMETIS PROPERTIES RIVERBANK, INC.

for the

RIVERBANK INDUSTRIAL COMPLEX

Dated December 14, 2021

LEASE DISPOSITION AND DEVELOPMENT AGREEMENT

This **LEASE DISPOSITION AND DEVELOPMENT AGREEMENT** (this "**Agreement**") is made and entered into effective as of December 14, 2021 ("**Effective Date**"), by and between the **CITY OF RIVERBANK, CALIFORNIA** (the "**City**"), and **AEMETIS PROPERTIES RIVERBANK, INC.**, a Delaware corporation (the "**Master Developer**"). The City and the Master Developer are sometimes individually referred to as a "**Party**" and are sometimes collectively referred to as the "**Parties**."

RECITALS

A. The former Riverbank Army Ammunition Plant ("**RBAAP**") was closed pursuant to and in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (part A of title XXIX of Public Law No. 101-510, 10 U.S.C. § 2687 note; as amended, the "**Base Closure Act**"). The military mission at RBAAP was concluded on March 31, 2010.

B. In accordance with the Base Closure Act, the City is recognized by the Office of the Secretary of Defense as the local redevelopment authority for RBAAP.

C. The City has renamed the RBAAP development site as the Riverbank Industrial Complex.

D. In accordance with the Base Closure Act, the City submitted an application to the Army to acquire a portion of the real and personal property comprising the RBAAP by means of an economic development conveyance.

E. In February 2014, the City adopted the Riverbank Army Ammunition Plant Specific Plan ("**Specific Plan**") to guide future development at the RBAAP site and certified the Final Environmental Impact Report for the Specific Plan ("**Specific Plan EIR**") (SCH# 2011022015).

F. Effective as of September 11, 2017, The City and the Army executed an *Agreement between United States Department of the Army and the City of Riverbank for the Economic Development Conveyance of the Former Riverbank Army Ammunition Plant located in Riverbank, Stanislaus County, California* (the "**EDC Agreement**"), a copy of which is attached hereto as Exhibit A.

G. Pursuant to the EDC Agreement, the Army divided or intends to divide the RBAAP into several parcels, as shown on the map attached hereto as Exhibit B.

H. In the EDC Agreement, the Army agreed to convey to the City "**Parcel A**" consisting of approximately 77.678 gross acres, "**Parcel B**" consisting of approximately 24.40 acres, and the Northwest Storm Water Reservoir Parcel (the "**Stormwater Parcel**") consisting of approximately 3.250 gross acres, for a total of approximately 105.328 acres, together with all improvements, structures, appurtenances, and utility systems located thereon all as shown on Exhibit B (collectively, Parcel A and the Stormwater Parcel, are referred to herein as the "**Property**"). Parcel B has been conveyed to the City by the Army.

I. The Army remains obligated to convey the Property in fee to the City by quitclaim deed after the Army and other applicable agencies make required findings in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, et seq., as amended, "**CERCLA**").

J. Effective as of April 1, 2021, the City and the Army entered into the *Department of the Army Interim Lease Under Base Realignment and Closure (BRAC) for the Former Riverbank Army Ammunition Plant, Stanislaus County, California, Lease No. DACA05-1-21-508* (the "**Master Lease**"), which is attached hereto as Exhibit C.

K. The City intends to continue to lease the Property from the Army pursuant to the Master Lease until such time as the Army conveys the Property to the City in accordance with the EDC Agreement.

L. Portions of the Property are currently occupied or used by third-party persons or entities listed on Exhibit D (collectively, the "**Existing Tenants**").

M. On October 17, 2017, the City issued a Request for Proposals (**"RFP"**) for Master Developer Services at RBAAP, and Aemetis, Inc. submitted a response to the RFP on behalf of itself and other entities, including Cary Pope ("**Aemetis Team**").

N. On March 28, 2018, the City notified Aemetis, Inc. of its intent to commence exclusive negotiations with the Aemetis Team, and on January 15, 2019, the City and Aemetis, Inc. entered into a Term Sheet for a Lease Disposition and Development Agreement for the Property.

O. The Project as currently conceived has been determined to be consistent with the Specific Plan and the Specific Plan EIR.

P. Simultaneously with the execution of this Agreement, the City and Aemetis, Inc. are entering into a Guaranty Agreement (substantially in the form attached as Exhibit E) pursuant to which Aemetis, Inc. is guaranteeing certain obligations of the Master Developer pursuant to this Agreement, as described in and subject to the terms of that Guaranty Agreement.

Q. The City and Master Developer desire (i) that the City lease the Property to the Master Developer, and (ii) offer to Master Developer the opportunity to acquire fee title to the Property, in each case pursuant to the terms and conditions contained herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the City and the Master Developer do hereby agree as follows:

ARTICLE 1
DEFINITIONS

For the purposes of this Agreement, the following capitalized terms shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular:

"**Affiliate**" means with respect to any Person ("first Person"), (i) any other Person directly or indirectly Controlling, Controlled by, or under common Control with such first Person, (ii) any officer, director, general partner, manager, member, or trustee of such first Person, or (iii) any officer, director, general partner, manager, member, or trustee of any Person described in clauses (i) or (ii) of this sentence.

"**Agents**" means agents, employees, consultants, contractors, and representatives.

"**Agreement**" has the meaning given in the Preamble hereof.

"**Annual Lease Consideration**" has the meaning given in Section 3.3 hereof.

"**Anti-Money Laundering Acts**" has the meaning given in Section 15.2.11.1 hereof.

"**Anti-Terrorism Order**" has the meaning given in Section 15.2.11.1 hereof.

"**Approved**" means as to Submissions by the Master Developer requiring City Approval, the Submission has been submitted to the City and the City has approved pursuant to Section 11.2 hereof.

"**Army**" means the United States Department of Army.

"**Army Deeds**" means, collectively, any quitclaim deeds from the Army to the City with respect to the Property.

"**Assignment and Assumption of Existing Contracts**" means an agreement in substantially the form attached as Exhibit F.

"**Assignment and Assumption of Existing Leases**" means an agreement in substantially the form attached as Exhibit G.

"**Base Closure Act**" has the meaning given in the Recitals.

"**Business Days**" means Monday through Friday, inclusive, other than holidays or other days on which the State government is closed.

"**CA FOIA**" has the meaning given in Section 17.26 hereof.

"**CERCLA**" has the meaning given in the Recitals.

"**City**" has the meaning given in the Preamble hereof.

"**City Approval**" has the meaning given in Section 11.2 hereof.

"**City Consideration**" means, collectively, the Initial Consideration and the Annual Lease Consideration.

"**City Force Majeure**" means, with respect to the City, any act of God, fire, earthquake, flood, explosion or other casualty event; war, invasion, act of public enemy, terrorism, insurrection, riot, mob violence or sabotage; inability to procure, or a general shortage of, labor, equipment, facilities, materials or supplies in the open market; failure, unavailability or shortage of transportation; strikes, lockout or actions of labor unions; taking by eminent domain, requisition, laws or orders of governmental or quasi-governmental bodies or of civil, military or naval authority; adverse weather of greater frequency, duration or severity than is common for the month in question; or other cause, whether similar or dissimilar to any of the foregoing, that is beyond the reasonable control of, and is not reasonably foreseeable by the City, and is not due to the fault or negligence of the City, and that results in a delay in the City's performance of its obligations under this Agreement.

"**City Released Parties**" has the meaning given in Section 17.22 hereof.

"**Closing**" means a closing of a Fee Conveyance.

"**Community Engagement and Outreach Plan**" has the meaning given in Section 9.5 hereof.

"**Community Engagement and Outreach Program**" has the meaning given in Section 9.5 hereof.

"**Confidential Information**" has the meaning given in Section 17.26.1 hereof.

"**Control**" means the possession, directly or indirectly, of the power to direct, or cause the direction of, the day-to-day management and policies of a Person, whether through ownership of voting securities, membership interests or partnership interests, by contract or otherwise, which term shall not preclude major decision approval by others. The terms "Control," "Controlling," "Controlled by," or "under common Control with" shall have meanings correlative thereto.

"**EDC Agreement**" has the meaning given in the Recitals.

"**Effective Date**" means the date of full execution and delivery of this Agreement, which date shall be inserted by the City in the Preamble hereof.

"**Environmental Law**" means any federal or State law, act, statute, ordinance, rule, regulation, order, decree, permit, or ruling of any federal, State, or administrative regulatory body, agency, board, or commission or a judicial body, relating to the protection of human health or the environment or otherwise regulating or restricting the management, use, storage, disposal, treatment, handling, release, and/or transportation of a Hazardous Material, which are applicable to the Project or activities on or about the Property, including but not limited to 42 U.S.C. § 9601, et seq. (CERCLA), 42 U.S.C. § 6901 et seq. (RCRA), the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., and the Emergency Planning and Community Right To Know Act, 42 U.S.C. § 11001 et seq., and any State equivalent laws as each of the same is amended or supplemented from time to time.

"**Environmental Reports**" means those reports identified on Exhibit I.

"**ESCAs**" has the meaning given in Section 5.3.1 hereof.

"**Event of Default**" has the meaning given in Section 14.1.1 hereof.

"**Existing Tenants**" means the person and entities occupying or using the Property as of the Effective Date, all of which are set forth on Exhibit D.

"**Fee Conveyance**" has the meaning given in Section 4.3 hereof.

"**Fee Conveyance Escrow Agreement**" has the meaning given in Section 4.4 hereof.

"**Force Majeure**" means, with respect to the City, City Force Majeure, and with respect to the Master Developer, as applicable, any act of God, fire, earthquake, flood, explosion or other casualty event; war, invasion, act of public enemy, terrorism, insurrection, riot, mob violence or sabotage; inability to procure, or a general shortage of, labor, equipment, facilities, materials or supplies in the open market; failure, unavailability or shortage of transportation; strikes, lockout or actions of labor unions; taking by eminent domain, requisition, laws, or orders of governmental or quasi-governmental bodies or of civil, military, or naval authority; adverse weather of greater frequency, duration or severity than is common for the month in question; or other cause, whether similar or dissimilar to any of the foregoing, that is beyond the reasonable control of, and is not reasonably foreseeable by the Master Developer, or its Members or Affiliates, and is not due to the fault or negligence of, as applicable, the Master Developer, or its Members, Affiliates, representatives, or contractors, and that results in a delay in the commencement, prosecution, or completion of an applicable requirement of this Agreement.

"**FOST**" means each of the Army's Findings of Suitability for Transfer relating to the Property.

"**Grant Deed**" means a deed in the form as set forth in the form of Exhibit L.

"**Ground Lease**" has the meaning given in Section 3.1 hereof.

"**Ground Lease Commencement Date**" means 60 days after the Effective Date.

"**Governmental Authority**" means any and all federal or State governmental or quasi-governmental municipal corporation, board, agency, authority, department or body having jurisdiction over all or any portion of the Property or the Project or the Master Developer but excluding the City in its capacity under this Agreement.

"**Hazardous Materials**" means a substance that falls within one or more of the following categories, other than in quantities or concentrations that constitute Permitted Materials: (1) Any "hazardous substance" under 42 U.S.C. § 9601, et seq. or "hazardous waste" under 42 U.S.C. § 6901, et seq.; (2) Any substance or chemical defined and regulated under requirements promulgated, respectively, by the U.S. Environmental Protection Agency at 40 C.F.R. part 355, by the U.S. Department of Transportation at 49 C.F.R. parts 100-180, by the U.S. Occupational Safety and Health Administration at 29 C.F.R. § 1910.1200 and ionizing materials otherwise regulated by the U.S. Nuclear Regulatory Commission at 10 C.F.R. part 20; (3) Any substance or chemical that is defined as a pollutant, contaminant, dangerous substance, toxic substance, hazardous or toxic chemical, hazardous waste or hazardous substance under any other Environmental Law, or the presence of which requires reporting, investigation, removal and remediation or forms the basis of liability under any applicable environmental requirements; (4) Any substance or material that the Secretary of Defense designates as a "toxic or hazardous material" under 10 U.S.C. § 2692(a)(2); (5) Any substance the presence of which on the Property or adjacent property causes or threatens to cause a nuisance or poses or threatens to pose a hazard to health or safety of persons on or about the Property or adjacent property; (6) Gasoline, diesel fuel, or other petroleum hydrocarbons, including refined oil, crude oil and fractions thereof, natural gas, synthetic gas and any mixtures thereof; (7) Asbestos or asbestos containing material; and (8) Polychlorinated bi-phenyls or materials or fluids containing the same.

"**Indemnified Party**" and "**Indemnified Parties**" have the meanings given them in Section 6.11 hereof.

"**Initial Consideration**" has the meaning given in Section 3.3 hereof

"**Land Records**" means the land records for Stanislaus County, California.

"**Laws**" means all applicable local, State and federal laws, ordinances, rules, codes, regulations, resolutions, executive orders and standards, including, without limitation, Environmental Laws, zoning requirements, building codes, and all laws relating to accessibility for persons with disabilities.

"**Master Developer**" has the meaning given in the Preamble hereof.

"**Master Developer Party**" means the Master Developer, any Member of the Master Developer, or any Affiliate of the Master Developer.

"**Master Development Plan**" has the meaning given in Section 6.2 hereof.

"**Master Developer Released Parties**" has the meaning given in Section 15.22.2 hereof.

"**Master Developer Status Report**" has the meaning given in Section 9.8 hereof.

"**Master Lease**" has the meaning given in the Recitals.

"**Material Change**" means a change in the Master Development Plan that would result in a decrease of more than five percent (5%) of the land area to be developed for commercial, industrial or other use specified in the Master Development Plan.

"**Member**" means any Person with an ownership interest in the Master Developer, whether as a member of a limited liability company, a shareholder in a corporation, a partner in a partnership, a beneficiary under a trust, or otherwise.

"**Memorandum of Agreement**" is that certain Memorandum of Agreement in the form attached as Exhibit J, which shall be recorded in the Land Records.

"**Monetary Default**" has the meaning given in Section 14.1.1.1 hereof.

"**Parcel A**" means the parcel labeled as "Parcel A" on Exhibit B attached hereto consisting of approximately 77.678 gross acres.

"**Party**" and "**Parties**" have the meanings given in the Preamble.

"**Permit**" means any demolition, site, building, construction, historic preservation, and other permit, approval, license and/or right required or necessary to be obtained under Law from a Governmental Authority for the commencement, performance, and completion of the Project or any part thereof.

"**Permitted Materials**" means any materials or substances regulated by Environmental Laws that are reasonably and customarily used during construction, provided that same are used, handled and stored in compliance with all applicable Environmental Laws.

"**Person**" means any individual, or any corporation, limited liability company, trust, partnership, association, or other entity.

"**Plant Site Lease Area**" means that parcel labeled "Plant Site Parcel" on Exhibit N.

"**Prohibited Person**" means any Person who or which (a) has been convicted of a felony for one or more of the following: (i) fraud, (ii) intentional misappropriation of funds, (iii) bribery, (iv) perjury, (v) conspiracy to commit a crime, (vi) making false statements to a government agency, (vii) improperly influencing a government official, and (viii) extortion; (b) could be debarred if the standards applied in applicable City regulations were applied to such Person's failure to satisfy a contractual obligation to the City; (c) is on the City's list of debarred, suspended or ineligible Persons; or (d) is a Restricted Person.

"**Project**" means the development of the Property in accordance with the terms and conditions of this Agreement.

"**Property**" has the meaning given in the Recitals.

"**Purchase Consideration**" means the amount to be paid to the City pursuant to Section 4.1.

"**RBAAP**" has the meaning given in the Recitals.

"**Release**" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discharge of barrels, containers and other receptacles containing any Hazardous Materials or Permitted Materials).

"**Request**" has the meaning given in Section 17.26.2 hereof.

"**Requested Information**" has the meaning given in Section 17.26.2 hereof.

"**Restricted Person**" has the meaning given in Section 15.2.11.2 hereof.

"**Settlement Agent**" means the Title Company.

"**Specific Plan**" has the meaning given in the Recitals.

"**Specific Plan EIR**" has the meaning given in the Recitals

"**State**" means the State of California.

"**Stormwater Parcel**" means the parcel labeled as "Storm Water Parcel" on Exhibit B attached hereto, consisting of approximately 3.250 gross acres.

"**Submissions**" means those certain plans, specifications, documents, items and other matters to be submitted by the Master Developer to the City pursuant to the terms of this Agreement.

"**Term**" has the meaning given in Section 3.7.

"**Terrorist Acts**" has the meaning given in Section 15.2.11.1 hereof.

"**Title Company**" means a nationally recognized title company reasonably acceptable to the Master Developer and the City.

ARTICLE 2
OBLIGATIONS ON EFFECTIVE DATE

2.1 Recordation. The parties shall execute a Memorandum of Agreement contemporaneously with this Agreement. Promptly after the Effective Date, the Master Developer may record the Memorandum of Agreement in the Land Records.

2.2 Initial Consideration. The Master Developer will pay the City (i) $100,000 within 15 days of the Effective Date, and (ii) an additional $450,000 in 18 equal monthly installments commencing with the first payment due 45 days after the Effective Date (collectively, the "**Initial Consideration**").

ARTICLE 3
GROUND LEASE TO THE MASTER DEVELOPER

3.1 Agreement to Lease. The City hereby leases effective as of the Ground Lease Commencement Date, the Property to the Master Developer and the Master Developer hereby leases the Property from the City (the "**Ground Lease**"). Possession of the Property shall be delivered to the Master Developer on the Ground Lease Commencement Date.

3.2 Assignment of Contracts. As of the Ground Lease Commencement Date, the City and the Master Developer will execute and deliver the Assignment and Assumption of Existing Contracts and the Assignment and Assumption of Existing Leases. As of the Effective Date, the City will not enter into any new agreements (or modifications of agreements) related to the

Property, including leases and contracts that affect the property, without written approval of the Master Developer.

3.3 **Annual Lease Consideration**. Upon the first anniversary of the Ground Lease Commencement Date and each yearly anniversary thereafter, the Master Developer shall pay the City One Hundred and Forty-Five Thousand Dollars ($145,000.00) (the "**Initial Lease Consideration**"). In the event the Master Developer has not within the tenth anniversary of the Ground Lease Commencement Date (i) commenced operation of the renewable fuels plant contemplated by the Master Development Plan, or (ii) substantially commenced construction of the renewable fuels plant pursuant to the Master Development Plan, due to no fault of the City, then commencing in year eleven, the Master Developer shall also pay the Supplemental Lease Consideration (as hereinafter defined). The Initial Lease Consideration and the Supplemental Lease Consideration are collectively referred to as the "**Annual Lease Consideration.**"

3.3.1 The Supplemental Lease Consideration shall be calculated as follows: in year eleven of the Ground Lease, the Master Developer shall pay an additional amount of Fifty Thousand Dollars ($50,000), in year twelve of the Ground Lease, an additional amount of One Hundred Thousand Dollars ($100,000), in year thirteen of the Ground Lease, an additional amount of One Hundred Fifty Thousand Dollars ($150,000), in year fourteen of the Ground Lease, an additional amount of Two Hundred Thousand Dollars ($200,000), and in year fifteen of the Ground Lease, an additional amount of Two Hundred Fifty Thousand Dollars ($250,000), and to the extent the Term of the Ground Lease is extended beyond the fifteenth year (15^{th}) due to no fault of the City, in each subsequent year an added Fifty Thousand Dollars (the **"Supplemental Lease Consideration"**).

3.3.2 The Annual Lease Consideration shall continue until the Master Developer purchases the entirety of the Property and the Purchase Consideration is paid in full, or the Ground Lease is terminated pursuant to the terms of this Agreement.

3.4 **Improvements Commitment**. The Master Developer will spend a minimum of Four Hundred and Fifty Thousand Dollars ($450,000.00) on improvements to the Property (including engineering, permitting, fees, and purchases, and including expenses incurred after the Effective Date) within one year of the Ground Lease Commencement Date on items agreed to by the City and the Master Developer.

3.5 **Use of Property**. During the Ground Lease term, the Master Developer may use the Property for any purpose consistent with this Agreement. The Master Developer's use includes the right to make alterations to the Property that are consistent with this Agreement, or, if not consistent, that are approved in writing by the City, provided that such approval will not be unreasonably withheld. The Master Developer shall not be required to restore or replace alterations approved under this Paragraph.

3.6 **Addition of Army Holdback Area.** As of the Effective Date, the Master Lease does not include the property referred to as the "Army Holdback Area" as part of the Property that the City is leasing from the Army. Therefore, this Ground Lease and this Agreement shall not apply to the Army Holdback Area, until such time as either the Army Holdback Area is leased to or conveyed to the City, at which time the Army Holdback Area will be subject to this Ground

Lease and this Agreement in the same manner as the balance of the Property. The Army Holdback Area is specifically described in the Master Lease, at Section 2.d and Exhibit C.

3.7 **Term**. The term of this Ground Lease (the **"Term"**) shall commence on the Ground Lease Commencement date and shall terminate upon the fifteenth anniversary of the Ground Lease Commencement Date, except for those terms and conditions herein that expressly survive,

3.8 **Net Lease**. This Ground Lease of the Property to the Master Developer is a triple net lease, and the Annual Lease Consideration and all other sums payable hereunder to or on behalf of the City shall be paid without notice or demand and without setoff, counterclaim, abatement, suspension, deduction or defense.

3.9 **Taxes and Assessments**. The Master Developer shall pay, prior to delinquency: (i) all taxes, assessments, levies, fees, water and sewer rents and charges and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which are, at any time or which arise with respect to (A) the Property, (B) the leasehold estate hereby created, or (C) the operation, possession or use of the Property; (ii) all sales, value added, ad valorem, use and similar taxes at any time levied, assessed or payable on account of the Master Developer's acquisition, ownership, leasing, operation, possession or use of the Property; and (iv) all fees or charges of utilities, communications, fire services, and similar services serving the Property. Notwithstanding anything in this section, Master Developer shall not be obligated to pay or reimburse charges (i) that arise prior to the Ground Lease Commencement Date, or (ii) are created by or incurred by the City (other than those described in items (i) through (iv) in this Section 3.9) that are not explicitly authorized or required or by this Agreement.

3.10 **Compliance with Laws.** The Master Developer shall comply with all Laws applicable to it that relate to the Property where failure to comply would have a material and prejudicial impact on the City.

3.11 **Master Lease.** For so long as the Master Lease remains in effect, the Ground Lease shall be a sublease under the Master Lease and this Agreement. The Ground Lease shall in all cases shall be subordinate to the Master Lease and to the extent of any conflict between the Master Lease and the Ground Lease and this Agreement, the Master Lease shall control. For so long as the Master Lease remains in effect, this Agreement shall be subject to Exhibit J, "Environmental Protection Provisions," of the Master Lease. In the event the Master Lease terminates or lapses, this Agreement shall remain in place as between the Master Developer and City to the full extent of the City's and/or the Master Developer's interest in the Property resulting from possession, the EDC, future agreements, legal rights, or any other basis, provided that the Master Developer's obligations for payment of Annual Lease Consideration and other operating expenses shall be tolled during any period in which the Master Developer is not in full possession and control of the Property.

3.12 **Insurance**. The Master Developer will maintain insurance on the Property of the following character:

3.12.1 Property insurance in standard form with typical endorsements in a minimum amount of $10,000,000 coverage;

3.12.2 General commercial liability insurance and/or umbrella liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Property in the minimum amounts of $5,000,000 aggregate coverage;

3.12.3 Worker's compensation insurance to the extent required by the California law (or, to the extent permitted by applicable law, the Master Developer may self-insure with respect to worker's compensation insurance);

3.12.4 Pollution Legal Liability insurance in the minimum amount of $5,000,000 in form and substance satisfactory to the City in its reasonable discretion which insurance shall not be amended or terminated without the prior written consent of the City, provided that upon beginning substantial construction of the renewable fuels plant, the minimum amount shall become $10,000,000;

3.12.5 Such insurance shall be written by companies legally allowed to do business in California and carrying a claims paying ability rating of at least A by Standard & Poor's Ratings Group and, with the exception of workers' compensation insurance, shall designate the City as an additional insured. If the Property or any part thereof shall be damaged or destroyed by an insured casualty, and if the estimated cost of rebuilding, replacing or repairing the same shall exceed $50,000, the Master Developer promptly shall notify the City thereof.

ARTICLE 4
CONVEYANCE OF PROPERTY TO THE MASTER DEVELOPER

4.1 **Option to Purchase; Purchase Consideration**. The Master Developer is hereby granted the option to purchase or cause to be purchased, and the City agrees to sell, the Property on the terms and conditions set forth in this Agreement. The consideration for the purchase of the Property shall be $8,800,000.

4.2 **Timing**. The Master Developer may exercise its option to purchase by giving notice of its intent to purchase not more than six (6) months prior to the termination of the Ground Lease. The closing of the purchase of the Property shall occur as soon as possible after the date of notice and prior to the termination of the Ground Lease. Notwithstanding Section 3.7, if the Master Developer timely provides notice of its intent to purchase pursuant to this Section, and is prepared to close on the purchase of the Property, but the closing of the purchase of the Property is delayed for reasons not within Aemetis' control, the Term of the Ground Lease shall be automatically extended with no further actions required of the Parties until the close of the purchase.

4.3 **Conveyance by Grant Deed**. Upon the Master Developer's payment to the City of the Purchase Consideration, the City shall transfer the Property intended to be purchased to the Master Developer in fee via a Grant Deed (the "**Fee Conveyance**").

4.4 Prohibition on City Encumbrances. From and after the Effective Date, the City will not make any changes to title of the Property and will not encumber the Property (with liens, easements, secondary interests, etc.) without advance written approval of the Master Developer in its sole discretion.

4.5 Grant of Security Interest. The City hereby grants the Master Developer a security interest in the Property to secure any City liability that may result from the City's failure to timely close on the sale of the Property to the Master Developer pursuant to this Article 4.

4.6 Conveyance Escrow Agreement. No later than five (5) Business Days prior to the Fee Conveyance of the Property, each of the Settlement Agent, the Master Developer, and the City shall execute and deliver an escrow agreement in the form attached hereto as Exhibit M (each, a "**Fee Conveyance Escrow Agreement**"), which Fee Conveyance Escrow Agreement shall govern the Settlement Agent's responsibilities regarding the documents and other items required to be delivered at Fee Conveyance and the conditions for the release from escrow of such documents and other items.

4.7 Fee Conveyance Deliveries by the City. With respect to the Fee Conveyance, the City shall execute, notarize, and deliver, as applicable, to the Settlement Agent:

4.7.1 The Grant Deed; and

4.7.2 Such other documents and instruments as are customary and as may be reasonably requested by the Master Developer or the Settlement Agent (and reasonably acceptable to the City) to effectuate the Fee Conveyance.

4.8 Fee Conveyance Deliveries by the Master Developer. With respect to the Fee Conveyance, the Master Developer shall execute, notarize, and deliver, as applicable, to the Settlement Agent:

4.8.1 The applicable payment;

4.8.2 Acceptance of the Grant Deed; and

4.8.3 Such other documents and instruments as are customary and as may be reasonably requested by the City or the Settlement Agent (and reasonably acceptable to the Master Developer) to effectuate the transactions contemplated by this Agreement.

4.7 Costs. As between the Master Developer and the City, the Master Developer shall pay all of the third-party costs of the Fee Conveyance (other than the costs of the City's counsel and consultants, which shall be paid by the City).

ARTICLE 5
CONDITION OF PROPERTY

5.1 Former Military Installation. The Property is a former military installation that is either leased to or has been conveyed to the City from the Army for economic development purposes.

5.2 **National Priorities List**. The Property is listed by the Environmental Protection Agency on the National Priorities List.

5.3 **Environmental Reports**.

5.3.1 The Army has provided the City with FOST documents and Environmental Reports related to the property, and the City representants and warrants that is has provided or made available for inspection all reports in its possession to the Master Developer. The City has also made available to the Master Developer all of the environmental reports and studies that the City has caused to be prepared under its Environmental Services Cooperative Agreements ("**ESCAs**") executed with the Army pursuant to 10 U.S.C. § 2701(d). The Master Developer acknowledges that it has received or inspected the Environmental Reports relating to the Property. The City represents that, to the best of its knowledge, it has made available to the Master Developer all environmental reports and studies in its possession and control. The Parties acknowledge that the City is presently engaged in performing some of the Army's environmental obligations under the ESCAs, and there remain environmental matters for which final reports or documentation do not exist or are not otherwise available for release at this time. The City will provide such reports and documentation to the Master Developer as they become available to provide.

5.3.2 The Master Developer acknowledges and agrees that all materials, data, and information delivered by the City to the Master Developer in connection with the transactions contemplated hereby are provided to the Master Developer as a convenience only and that any reliance on or use of such materials, data, or information by the Master Developer shall be at the sole risk of the Master Developer. Without limiting the generality of the foregoing provisions, the Master Developer acknowledges and agrees that (a) any environmental or other report with respect to the Property which is delivered by the City to the Master Developer shall be for general informational purposes only, (b) the Master Developer shall not have any right to rely on any such report delivered by the City to the Master Developer (except to the extent permitted by the Person that prepared such report and to the extent set forth in such report), but rather will rely on its own inspections and investigations of the Property and any reports commissioned by the Master Developer with respect thereto, and (c) neither the City nor the Person that prepared any such report delivered by the City to the Master Developer shall have any liability to the Master Developer for any inaccuracy in or omission from any such report.

5.4 **Soils and Groundwater**. The City makes no representation as to the condition or content of surface or subsurface soils and groundwater that may be encountered during construction, repair, utility work, development, use, or occupancy of the Property.

5.5 **DISCLAIMERS**.

5.5.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE CITY IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO THE QUALITY OR QUANTITY OF

THE PROPERTY; HABITABILITY, MERCHANTABILITY, FITNESS, OR SUITABILITY FOR A PARTICULAR PURPOSE; TITLE; ZONING; TAX CONSEQUENCES; LATENT OR PATENT PHYSICAL OR ENVIRONMENTAL CONDITION; UTILITIES; OPERATING HISTORY OR PROJECTIONS; VALUATION; GOVERNMENTAL APPROVALS; THE COMPLIANCE OF THE PROPERTY WITH LAWS; THE TRUTH, ACCURACY, OR COMPLETENESS OF ANY DOCUMENTS OR OTHER INFORMATION PERTAINING TO THE PROPERTY; THE STATUS OF ANY LITIGATION OR OTHER MATTER; OR ANY OTHER INFORMATION PROVIDED BY OR ON BEHALF OF THE CITY TO THE MASTER DEVELOPER; OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY.

5.5.2 THE MASTER DEVELOPER ACKNOWLEDGES AND AGREES THAT THE CITY IS LEASING OR SUBLEASING, AS APPLICABLE, AND IN ACCORDANCE HEREWITH, CONVEYING THE PROPERTY, "AS IS, WHERE IS, WITH ALL FAULTS."

5.5.3 FURTHER, DEVELOPMENT OF THE PROPERTY IN ACCORDANCE WITH THIS AGREEMENT SHALL BE "AS IS, WHERE IS, WITH ALL FAULTS."

5.5.4 THE MASTER DEVELOPER IS ADVISED THAT MOLD AND/OR OTHER MICROSCOPIC ORGANISMS MAY EXIST AT THE PROPERTY AND THAT MOLD AND/OR OTHER MICROSCOPIC ORGANISMS MAY CAUSE PHYSICAL INJURIES, INCLUDING, WITHOUT LIMITATION, ALLERGIC REACTIONS, RESPIRATORY REACTIONS OR OTHER PROBLEMS, PARTICULARLY IN PERSONS WITH IMMUNE SYSTEM PROBLEMS, YOUNG CHILDREN AND ELDERLY PERSONS.

5.5.5 OTHER THAN THE EXPRESS REPRESENTATIONS MADE BY THE CITY IN SECTION 15.1, THE MASTER DEVELOPER HAS NOT RELIED AND WILL NOT RELY ON, AND THE CITY IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO MADE OR FURNISHED BY THE CITY, ANY MANAGER OF THE PROPERTY, OR ANY AGENT REPRESENTING OR PURPORTING TO REPRESENT THE CITY, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING.

5.5.6 THE MASTER DEVELOPER REPRESENTS TO THE CITY THAT THE MASTER DEVELOPER HAS CONDUCTED SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS THE MASTER DEVELOPER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY MOLD, FUNGI, VIRAL OR BACTERIAL MATTER, HAZARDOUS MATERIALS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY, AND WILL NOT RELY UPON ANY

INFORMATION PROVIDED BY OR ON BEHALF OF THE CITY OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO.

5.5.7 THE MASTER DEVELOPER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS (INCLUDING MOLD, FUNGI, VIRAL OR BACTERIAL MATTER, HAZARDOUS MATERIALS, RADIOLOGICAL CONDITIONS OR ITEMS OR TOXIC SUBSTANCES), MAY NOT HAVE BEEN REVEALED BY THE MASTER DEVELOPER'S INVESTIGATIONS, AND THE MASTER DEVELOPER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED, AND RELEASED THE CITY FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH THE MASTER DEVELOPER MIGHT HAVE ASSERTED OR ALLEGED AGAINST THE CITY AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY LAWS (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAWS) AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY.

5.5.8 THE CITY SHALL HAVE NO RESPONSIBILITY TO PREPARE THE PROPERTY IN ANY WAY FOR DEVELOPMENT AT ANY TIME.

5.6 Legal Recourse Against the Army.

5.6.1 The Master Developer acknowledges that it is familiar with avenues of legal recourse against the Army for any pre-existing environmental condition caused or contributed to by the Army, including the provisions of Sections 107 and 120(h)(3) of CERCLA and Section 330 of the 1993 National Defense Authorization Act for Fiscal Year 1993.

5.6.2 If the Master Developer reasonably requests the City to tender or pursue a claim against the United States pursuant to Section 120(h)(3) of CERCLA related to portions of the Property owned by the City and leased to the Master Developer, the City shall diligently tender and pursue the claim, provided the reasonable costs of tendering and pursuing the claim are paid by the Master Developer.

5.6.3 If the City reasonably requests the Master Developer to assist or cooperate in the pursuit of a claim tendered by the City against the United States pursuant to Section 120(h)(3) of CERCLA related to portions of the Property owned by the City and leased to the Master Developer, the Master Developer shall reasonably cooperate with, and provide reasonable assistance to, the City in the pursuit of the claim.

5.6.4 If the Master Developer reasonably requests the City to assist or cooperate in the pursuit of a claim tendered by the Master Developer against the United States pursuant to Section 120(h)(3) of CERCLA related to portions of the Property owned by the Master Developer, the City shall reasonably cooperate with, and provide reasonable assistance to, the Master Developer in the pursuit of the claim, provided the reasonable costs of tendering and pursuing the claim are paid by the Master Developer.

ARTICLE 6
OPERATION OF THE PROPERTY

6.1 **Development of the Property**. The Master Developer shall serve as the master developer for the development of the Property. The Master Developer will promote the development of the Property and shall have the right, directly or through affiliates or third parties, to cause the development, construction, financing, operation, and maintenance of the Property on market rate fees, terms, and conditions.

6.2 **Master Development Plan**. The Master Developer's development plan for the Property is described on Exhibit K (the "**Master Development Plan**"). The Master Development Plan establishes the overall concept for the Project and the major direction for the design of the Project. The Master Developer shall continue to amend the Master Development Plan as development proceeds and submit any amendments to the City for City Approval.

6.3 **Existing Leases**. To the extent the Master Developer desires to relocate any Existing Tenants during the Term, the Master Developer shall use good faith efforts to retain such Existing Tenants on the Property.

6.4 **Personal Property**. As between the City and the Master Developer, the Master Developer shall have rights to all personal property located within the Property to use or dispose in its discretion.

6.5 **Specific Plan**. Except as approved by the City, the Master Developer shall utilize, develop, and improve the Property for purposes consistent with the Specific Plan.

6.6 **Provision of Services.** Subject to any applicable laws, the Master Developer has the right to provide certain services (directly, indirectly, or through third party contractors that may include local government) to the Property and may assess and collect fees from tenants and property owners to cover the costs of providing such services to the Property. Such services may include human resources, health and human services, education, trash and recycling, utilities, security, transportation, communication, video, data and internet services, and parks and recreation.

6.7 **Operation and Maintenance**. The Master Developer shall be responsible for maintaining and operating (including all costs arising therefrom) the Property as of the Ground Lease Commencement Date. The City shall have no responsibilities for the maintenance or operation of the Property except as the City may assume under an ESCA or that the City creates or incurs with authority of the Master Developer.

6.8 **Inspection of Site**. The City reserves for itself and its employees and agents the right to enter the Property from time to time upon reasonable prior notice to the Master Developer (or upon such notice as may be reasonable, if any, in the event of an emergency), for the purpose of (i) performing inspections in connection with the development and construction of the Project, including the conformance of the Project to the Master Development Plan, (ii) curing any default of such Person that remains uncured after applicable notice and cure periods as set forth in Article 14, or (iii) in the case of an emergency. The Master Developer waives any claim that it may have against the City arising out of entry upon the Property for the aforementioned purposes, resulting from causes other than gross negligence or willful misconduct of the City, its employees, or agents. The Master Developer hereby agrees to save the City harmless from all liability that might arise out of, or stem from, the City's representatives entering pursuant to this Section except liability to the extent resulting solely from the City's, or its employees' or agents' gross negligence or willful misconduct. Any inspection of the Project or access to the Property by the City hereunder shall not be deemed an approval, warranty, or other certification as to the compliance of the Project or Property with any Permits, building codes, regulations or standards, including, without limitation, building engineering and structural design, or other Laws.

6.9 **Issuance of Permits**. The Master Developer shall have the sole responsibility, at the Master Developer's sole cost and expense, for obtaining all Permits required for its respective construction work and operation of the Property and shall make application therefor directly to the applicable Governmental Authority. For so long as the City owns fee simple title to or is otherwise leasing or in possession of the Property, or the applicable portion thereof, the City shall, upon request by the Master Developer, execute applications for Permits, as the person with rights to the applicable portion of the Property, to the extent required by the applicable Governmental Authority, at no cost, expense, obligation, or liability to the City. In no event shall the Master Developer commence demolition, construction, or renovation of all, or any portion of the Property until the Master Developer shall have obtained all Permits required for such work. From and after the date of the Master Developer's submission of an application for a Permit, the Master Developer shall diligently prosecute such application until receipt of the Permit. In addition, from and after submission of any such application, and until issuance of the Permit, the Master Developer shall report Permit status in writing as part of the Master Developer Status Report.

6.10 **Waiver of Claims**. The Master Developer, as the tenant under the Ground Lease, hereby waives for itself (and for its successors, assigns, subtenants, and other Persons claiming by or through the same) any and all claims to or awards of damages, if any, to compensate for the closing, vacating, and/or change of grade of any street, alley, or other public right-of-way within or fronting or abutting on, or adjacent to, the Property in connection with the Project.

6.11 **Compliance with Applicable Environmental Requirements**.

6.11.1 The Master Developer hereby covenants that it shall comply with all provisions of Environmental Laws applicable to the Property and all uses, improvements, and appurtenances of and to the Property. The Master Developer shall indemnify, defend, and hold the City and its officers, directors, agents, and employees (individually, an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to (i) the Master Developer's violation of any Environmental Law, or (ii) any Release or threatened Release of a Hazardous Material, or any condition of pollution, contamination, or Hazardous Material-related nuisance on, under or from the Property first occurring after the Ground Lease Commencement Date; provided however, that the foregoing indemnity shall not apply to any losses, costs, claims, damages, liabilities, and causes of action (including reasonable attorneys' fees and court costs) to the extent arising solely from the negligence or willful misconduct of any Indemnified Party. Nothing in this Section 6.11.1 in any way alters or limits or waives any of Army's obligations contained in the EDC Agreement, Army Deeds, or Laws.

6.11.2 The Master Developer shall provide the City with written notice of violations of applicable Environmental Laws that the Master Developer has received or is aware of relating to the Project promptly after the Master Developer receives or becomes aware of such notice or allegation.

6.11.3 The Master Developer shall obtain and maintain, at its sole expense, any Permits or other approvals required under applicable Environmental Laws for its development and operation of the Project, independent of any permits held by the City. The City will not co-sign or otherwise be identified as a responsible party for any Permits or activities that the Master Developer conducts on or about the Project. For so long as the City owns fee simple title to or is leasing or otherwise in control of the Property, or the applicable portion thereof, the City shall, upon request by the Master Developer, execute applications for Permits or other approvals required under applicable Environmental Laws, as the person with rights to the applicable portion of the Property, to the extent required by the applicable Governmental Authority, at no cost, expense, obligation, or liability to the City.

6.11.4 The City shall have the right, upon request to the Master Developer, to review and comment on applications for Permits and other approvals required under applicable Environmental Laws prior to submission to environmental Governmental Authorities. Where practicable, the Master Developer shall provide the City with advance notice of and an opportunity to jointly participate in meetings, including permit application meetings, with environmental regulatory authorities relating to the Project.

6.11.5 The Master Developer shall promptly provide the City with copies of all non-routine correspondence with environmental regulatory authorities related to enforcement actions or notices of violations affecting the Project promptly after receipt.

6.11.6 The Master Developer shall not cause or permit to be removed or disturbed any historical, archeological, architectural, or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered, the Master Developer shall immediately notify the City and protect the site and the material from further disturbance until the City gives clearance to proceed.

6.12 **The Master Developer's Encumbrances.** The Master Developer has the right and authority to record liens and other encumbrances against the Master Developer's interest in the Property. Except as authorized by Section 4.5, in no event will the City's fee ownership interest in the Property be encumbered by any lien or encumbrance against the Master Developer's interest in the Property. Subject to the immediately preceding sentence, to the extent necessary, the City will execute routine status agreements with any lender taking a security interest in the Master Developer's interest in the Property that acknowledges Master Developer's interest in the Property and that does not impair or encumber the City's fee ownership interest in the Property. On or after the Effective Date, the City will not record, incur, authorize, or take any other action that creates any liens or encumbrances on the City's interest in the Property, whether recorded or otherwise, without the written approval of the Master Developer.

6.13 **Risk of Loss.** Beginning on the Ground Lease Commencement Date, the Master Developer shall have the risk of loss for any casualties occurring to all or any portion of the Property or any improvements constructed thereon. In no event shall the City have any obligation to rebuild or restore any improvements existing or constructed on the Property.

6.14 **The Master Developer's Force Majeure.** The outside dates for any of the Master Developer's obligations under this Agreement shall be extended for delays caused by Force Majeure in accordance with the terms of this Section 6.14. Any such extension shall be day-for-day for the period of Force Majeure. The Master Developer shall, within fifteen (15) Business Days of discovery of any Force Majeure event, notify the City in writing, which notice shall include the Master Developer's estimate of the length of the delay that will be caused by such Force Majeure event and the actions the Master Developer is taking to minimize such delay. In claiming Force Majeure, the Master Developer must reasonably demonstrate that the Force Majeure event causes a delay of a critical path item of a milestone to which the Master Developer is requesting an extension. In all instances, the Master Developer shall use commercially reasonable efforts to mitigate the length of a delay because of a Force Majeure event.

ARTICLE 7
[OMITTED]

ARTICLE 8
[OMITTED]

ARTICLE 9
MASTER DEVELOPER SUBMISSIONS

9.1 **Amendments to the Master Development Plan.** The Master Developer shall not make, or permit to be made, a Material Change to the Master Development Plan without City Approval. To the extent the Master Developer desires to make a change to the Master Development Plan that is not a Material Change, the Master Developer shall provide promptly notice of the change to the City.

9.2 **[Omitted]**

9.3 **Press Releases, Marketing, Signage and Promotional Materials.**

9.3.1 The name of the Project shall be the "Riverbank Industrial Complex" or such other name as the Master Developer shall select with City Approval.

9.3.2 The City shall have the right to Approve the general template for use of the City's name, logo, or like identifiers. Expressly excluded from this provision are publications, marketing materials, solicitations, and/or informational materials specifically designed by the Master Developer to recruit or market to prospective lessees, buyers, investors, lenders, and/or other financial institutions, as to which no requirement to identify the City shall apply.

9.3.3 The Master Developer shall launch a website relating to the Project.

9.3.4 The Master Developer shall use good faith efforts to coordinate with the City all Project press releases that are prepared by the Master Developer with respect to the Project starting from the Effective Date; provided, however, any press releases prepared by the Master Developer that reference the duties, obligations, or commitments of the City with respect to the Project shall be subject to City Approval in its sole and absolute discretion, which City Approval shall be obtained prior to publication of the press release. The City shall coordinate with the Master Developer all press releases issued by the City with respect to the Project starting from the Effective Date. Nothing in this paragraph shall prevent the Master Developer or any Affiliate from providing any disclosure that is required by law, including but not limited to applicable securities laws, and no such legally required disclosure shall constitute a breach of this Agreement.

9.3.5 The Master Developer shall coordinate with, invite, and provide notice to the City of all significant Project public events (i.e., community meetings, stakeholder meetings, presentations to trade association groups, presentation to out-of-town dignitaries and similar events) organized by the Master Developer. For any event involving the immediate community or key public officials (such as Council members, international ambassadors, members of Congress and their aides, officials of the Federal government and executives of regional organizations), the Master Developer shall use reasonable efforts to timely notify the City and schedule such meetings such that the City representatives may attend. Any event organized by the Master Developer that is required to be coordinated with the City pursuant to this Section 9.3.5 that are to be attended by key public officials will be coordinated using the protocols appropriate to the office of the key public official as reasonably directed by the City.

9.4 [Omitted]

9.5 Community Engagement and Outreach Plan. The Master Developer shall comply with (i) the Master Developer's program for public involvement, education, and outreach with respect to the Project (including input from the community that is impacted by the Project provided in the Master Development Plan as they are designed, developed, constructed, and operated) (the "**Community Engagement and Outreach Program**"), described in the attached Exhibit H, and (ii) the Master Developer's plan for implementing the Community Engagement and Outreach Program, which shall include, without limitation, the organization(s) with whom the Master Developer proposes to discuss the Project, a schedule for public meetings and the type of information that the Master Developer proposes to submit to the public (the Community Engagement and Outreach Program, together with such plan, is collectively referred to as the "**Community Engagement and Outreach Plan**"), described in the attached Exhibit H. The Community Engagement and Outreach Plan shall include a mechanism to document all public meetings, including a narrative description of the events of each meeting, the concerns raised by members of the public, and the Master Developer's responses to such concerns. The Master Developer shall submit such documentation to the City promptly following each meeting and shall otherwise include a summary of the Master Developer's activities with respect to, and in furtherance of, the Community Engagement and Outreach Plan in each Master Developer Status Report. Any changes to the Community Engagement and Outreach Program or the Community Engagement and Outreach Plan shall be subject to City Approval.

9.6 Material Changes. No Material Changes to any approved Submission may be made without the City's prior approval. If the Master Developer desires to make any Material Changes to a Submission after same has been Approved by the City, the Master Developer shall submit in writing the proposed changes to the City for approval.

9.7 Progress Meetings/Consultation. During the preparation of the Submissions, the City's staff and the Master Developer shall hold periodic progress meetings with the Master Developer (together with any such consultants or contractors as may be designated by the Master Developer) working on the applicable issues as appropriate considering the progress of such Submissions, to coordinate the preparation of, submission to, and review of such Submissions by the City. The scheduling of such meetings shall be coordinated with the City reasonably in advance so as to permit the City's attendance. If the City's representative is not available after such prior notice, the Master Developer may conduct such meeting; provided, however, that the City may require a subsequent meeting to review the result of such unattended meeting and provide comments, corrections, and inputs in a participatory capacity. With respect to all Submissions and revisions of Submissions, the City's staff and the Master Developer shall communicate and consult informally as frequently as is necessary so as to assist in the Master Developer's preparation of, and the City's review and approval of, the formal submittal of such Submissions or revisions of Submissions to the City.

9.8 Master Developer Status Reports. In addition to the other Submissions required pursuant to this Article 9, the Master Developer shall submit to the City no later than December 31st and June 30th of each year, a report (each, a "**Master Developer Status Report**") setting forth the current status of the Project, which shall include, at a minimum, (i) a detailed account, certified by the Master Developer, of current progress; (ii) any public meetings planned for the Project within the next six (6) month period; and (iii) either confirmation that there have been no changes or a description of any changes in the ownership of the interest in, or Control of, the Master Developer. In addition, the Master Developer shall provide additional status information in each report that the City may reasonably require from time to time in writing, provided that the City provides the Master Developer at least forty-five (45) days' prior notice of its additional requests. The Master Developer shall include as part of each Master Developer Status Report a reasonable number of construction photographs taken since the last report submitted by the Master Developer.

ARTICLE 10
[OMITTED]

ARTICLE 11
CITY APPROVAL

11.1 <u>**Scope of Master Developer Authority**</u>. As more fully described below, the Parties agree and acknowledge that the Master Developer is solely responsible for all decisions related to the Project except such decisions that are retained by the City herein where City Approval is expressly required.

11.2 <u>**Scope of City Approval of the Master Developer's Submissions**</u>. For those Submissions that are subject to "**City Approval**" pursuant to the terms of this Agreement, other than with regard to permits or other regulatory approvals required by generally applicable laws, pursuant to Section 6.9, the City shall have a period of thirty (30) days to review and approve or disapprove the Submissions submitted by the Master Developer (**"Submissions"**). All such approvals or disapprovals shall be in writing. Where a provision of this Agreement provides for City Approval as to specified matters only, such approval will be limited to such specified matters. Except to the extent the City Approval of a Submission is explicitly provided as within the City's sole and absolute discretion, the City shall not unreasonably withhold or condition its approval hereunder. If the City provides the Master Developer a written statement describing in specificity its objections prior to the expiration of the foregoing thirty (30) day period, the Master Developer shall revise its Submission to address the City's objection and resubmit the revised Submission to the City for City Approval. Permits or regulatory approvals required by generally applicable laws, shall be subject to all procedural and substantive provisions of those laws, including but not limited to timelines, substantive standards, and compliance with the California Environmental Quality Act, as applicable.

11.3 <u>**Disapproval Notice**</u>. In the event the City disapproves or objects to a Submission, the notice of such disapproval or objection shall state the reasons for such disapproval or objection. If a Submission is disapproved by the City or the City has provided the Master Developer objections to the Submission, the Master Developer shall have a fifteen (15) day period to revise the Submission to address the objections or comments of the City and shall resubmit the amended Submission for City Approval.

11.4 <u>**Extension of Time Periods**</u>. Notwithstanding the provisions above, if the City determines that it requires additional time to review a Submission or resubmitted Submission, the City may extend the review period by an additional period of ten (10) Business Days by delivering notice of such extension to the Master Developer no later than ten (10) Business Days after the City's receipt of all of the components of such Submission. Any deadlines imposed on the Master Developer by this Agreement shall be tolled and extended during the period time while the City is reviewing any submittal, and, in the event of a rejection, any time period between the rejection and the resubmittal to the City.

11.5 <u>**Deemed Approvals**</u>. In the event the City fails to disapprove a Submission within the time periods set forth in this Section, the City shall be deemed to have approved the Submission.

11.6 **Approvals in Writing**. All approvals or objections required or permitted pursuant to this Agreement must be in writing. In no event shall any alleged oral approval of any Submission (or any other matter requiring the City's approval) be binding on the City.

11.7 **No Representation.** Except as may be provided by the City in its regulatory capacity, the City's review and approval of any Submission and any changes thereto is not and shall not be construed as a representation or other assurance that such Submission complies with zoning or any building codes, regulations, or standards, including, without limitation, building, engineering, and structural design, or any other Laws. The City shall incur no liability by reason of its review of any Submissions and is reviewing such Submissions solely for the purpose of protecting its own interests under this Agreement.

ARTICLE 12
[OMITTED]

ARTICLE 13
ASSIGNMENT

13.1 **Reliance of City on the Master Developer**. The Master Developer acknowledges that: (i) the development of the Property as set forth in the Master Development Plan is important to the general welfare of the community in which the Property is located; (ii) the qualifications and identity of the Master Developer, its principal officers, managers, Members, and partners are of particular importance to the City; and (iii) the City is entering into this Agreement with the Master Developer because of the qualifications and identity of the Master Developer and its principal officers, managers, Members and partners, and in so entering into this Agreement, is willing to accept and rely on the obligations of the Master Developer for the faithful performance of all of the Master Developer's undertakings and covenants in this Agreement.

13.2 **No Assignment of Agreement**. The Master Developer and the City acknowledge and agree that the City is entering into this Agreement with the Master Developer on the basis of the particular experience and access to financial resources of the Master Developer. The Master Developer shall not assign this Agreement without the City Approval, which may be withheld in its sole discretion. The City shall not assign this Agreement without the Master Developer's approval, which may be withheld in its sole discretion.

13.3 **Leasing of Property**. Nothing in this Agreement prohibits the Master Developer from leasing, renting, licensing, or subleasing all or any portion of the Property to any person for any use consistent with this Agreement.

13.4 **Enforceability**. The Master Developer hereby acknowledges and agrees that the restrictions on Assignment pursuant to Section 13.2 do not constitute an unreasonable restraint on the Master Developer's right to transfer or otherwise alienate any portion of the Property. The Master Developer hereby waives any and all claims, challenges, and objections that may exist with respect to the enforceability of the restrictions on assignment contained in the Agreement, including any claim that such restrictions on assignment constitute an unreasonable restraint on alienation.

13.5 **Release**. An assignment of this Agreement that is Approved by the City will automatically release the transferor from all obligations under this Agreement arising on or after the date of the assignment and the assignee shall be deemed to assume all of the obligations of the transferor under this Agreement. The assignor and assignee shall execute a customary assignment and assumption agreement evidencing such assumption by assignee.

ARTICLE 14
DEFAULTS AND REMEDIES

14.1 Default by the Master Developer.

14.1.1 Events of Default. Each of the following shall constitute an "**Event of Default**" by the Master Developer under this Agreement:

14.1.1.1 Monetary Defaults. The Master Developer shall fail to pay or cause to be paid any City Consideration or any other amount required to be paid by the Master Developer under this Agreement, and such default shall continue for thirty (30) days after written Notice from the City specifying such default (a "**Monetary Default**").

14.1.1.2 Misrepresentation. Any of the Master Developer's representations and warranties under Section 15.2 is not true and correct in all material respects as of the Effective Date.

14.1.1.3 Insurance. The Master Developer shall fail to obtain or maintain in effect the Master Developer required insurance under this Agreement, or pay any insurance premiums, as and when the same become due and payable, or fails to reinstate, maintain, and provide evidence to the City of the insurance required to be obtained or maintained by the Master Developer or its contractors or subcontractors under this Agreement, and such failure shall continue for a period of thirty (30) days after written Notice from the City.

14.1.1.4 Assignment. The Master Developer shall breach the restriction on assignment set forth in Article 13 of this Agreement and such breach shall not be remedied within thirty (30) days of written Notice of such breach from the City to the Master Developer.

14.1.1.5 Prohibited Person. The Master Developer becomes a Prohibited Person due to an action or omission arising from or relating to this Agreement or the Property.

14.1.1.6 Bankruptcy. The Master Developer shall be adjudicated bankrupt and subject to a court approved Chapter 11 plan for liquidation.

14.1.1.7 Other Default. If the Master Developer shall breach any material term, covenant or condition of this Agreement not specified in the foregoing clauses of this Section 14.1.1 of this Agreement, and the Master Developer shall fail to remedy such breach within thirty (30) days after written Notice by the City, or if such breach is of such a nature that it cannot reasonably be remedied within such thirty (30) day period (but is otherwise susceptible to cure), then the Master Developer shall have such additional period of time as may be reasonably necessary to cure such breach, provided that the Master Developer commences the cure within such original thirty (30) day period and thereafter diligently pursues and completes such cure.

14.2 **City Remedies Upon an Event of Default by the Master Developer**. During the continuance of an uncured Event of Default by the Master Developer, the City shall have the following remedies, at the City's sole election, but subject in each instance to the rights of any mortgagees under the terms of any agreement entered into between the City and such mortgagee, if any, pursuant to Section 6.12:

14.2.1 If (i) the Event of Default is a Monetary Default, or (ii) the Event of Default is due to the Master Developer becoming a Prohibited Person in accordance with Section 12.1.1.7, then the City may, subject to Section 14.3, terminate this Agreement and the Ground Lease and retain all consideration paid to date and may collect all amounts then due and owing;

14.2.2 The City may, after giving the Master Developer a notice of its intention to do so at least ten (10) Business Days before the City's commencing to cure such Event of Default (or upon such notice as may be practical, if any, in the event of an emergency), cure such Event of Default, at the Master Developer's sole cost and expense, in which event the Master Developer shall reimburse the City its actual out-of-pocket costs for such cure within ten (10) Business Days after demand therefor;

14.2.3 The City may pursue specific performance of the Master Developer's obligations hereunder; or

14.2.4 The City may pursue any and all other remedies available at law and/or in equity, including (without limitation) injunctive relief, other than termination of this Agreement or the Ground Lease, except as specifically set forth in Section 14.2.1.

14.3 **Partial Termination**. In the event that (i) the City elects to terminate this Agreement in accordance with Section 14.2.1, (ii) the Master Developer had, prior to the occurrence of the Event of Default, commenced construction of a renewable fuels plant pursuant to the Master Development Plan, and (iii) the Event of Default for which the City is terminating this Agreement is unrelated to and inapplicable to the Plant Site Lease Area (each, an "**Unrelated Default Phase**"), then the City shall exercise only a partial termination of this Agreement. For clarity, Events of Default that impact the entire Project (such as a Monetary Default or bankruptcy) are applicable to this entire Agreement. To evidence such partial termination, the Parties shall execute a Ground Lease Partial Termination to be recorded in the Land Records reflecting such partial termination such that the Property now consists only of the property within the Unrelated Default Phase. All other terms and conditions of this Agreement and the Ground Lease shall remain in full force and effect, including, but not limited to, the obligation for the Master Developer to pay the Annual Lease Consideration.

14.4 **Additional Termination**. Subject to the rights of the Master Developer under the provisions of the Ground Lease, and notwithstanding anything herein to the contrary, if, under the Terrorist Acts or Anti-Terrorism Order, as may be supplemented by additional legislation, orders, or regulations, it shall become a violation of Laws to do business with the Master Developer during the term of this Agreement, the City shall be entitled to terminate this Agreement and the Ground Lease after providing ten (10) days written notice to the Master Developer.

14.5 No Waiver by Delay; No Waiver as to Other Defaults. Notwithstanding anything to the contrary contained herein, any delay by the City in instituting or prosecuting any actions or proceedings with respect to a default by the Master Developer hereunder or in asserting its rights or pursuing its remedies under this Article 14 or otherwise or any other right or remedy available under law or in equity, shall not operate as a waiver of such rights or to deprive the City of or limit such rights in any way (it being the intent of this provision that the City shall not be constrained by waiver, laches, or otherwise in the exercise of such remedies). Any waiver by the City hereunder must be made in writing. Any waiver in fact made by the City with respect to any specific default by the other Party under this Section 14.5 shall not be considered or treated as a waiver of the City with respect to any other defaults by the other Party or with respect to the particular default except to the extent specifically waived in writing.

14.6 Rights and Remedies Cumulative. The rights and remedies of the City under this Agreement, whether provided by law, in equity, or by the terms of this Agreement, as applicable, shall be cumulative, and the exercise by the City of any one or more of such remedies shall not preclude the exercise of any other remedies for the same such default or breach. Notwithstanding the foregoing or any other provision of this Agreement or of Law, the City shall not have the right to terminate this Agreement or the Ground Lease except as expressly permitted in this Article 14.

14.7 Effect of Termination. In the event of a valid termination of this Agreement by the City, provisions of this Agreement related to enforcement and interpretation shall continue to survive as needed to resolve open issues with respect to this Agreement. Upon termination, the City will accept assignment of all then existing subleases at the Property that have been previously approved by the City Council and accepted by the City Manager in writing. The Parties shall otherwise reasonably cooperate to effect an orderly transition of the management of the Property.

14.8 No Consequential or Punitive Damages. Notwithstanding the provisions of this Article 14 or anything in this Agreement to the contrary, in no event shall the City or the Master Developer be liable for any consequential, punitive, or special damages; provided, however, that this Section 14.7 shall not be deemed to preclude or prevent the collection of any fees or monetary penalties expressly provided for in this Agreement.

ARTICLE 15
REPRESENTATIONS AND WARRANTIES

15.1 Representations and Warranties of the City. As of the Effective Date and upon the Closing of the Fee Conveyance hereunder, he City hereby represents and warrants to the Master Developer as follows:

15.1.1 Execution, Delivery, and Performance. The City (i) has all requisite right, power, and authority to execute and deliver this Agreement and to perform its obligations under this Agreement, and (ii) has taken all necessary action to authorize the execution, delivery, and performance of this Agreement. This Agreement has been duly executed and delivered by the City and constitutes the legal, valid, and binding obligation of the City, enforceable against it in accordance with its terms. The Person signing this Agreement on behalf of the City is authorized to do so.

15.1.2 No Violation. The execution, delivery, and performance by the City of this Agreement and the transactions contemplated hereby and the performance by the City of its obligations hereunder will not violate any of the terms, conditions, or provisions of (i) any judgment, order, injunction, decree, regulation, or ruling of any court or other Governmental Authority, or Law to which the City is subject, or (ii) any agreement or contract to which the City is a party or to which it is subject.

15.1.3 Master Lease. The Master Lease (and amendments) attached at Exhibit C is a true, accurate and complete copy of the Master Lease and all exhibits and amendments thereto. There are no amendments or waivers of the Master Lease not included in Exhibit A. The City and the Army are currently in full compliance with all provisions of the Master Lease, and have fully complied with all provisions of the Interim Lease since its effective date.

15.1.4 EDC Agreement. The EDC Agreement attached at Exhibit A is a true, accurate and complete copy of the EDC Agreement and all exhibits thereto. There are no amendments or waivers of the EDC Agreement. The City and the Army are currently in full compliance with all provisions of the EDC Agreement, and have fully complied with all provisions of the EDC Agreement since its effective date.

15.1.5 No Consents. No consent or authorization of, or filing with, any Person (including any Governmental Authority), which has not been obtained, is required in connection with the execution, delivery, and performance of this Agreement by the City.

15.1.6 No Brokers. The City has not dealt with any agent, broker, or other similar Person in connection with the transfer of the interests in the Property as provided herein.

15.1.7 No Litigation. There is no litigation, arbitration, administrative proceeding, or other similar proceeding pending against the City that relates to this Agreement.

15.1.8 No Encumbrances. The City has not since the Effective Date entered into, granted, created, or amended any easement, covenant, or other encumbrance or conveyance restricting the use or development of the Property or portion thereof.

15.1.9 Existing Tenants. Exhibit D is a complete and accurate list of all the persons and entities occupying or using the Property as of the Effective Date, including the name and legal description of each tenant, description of space occupied, and amount of security deposit held by City. The City has provided the Master Developer with copies of all leases, licenses, letters, waivers, and other documents affecting in any way the rights and/or obligations each of the tenants listed on Exhibit D. There are no oral agreements between the City and any tenant listed on Exhibit D that modify or change the written documents provided to the Master Developer. The City will assign, and the Master Developer will assume, all of the obligations pursuant to all such leases, licenses, letters, waivers and other contractual documents as of the Ground Lease Commencement Date pursuant to the

Assignment and Assumption of Existing Leases. Any security deposits will be transferred to the Master Developer as of the Ground Lease Commencement Date.

15.2 Representations and Warranties of the Master Developer. As of the Effective Date and each closing of a Fee Conveyance hereunder, the Master Developer hereby represents and warrants to the City as follows:

15.2.1 Due Formation. The Master Developer is a corporation organized in the State of Delaware, duly formed and validly existing and in good standing and has full power and authority under the laws of the state of California to conduct the business in which it is now engaged.

15.2.2 Organization and Ownership. The Master Developer is a Delaware corporation that is wholly owned by Aemetis, Inc., a Delaware corporation with headquarters located at 20400 Stevens Creek Blvd., Suite #700, Cupertino, CA 95014.

15.2.3 Execution, Delivery, and Performance. The Master Developer has the full right, power, and authority to acquire its interests in the Property as provided in this Agreement and to carry out the Master Developer's obligations hereunder, and all requisite action necessary to authorize the Master Developer to enter into this Agreement and to carry out its obligations hereunder have been taken. This Agreement has been duly executed and delivered by the Master Developer and constitutes the legal, valid, and binding obligation of the Master Developer, enforceable against the Master Developer in accordance with its terms. The Person signing this Agreement on behalf of the Master Developer is authorized to do so.

15.2.4 No Consents. No consent or authorization of, or filing with, any Person (including any Governmental Authority), which has not been obtained or will not be obtained, is required in connection with the execution, delivery, and performance of this Agreement by the Master Developer.

15.2.5 No Violation. The execution, delivery, and performance of this Agreement by the Master Developer and the transactions contemplated hereby and the performance by the Master Developer of its obligations hereunder do not violate any of the terms, conditions, or provisions of (i) the Master Developer's organizational documents, (ii) any judgment, order, injunction, decree, regulation or ruling of any court or other Governmental Authority, or Law to which the Master Developer is subject, or (iii) any agreement or contract to which the Master Developer is a party or to which it is subject.

15.2.6 No Brokers. The Master Developer has not dealt with any agent or broker in connection with the transfer of interests in the Property to the Master Developer as provided herein.

15.2.7 No Litigation. There is no litigation, arbitration, administrative proceeding, or other similar proceeding pending or threatened in writing against the Master Developer which, if decided adversely to the Master Developer, (i) would impair the Master Developer's ability to enter into and perform its obligations under this Agreement, or (ii) would materially adversely affect the financial condition or operations of the Master Developer.

15.2.8 No Speculation. The Master Developer is entering into this Agreement and will enter into the Ground Lease for the purposes contemplated therein and not with the view of speculating in land holding or transferring its interest in the Ground Lease except as permitted thereunder.

15.2.9 No Bankruptcy. Neither the Master Developer nor any of its Members is the subject debtor under any federal, state, or local bankruptcy or insolvency proceeding, or any other proceeding for dissolution, liquidation, or winding up of its assets.

15.2.10 Financial Statements. The financial statements of the Master Developer submitted to the City are complete and accurate as of the dates thereof. There has been no material adverse change in the financial condition of the Master Developer since the date of such financial statements.

15.2.11 Anti-Money Laundering; Anti-Terrorism.

15.2.11.1 The Master Developer has not, and to the Master Developer's knowledge, no Master Developer Party has engaged in any dealings or transactions (i) in contravention of the applicable anti-money laundering laws, regulations, or orders, including without limitation, money laundering prohibitions, if any, set forth in the Bank Secrecy Act (12 U.S.C. Sections 1818(s), 1829(b) and 1951-1959 and 31 U.S.C. Sections 5311-5330), the USA Patriot Act of 2001, Pub. L. No. 107-56, and the sanction regulations promulgated pursuant thereto by U.S. Treasury Department Office of Foreign Assets Control (collectively, together with regulations promulgated with respect thereto, the "**Anti-Money Laundering Acts**"), (ii) in contravention of Executive Order No. 13224 dated September 24, 2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time to time ("**Anti-Terrorism Order**"), (iii) in contravention of the provisions set forth in 31 C.F.R. Part 103, the Trading with the Enemy Act, 50 U.S.C. Appx. Section 1 et seq. or the International Emergency Economics Powers Act, 50 U.S.C. Section 1701 et seq. (together with the Anti-Money Laundering Acts, the "**Terrorist Acts**"), or (iv) is named in the Annex to the Anti-Terrorism Order or any terrorist list published and maintained by the Federal Bureau of Investigation and/or the U.S. Department of Homeland Security, as may exist from time to time.

15.2.11.2 To the Master Developer's knowledge, neither the Master Developer nor any other Master Developer Party (a) is conducting any business or engaging in any transaction with any Person appearing on the list maintained by the U.S. Treasury Department's Office of Foreign Assets Control located at 31 C.F.R., Chapter V, Appendix A, or is named in the Annex to the Anti-Terrorism Order or any terrorist list published and maintained by the Federal Bureau of Investigation and/or the U.S. Department of Homeland Security, as may exist from time to time, or (b) is a Person described in Section 1 of the Anti-Terrorism Order (a "**Restricted Person**").

ARTICLE 16
NOTICES

To be effective, any notice to be given under this Agreement (a "**Notice**") shall be in writing and delivered by email, certified mail, postage pre-paid, or by hand or by private, reputable overnight commercial courier service, to the City at the following addresses:

To:	Riverbank Local Redevelopment Authority 5300 Claus Road Modesto, California 95357 Attention: Executive Director
With a copy to:	City of Riverbank 6707 3rd Street Riverbank, California ~~95357~~ 95367 Attention: City Manager
With a copy to:	White Brenner LLP 1414 K Street, 3rd Floor Sacramento, CA 95814 Attention: Tom Hallinan, Esq.
With a copy to:	Kutak Rock LLP 1625 Eye Street, N.W. Suite 800 Washington, D.C. 20006 Attention: George Schlossberg, Esq.

Any Notices to be given under this Agreement to the Master Developer shall be in writing and delivered by certified mail, postage pre-paid, or by hand or by private, reputable overnight commercial courier service, to the Master Developer at the following addresses:

To:	Aemetis Properties Riverbank, Inc. 20400 Stevens Creek Blvd., Suite 700 Cupertino, CA 95014 Attention: Todd Waltz, Chief Financial Officer
With a copy to:	Aemetis Properties Riverbank, Inc. 20400 Stevens Creek Blvd., Suite 700 Cupertino, CA 95014 Attention: President

Either Party may change the recipients or addresses to which notice shall be given by written Notice to the other Party. Notices which shall be served in the manner aforesaid shall be deemed to have been received for all purposes hereunder at the time such notice shall have been: (i) if hand delivered to a party against receipted copy, when the copy of the notice is receipted; (ii) if given by nationally recognized overnight delivery service, on the date of actual delivery; (iii) if given by certified mail, return receipt requested, postage prepaid, on the date of actual delivery or refusal thereof, or (iv) if by email, when sent. If notice is tendered under the terms of this Agreement and is refused by the intended recipient of the notice, the notice shall nonetheless be considered to have been received and shall be effective as of the date provided in this Agreement.

ARTICLE 17
MISCELLANEOUS

17.1 Information as to Members; Maintenance Books and Accounts.

17.1.1 The Master Developer shall, at such time or times as the City may reasonably request, furnish the City with a complete statement, certified by the executive officer, manager, managing member or general partner of the Master Developer as being true, accurate and complete, setting forth all of the stockholders, members, or partners in the Master Developer and the extent of their respective holdings, and in the event any other parties have a beneficial interest in such stock or interests, their names and the extent of such interest, all as determined or indicated by the records of the Master Developer by specific inquiry made by such officer, manager, managing member, or managing partner of all parties who on the basis of such records own any stock or other interest in the Master Developer or by such other knowledge or information as such officer, manager, managing member, or managing partner shall have.

17.1.2 The Master Developer shall keep books and accounts of its operations and transactions relating to the Project separate and distinct from any other property or business enterprise owned or operated by the Master Developer (or any Member or Affiliate).

17.2 City Obligations

17.2.1 Consent to Lease/EDC Revisions. The City will not revise its Master Lease or EDC without the Master Developer's consent, which will not be unreasonably withheld.

17.2.2 Lease Extensions. The City will exercise its best efforts to obtain such lease extensions or additional leases to the Property from the Army to ensure that it always has a leasehold interest in the Property until the Army conveys title to the City pursuant to the EDC.

17.2.3 Information. City will keep the Master Developer informed of all communications related to the Property and or the activities contemplated by this Agreement, including by providing copies of documents sent and received related to the Property, invitations to meetings (in person or otherwise) related to the Property, and copies of all environmental documents prepared or received related to the Property.

17.3 Estoppel Certificates. The Parties shall, from time to time, within twenty (20) Business Days of request in writing of the other Party, without additional consideration, execute and deliver an estoppel certificate consisting of statements, if true (and if not true, setting forth the true state of facts as the Party delivering the estoppel certificate views them), that (i) this Agreement is in full force and effect; (ii) this Agreement has not been modified or amended (or if it has, a list of the amendments); (iii) to such Party's knowledge, the Party requesting the estoppel certificate is not then in default under this Agreement; (iv) to such Party's knowledge, the Party requesting the estoppel certificate has fully performed all of its respective obligations hereunder (or, if it has not, identifying any such failures to perform); and (v) such other statements as reasonably may be required by any Party or, as to the Master Developer, any other appropriate party such as its partners, lenders, or investors providing funding for the Project.

17.4 No Persons Other Than Parties Individually Liable. No Person other than the Parties to this Agreement, and the permitted assignees of such Parties, shall have any liability or obligation under this Agreement. Without limiting the generality of the foregoing, (i) the Master Developer agrees that no employee, official, consultant, contractor, agent or attorney engaged by the City in connection with this Agreement or the transactions contemplated by this Agreement shall have any liability or obligation to the Master Developer under this Agreement and (ii) the City agrees that no Member, other equity holder, employee, consultant, contractor, agent or attorney engaged by the Master Developer in connection with this Agreement or the transactions contemplated by this Agreement shall have any liability or obligation to the City under this Agreement. Nothing in this Section 17.4 shall be deemed to preclude the liability of any Person to any Person to which it owes a duty for such Person's own fraudulent acts or for violations of the Laws prohibiting the making of false claims.

17.5 Titles of Articles and Sections. Titles and captions of the several parts, articles and sections of this Agreement are inserted for convenient reference only and shall be disregarded in construing or interpreting Agreement provisions.

17.6 Singular and Plural Usage. Whenever the sense of this Agreement so requires, the use herein of the singular number shall be deemed to include the plural, and the use of the plural shall be deemed to include the singular.

17.7 Applicable Law; Jurisdiction. This Agreement shall be construed in accordance with and governed by the laws of the State of California, without reference to the conflicts of laws provisions thereof. Any suit, action, proceeding or claim relating to this Agreement or the transactions contemplated by this Agreement shall be brought exclusively in the United States District Court for the State of California, or the Superior Court for the State of California, and the City and the Master Developer agree that such courts are the most convenient forum for resolution of any such action and further agree to submit the jurisdiction of such courts and waive any right to object to venue in such courts.

17.8 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements and understandings related to the subject matter hereof. All Exhibits hereto are incorporated herein by reference regardless of whether so stated.

17.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument.

17.10 Time of Performance. All dates for performance (including cure) shall expire at 5:00 p.m. (Pacific Time) on the performance or cure date. A performance date which falls on a day that is not a Business Day is automatically extended to the next Business Day.

17.11 Successors and Assigns. This Agreement shall be binding upon and, subject to the provisions of Article 14, shall inure to the benefit of, the successors and assigns of the City and the Master Developer and where the term "Master Developer" or "City" is used in this Agreement, it shall mean and include their respective permitted successors and assigns.

17.12 Third Party Beneficiary. No Person shall be a third-party beneficiary of this Agreement.

17.13 WAIVER OF JURY TRIAL. ALL SIGNATORIES HERETO HEREBY, AND ALL PERSONS ACCEPTING AN INTEREST IN THE PROJECT THEREBY, WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

17.14 Further Assurances. Each Party agrees to execute and deliver to the other Party such additional documents and instruments as the other Party reasonably may request in order to fully carry out the purposes and intent of this Agreement.

17.15 Modifications and Amendments. None of the terms or provisions of this Agreement may be changed, waived, modified, or terminated except by an instrument in writing executed by the Party or Parties against which enforcement of the change, waiver, modification, or termination is asserted. None of the terms or provisions of this Agreement shall be deemed to have been abrogated or waived by reason of any failure or refusal to enforce the same.

17.16 Anti-Deficiency. The Master Developer acknowledges that the City cannot enter into any financial obligations under this Agreement without the lawful availability of funds and absent compliance with all other applicable State laws. The Master Developer acknowledges and agrees that the obligation of the City to fulfill financial obligations of any kind pursuant to any and all provisions of this Agreement relating to any public funds, or any subsequent agreement entered into pursuant to this Agreement or referenced herein relating to any public funds are and will remain subject to the provisions of the State's Anti-Deficiency Act, as the foregoing statutes may be amended from time to time. Any provision herein contained that violates the State's Anti-Deficiency Acts may be waived, at the City's sole discretion, to the extent such waiver is permissible under law.

17.16.1 Notwithstanding the foregoing, no officer, employee, director, member, or other natural person or agent of the City shall have any personal liability in connection with the breach of this Agreement.

17.16.2 This Agreement shall not constitute an indebtedness of the City nor shall it constitute an obligation for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

17.17 Submission of Agreement. The submission by either Party to the other of this Agreement in unsigned form shall be deemed to be a submission solely for the other Party's consideration and not for acceptance and execution. Such submission shall have no binding force and effect, shall not constitute an option, and shall not confer any rights upon the recipient or impose any obligations upon the submitting Party, irrespective of any reliance thereon, change of position or partial performance.

17.18 Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provisions shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement, unless this construction would constitute a substantial deviation from the general intent of the Parties as reflected in this Agreement. Furthermore, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid, and enforceable.

17.19 Time of the Essence. Time is of the essence with respect to all matters set forth in this Agreement. For all deadlines set forth in this Agreement, the standard of performance of the party required to meet such deadlines shall be strict adherence and not reasonable adherence.

17.20 No Partnership. Nothing contained herein shall be deemed or construed by the parties hereto or any third party as creating the relationship of principal and agent or of partnership or of joint venture between the Master Developer and the City, it being understood and agreed that neither the method of computation of any participation nor any other provision contained herein, nor any acts of the parties hereto shall be deemed to create any such relationship.

17.21 Interest. In the event a Party fails to timely pay to or reimburse the other Party any amounts due pursuant to this Agreement, or a Party advances any amounts to pay or satisfy any obligations of the other Party under this Agreement (including, without limitation in curing any default of the other Party), such amounts shall accrue interest at the rate of eleven percent (11%) per annum (or the highest rate permitted by law, if less), from the date such amount was due to or expended until paid or reimbursed by the other Party.

17.22 Releases.

17.22.1 Release of City. As additional consideration for the City's entry into this Agreement, the Master Developer does hereby release and forever discharge the City and its respective agents, servants, employees, directors, officers, attorneys, parents, Affiliates, subsidiaries, successors, and assigns and all persons, firms, corporations, and organizations, if any, acting on their behalf (collectively, the "**City Released Parties**"), of and from all damage, loss, claims, demands, liabilities, obligations, actions, and causes of action whatsoever which the Master Developer may now have or claim to have against the City Released Parties as of the Effective Date, whether presently known or unknown, of every nature and extent whatsoever on account of or in any way touching, relating to, concerning, arising out of or founded upon the City's treatment of the Master Developer's RFP Response, the Property, the Existing Tenants, any documents executed in connection therewith (including any term sheets, business terms, letters of intent or memoranda of understanding) or any hearings held, notices given, representations made or deemed made, or decisions made in connection therewith, of any kind heretofore sustained, or that may arise as a consequence of the dealings between the parties up to and including the Effective Date. The agreement and covenant on the part of the Master Developer under this Section 17.22.1 is contractual and not a mere recital.

17.22.2 Release of the Master Developer. As additional consideration for the Master Developer's entry into this Agreement, the City does hereby release and forever discharge the Master Developer and its respective agents, servants, employees, directors, officers, attorneys, parents, Affiliates, subsidiaries, successors, and assigns and all persons, firms, corporations, and organizations, if any, acting on their behalf (collectively, the "**Master Developer Released Parties**"), of and from all damage, loss, claims, demands, liabilities, obligations, actions, and causes of action whatsoever which the City may now have or claim to have against the Master Developer Released Parties as of the Effective Date, whether presently known or unknown, of every nature and extent whatsoever on account of or in any way touching, relating to, concerning, arising out of or founded upon the City's treatment of the Master Developer's RFP Response, the Property, the Existing Tenants, any documents executed in connection therewith (including any term sheets, business terms, letters of intent or memoranda of understanding) or any hearings held, notices given, representations made or deemed made, or decisions made in connection therewith, of any kind heretofore sustained, or that may arise as a consequence of the dealings between the parties up to and including the Effective Date. The agreement and covenant on the part of the City under this Section 17.22.2 is contractual and not a mere recital.

17.23 No Construction Against Drafter. This Agreement has been negotiated and prepared by the City and the Master Developer and their respective attorneys and, should any provision of this Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one party.

17.24 City Liability. Any review, analysis, examination, investigation or approval or consent by the City pursuant to the terms of this Agreement or otherwise in connection with the Project or the Property is solely for the benefit of the City and shall not be relied upon or construed by the Master Developer or any other Person as acceptance by the City of any responsibility or liability therefor as to completeness or sufficiency thereof for any particular purpose or compliance with any Laws or other governmental requirements. In furtherance of the foregoing, the grant of consent or approval by the City under this Agreement shall be intended solely to satisfy the City's rights under this Agreement and for no other purposes and shall not be binding upon any particular the City or other Governmental Authority having jurisdiction over any aspect of the Project, the Property or any portion thereof.

17.25 Limited Recourse to the Parties. Subject to the additional limitations set forth in this Agreement, any damages and claims against the City or the Master Developer shall be limited to the value of their respective interests in the Property.

17.26 Confidentiality. The following provisions are applicable to requests filed under the California Public Records Act and the regulations promulgated thereunder ("**CA FOIA**") or any similar Law for information regarding this Agreement or any communications, documents, agreements, information, or records with respect to this Agreement:

17.26.1 Non-Disclosure. Communications, documents, agreements, information, and records that qualify as "**Confidential Information**" under CA FOIA or other Law provided to the City by the Master Developer under or pursuant to this Agreement shall be maintained by the City as confidential, and the City shall not disclose such information to any Persons other than the appropriate attorneys, accountants, underwriters, financial advisors, construction consultants, bond insurers, rating agencies, auditors and employees of the City.

17.26.2 Acknowledgment; Requests for Disclosure. As required by the terms of this Agreement, the Master Developer shall provide to the City certain documentation and information. The City acknowledges that such documentation and information is generally held by the Master Developer in strict confidence, and is not of the kind that would customarily be released to the general public by the Master Developer because the disclosure thereof would cause substantial harm to the competitive position of the Master Developer. The City further acknowledges and agrees that the Master Developer will be considered as "submitter" of such documentation and information for purposes of the CA FOIA. Accordingly, if a Person files a request under the CA FOIA or any similar Law for any such documentation or information (solely for purposes of this Section, a "**Request**"), the City shall promptly, and in any event not more than five (5) days following the receipt of the Request, notify the Master Developer of the Request and allow the Master Developer five (5) Business Days (and, in any event, prior to the disclosure of any documentation or information ("**Requested Information**") that would be disclosed pursuant to the Request) within which to object to the City, and any other relevant judicial or administrative body, to the disclosure of any of the Requested Information. If, following receipt of the Master Developer's objection to the release of the Requested Information, or not less than ten (10) days following receipt of the Request, the City reasonably determines that the Requested Information is exempt from disclosure pursuant to the CA FOIA or other Law, the City shall promptly, and in any event, within the time limits mandated under the CA FOIA, assert such exemption from disclosure and decline to provide such information. If, following receipt of the Master Developer's objection to the release of the Requested Information, or not less than ten (10) days following receipt of the Request, the City reasonably determines that the information sought by the Request is not exempt from disclosure pursuant to the CA FOIA or other Law, the City shall promptly notify the Master Developer of such determination, and shall refrain from making such disclosure for not less than five (5) days following notice to the Master Developer in order to afford the Master Developer an opportunity to seek an injunction or other appropriate remedy if the Master Developer believes that the City's determination is erroneous. The term "days" as used in this Section, shall be determined in the manner provided in the CA FOIA.

17.26.3 Notice. The Master Developer shall endeavor to clearly mark each page of all documents which the Master Developer wishes to designate as Confidential

Information "Confidential Trade Secret Information, Contact the Master Developer Before Any Disclosure" and shall also include a reference to this Agreement; provided, however, that the Master Developer's failure to mark any document shall not foreclose the Master Developer from asserting that a document should be designated as Confidential Information.

17.26.4 Certain Required Disclosures. Nothing in this Agreement shall limit or restrict the City from disclosing, to the extent required by Law, any information, communication, or record to the United States Congress, the Council, the State Inspector General or the State Auditor; provided that the City shall use all reasonable measures to prevent further dissemination of such information to the extent such information is Confidential Information.

17.27 Generally Applicable State Law. The Master Developer acknowledges that (i) nothing set forth in this Agreement exempts the Project or any portion thereof from generally applicable laws and regulations in effect from time to time in the State or the City, (ii) execution of this agreement by the City is not binding upon, and does not affect the jurisdiction of or the exercise of police or regulatory power by, State or City agencies, including, without limitation, independent agencies of the State or City (including, without limitation, the City's Planning Division, in the lawful exercise of their authority and (iii) no approval provided by the City as a contract party to this Agreement shall in any way bind or be considered to be an approval by any the City agency acting in its capacity as a Governmental Authority (and not as a contract party to this Agreement), including, without limitation, independent agencies of the State or the City, such as the City's Planning Division. The Master Developer acknowledges and agrees that any unauthorized act by the City may be void.

17.28 Agreement Use. The City shall not be responsible for reimbursing or otherwise paying or repaying any costs, fees, or expenses incurred by or on behalf of the Master Developer or any other person or entity associated therewith prior to or during the term of this Agreement. The Master Developer shall not be responsible for reimbursing or otherwise paying or repaying any costs, fees or expenses incurred by or on behalf of the City prior to or during the term of this Agreement. Other than as set forth herein, no obligation or liability with respect to any future agreements described herein will exist, nor will any representations be deemed made, nor any reliance on any communications regarding the subject matter hereof be reasonable or justified. It is expressly agreed by the Master Developer that the City is under no obligation to reimburse the Master Developer or its consultants, sub-contractors or successors for any cost, expense, or efforts incurred.

17.29 Laws. Any reference to a specific Law in this Agreement shall mean such Law as it may be amended, supplemented or replaced, except as the context otherwise may require.

17.30 Subdivision. The Parties acknowledge that many of the parcels identified in this Agreement have not yet been subdivided or created within the applicable Land Records, and the Parties intend to comply with all applicable State, County, and local rules in conjunction with all agreements and deeds affecting the applicable parcels.

17.31 **No Tax Exemption**. In no event shall the Master Developer, or any of its employees, contractors, subcontractors, agents, servants, beneficial owners, or any Member, partner, or principal of any beneficial owner of the Master Developer assert for its own benefit, or attempt to assert, an exemption (including from sales taxes) or immunity available to the City, if any, under any government requirements or Law on the basis of the City's involvement in the transactions contemplated by this Agreement.

17.32 **Form of Payments**. All payments due hereunder shall be paid in lawful money of the United States of America.

17.33 **City Force Majeure**. The City shall not be in default under this Agreement if the performance of any obligation, duty, or act under this Agreement is delayed or prevented by or due to one or more event(s) caused by City Force Majeure.

17.34 **Change in Prohibited Person Status**. The Master Developer shall immediately notify the City in the event that the Master Developer or one of its Affiliates becomes or is reasonably likely to become a Prohibited Person.

17.35 **Exhibits**. This Agreement includes the following Exhibits:

Exhibit A	September 11, 2017, Economic Development Conveyance Agreement Between Army and City
Exhibit B	Map and Descriptions of RBAAP Parcels
Exhibit C	April 1, 2021, Interim Lease Between Army and City
Exhibit D	List of Existing Tenants
Exhibit E	Guaranty
Exhibit F	Assignment and Assumption of Existing Contracts
Exhibit G	Assignment and Assumption of Existing Leases
Exhibit H	Community Engagement and Outreach Plan
Exhibit I	Environmental Reports [*Intentionally Omitted*]
Exhibit J	Form of Memorandum of Agreement
Exhibit K	Master Development Plan
Exhibit L	Form of Grant Deed from the City to the Master Developer
Exhibit M	Fee Conveyance Escrow Agreement
Exhibit N	Plant Site Lease Area

IN TESTIMONY WHEREOF, the City and the Master Developer have caused this Agreement to be signed on their behalf as of the Effective Date.

CITY:

CITY OF RIVERBANK, CALIFORNIA

By: ____________________

Print Name: Richard D. O'Brien

Title: Mayor / Chair of Riverbank LRA

MASTER DEVELOPER:

AEMETIS PROPERTIES RIVERBANK, INC., a Delaware corporation

By: ____________________

Print Name: Eric McAfee

Title: CEO

ATTEST:

By: ____________________

Print Name: Annabelle H. Aguilar

Title: City Clerk / Riverbank LRA Secretary

APPROVED AS TO FORM:

By: ____________________

Print Name: Joshua Varinsky

Title: City Attorney