

CITY COUNCIL / LRA BOARD

Mayor/Chair

Richard D. O'Brien

Council/Authority Members

District 1 - Luis Uribe

District 2 - Rachel Hernandez

District 3 - Leanne Jones Cruz

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



TUESDAY, MARCH 14, 2023 – 6:00 P.M.

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

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)- 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.

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 City Council and Local Redevelopment Authority Board Minutes for:

9.2A - February 14, 2023

9.2B - February 28, 2023

Item 9.3 **Adopt a Resolution** to Award Bid for the Castleberg Park Trail Project to Consolidated Engineering Inc., Authorize Execution of Future Change Orders, and Authorizing a Budget Amendment for an Additional \$102,688 from Fund 156 – Assessment District Fund.

Item 9.4 **A Resolution** Authorizing the Execution of a Performance Agreement between the City of Riverbank and SMA Entertainment for the Coordination of the 2023 Cheese & Wine Festival.

Item 9.5 **A Resolution** Authorizing the Mayor to Execute a Lease with SMA Entertainment for the Area Associated with the Riverbank Cheese and Wine Festival.

Item 9.6 **A Resolution** to Approve a Subdivision Improvement Agreement for Ward Villas with Ammo Plant Management, Inc. and Authorizing the City Manager to Execute the Agreement.

Item 9.7 **A Resolution** to approve the Final Map 03-2021 Ward Villas – APN: 132-036-003.

10. PUBLIC HEARING – No Items Scheduled

11. NEW BUSINESS

Item 11.1 **A Resolution to Nominate a Councilmember from a “Large” City within Stanislaus County that has applied to serve on the San Joaquin Valley Air Pollution District Governing Board, or reject all candidates-** It is recommended that the City council by roll call vote; 1) Consider adoption of the resolution to nominate candidate Councilmember David Wright, City of Modesto, or Councilmember Rosa Escutia-Braaton, City of Modesto to fill the vacant seat on the District Governing Board; or 2) Reject both candidates.

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- No items Scheduled.

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.

14. ADJOURNMENT

- The next regular City Council meeting will be on March 28th, 2023 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 City Hall public exterior bulletin board, South City Hall public exterior Bulletin, Riverbank Community Center exterior bulletin, and the City's website 72 hours prior to the meeting in accordance to the California Ralph M. Brown Act.
Posted this 9th Day of March, 2023

/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.



TELECONFERENCE/VIRTUAL PLATFORM PUBLIC PARTICIPATION COMMENT PROCEDURES FOR 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 – City of Riverbank
- 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 public if anyone wishes to comment, at that time you may approach the podium.
- **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/89374006966>

- Join by accessing website: <https://zoom.us/join>, enter **Webinar ID: 893 7400 6966**
- Join by telephone: **1 669 444 9171 OR 1 669 900 9128, plus Webinar ID: 893 7400 6966**

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

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.1

SECTION 9: CONSENT CALENDAR

Meeting Date:	March 14, 2023
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 REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.2

SECTION 9: CONSENT CALENDAR

Meeting Date:	March 14, 2023
Subject:	Approval of the City Council and Local Redevelopment Authority Board Minutes for: <u>9.2A</u> – February 14, 2023 <u>9.2B</u> – February 28, 2023
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 as presented.

SUMMARY

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

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENTS

1. The February 14, 2023 City Council and Local Redevelopment Authority Board Minutes.
2. The February 28, 2023 City Council and Local Redevelopment Authority Board Minutes.

CITY COUNCIL / LRA BOARD

Mayor/Chair
Richard D. O'Brien
Vice Mayor/ Chair (CM-D2) Rachel Hernandez
Council/Authority Members:
District 1 -Luis Uribe
District 3- Leanne Jones Cruz
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



MINUTES

TUESDAY, FEBRUARY 14, 2023 – 6:00 P.M.

(THE AGENDA PACKET IS ONLINE AT [HTTP://WWW.RIVERBANK.ORG/AGENDACENTER](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** – A Roll Call of councilmembers was done by the City Clerk.

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 3 Leanne Jones Cruz
Council Member / Authority Member District 4 Darlene Barber-Martinez
Vice Mayor / Vice Chair (CM-D2) Rachel Hernandez
Mayor / Chair Richard D. O'Brien

5. AGENDA CHANGES

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.

Councilmember Barber-Martinez conflict of interest on Item 11.2

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 Opened Public Comment at 6:03 P.M.

Floyd Koebel, Modesto Resident, spoke in opposition of the River Walk Project

There being no further public comments, Mayor O'Brien closed the Public Comment period at 6:04 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 January 24, 2023 City Council and Local Redevelopment Authority Board Minutes.

Item 9.3 **A Resolution 2023-009** Adopting by Reference Fair Political Practices Commission Title 2, Division 6, California Code Sections 18730 and 18730.1; the 2023 Conflict of Interest Code List of Designated City Positions; and the Related Economic Interest Disclosure Categories.

Item 9.4 **A Resolution 2023-010** Declaring Certain Property Surplus as Listed in Exhibit A and Authorizing its Disposition.

Item 9.5 **A Resolution 2023-011** to Award Bid for the Claus Road Curb & Sidewalk Project to Hensley's Paving & General Engineering Inc. and Authorize Execution of Future Change Orders

Mayor O'Brien Opened Public Comment at 6:05 P.M.

Assistant City Manager, Alcantor (Interim Clerk) stated a correction on item 9.2 the Minutes of January 24th, 2023 need to reflect the vote on Item 12.1, the record should reflect the AYES Votes were, Jones-Cruz, Barber-Martinez, Mayor O'Brien and the NAYS Votes were, Uribe and Hernandez, motioned passed 3/2, not unanimous.

Mayor O'Brien Closed Public Comment at 6:05 P.M.

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

ACTION: By motion moved and seconded (Jones-Cruz / Uribe 5/0) to approve the consent calendar as corrected.

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

10. PUBLIC HEARINGS

No Hearings Scheduled.

11. NEW BUSINESS

Item 11.1 **A Resolution Appropriating funds for the 2022 Cheese & Wine Festival-** It is recommended that the City Council consider the approval of a Resolution to appropriate funds for the 2022 Cheese & Wine Festival.

Parks & Recreation Director Fitzpatrick presented a comprehensive staff report on the need of fund appropriation from the General Fund into the Cheese and Wine account for the deficit incurred from the 2022 Cheese and Wine Festival.

City Council discussed item with City 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) to approve **Resolution 2023-0012** to Appropriating Funds for the 2022 Cheese & Wine Festival from the General Fund into the Cheese and Wine Account.

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

Item 11.2 **2023 Cheese & Wine Festival Options-** It is recommended that the City Council consider the options for the 2023 Cheese & Wine Festival and give staff direction.

Councilmember Barber-Martinez stepped out of the Chambers.

Parks & Recreation Director Fitzpatrick presented a comprehensive staff report and Power Point Presentation on the options City Council could consider for the 2023 Cheese & Wine Festival.

City Council discussed item with City Staff.

Mayor O'Brien opened Public comment at 6:47pm

Riverbank Resident, Arlene Figueroa commented on the sales decrease of Beer and Wine at the last year's festival.

Building & Planning Manager, Donna Kenny commented on potentially purchasing fencing. Not only would it be beneficial for the Cheese and Wine and the Parks & Recreation department, but can also be used for health and safety reason for Code enforcement.

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

ACTION: *Direction was provided to staff.*

Councilmember Barber-Martinez returned to dais.

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 items:

- City Hall Offices will be closed this Monday for President's Day.*
- Job Recruitment for and Administrative Clerk in the Parks & Recreation Department, anyone interested please go to the city website for www.riverbank.org applications also available in our offices. Be on the look out by the end of the week for three other positions opening up in the Public Works Department.*

Item 12.2 Council/Authority Member

Councilmember Jones Cruz reported on the following:

- Attended the California League of California Cities Conference New council members and mayors, attended the required ethics training that is required and also sat in on other workshops that were very valuable.*
- Will be meeting with department heads starting next week, to catch up on new/current projects.*

Councilmember Uribe reported on the following:

- Happy Valentine's day*

Councilmember Barber-Martinez reported on the following:

- Attended and Electronic vehicle event last month and got a chance to drive an EV vehicle, learned a lot about charging stations both in home and charging stations that we are planning to have here in our city.*

- *Attended a homeless summit presented by The Office of Education, youth panel who experienced homeless, and how we can help anyone who finds themselves in that situation.*
- *“People fail to get along because they fear each other; they fear each other because they don’t know each other; they don’t know each other because they have not communicated with each other” -MLK*
- *There are plenty of opportunities to get to know us and meet us, there are plenty of volunteer opportunities with the non-profits, so please get involved.*

Vice Mayor Hernandez reported on the following:

- *City Staff, along with Councilmember Barber-Martinez and myself did the Point in time Count. Every year around the same time, Stanislaus County goes out and does a physical count, on those unsheltered and reports to the state, the numbers are not out yet.*
- *Attended a Stan State economic impact presentation, the numbers are on their website. It gave us a glimpse of the university’s (which is my alma matter) impact qualitatively and quantitatively in the area.*

Item 12.3 Mayor/Chair

Mayor O’Brien reported on the following:

- *For Legal- Downtown absentee ordinance it has been 3 years, if I can have it within 6 weeks.*
- *We are working on a Riverwalk EIR, the sooner that is out the better, so we can move the process one way or the other.*
- *Would like to have an update on our homeless housing situation, I know that we may have some problems with the Sierra House, also how are we doing on procuring housing for the homeless, so that we may not have to hold a PIT Count.*
- *Cal Trans Director went along with a ride on the needs that we have here in our community and has given guidance on how we can get certain projects moving. He understands that we are not a one size fits all, we are not San Francisco or Los Angeles.*
- *He is going to be working on one of our most notable projects the North County Corridor.*

13. CLOSED SESSION

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

Item 13.1 **CONFERENCE WITH LEGAL COUNSEL- POTENTIAL LITIGATION**
(Pursuant to Government Code § 54956.9)
Number of Cases: 1 Potential Case

Item 13.2 **LIABILITY CLAIMS**
(Pursuant to Government Code § 54961)
Claimant: Henry S. (Mic) Meeks, Advanced Materials and Manufacturing Technologies, LLC
Agency Claimed Against: City of Riverbank

There being No Public Comment, Mayor O'Brien adjourned to Closed Session at 7:00 P.M.

Reconvened from Closed Session at 7:11 P.M.

14. REPORT FROM CLOSED SESSION

Item 14.1 Report from Closed Session **Item 13.1**
CONFERENCE WITH LEGAL COUNSEL- POTENTIAL LITIGATION
(Pursuant to Government Code § 54956.9)
Number of Cases: 1 Potential Case

ACTION: *Direction has been provided to staff.*

Item 14.2 Report from Closed Session **Item 13.2**
LIABILITY CLAIMS
(Pursuant to Government Code § 54961)
Claimant: Henry S. (Mic) Meeks, Advanced Materials and Manufacturing Technologies, LLC
Agency Claimed Against: City of Riverbank

ACTION: *Claim was denied by a vote of 5 to 0*

15. ADJOURNMENT OF THE REGULAR MEETING

There being no further business, Mayor / Chair O'Brien adjourned the regular meeting at 7:12 P.M. to the next regular scheduled City Council / LRA Meeting of February 28, 2023 at 6:00 p.m.

ATTEST: (Adopted 3/14/2023)

APPROVED:

Gabriela Hernandez
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor/ Chair

CITY COUNCIL / LRA BOARD

Mayor/Chair
Richard D. O'Brien
Vice Mayor/ Chair (CM-D2) Rachel Hernandez
Council/Authority Members:
District 1 -Luis Uribe
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CITY OF RIVERBANK

**Regular City Council and
Local Redevelopment Authority
Board Meetings**

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



MINUTES

TUESDAY, FEBRUARY 28, 2023 – 6:00 P.M.

(THE AGENDA PACKET IS ONLINE AT [HTTP://WWW.RIVERBANK.ORG/AGENDACENTER](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** – A Roll Call of councilmembers was done by the City Clerk.

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 3 Leanne Jones Cruz
Council Member / Authority Member District 4 Darlene Barber-Martinez
Vice Mayor / Vice Chair (CM-D2) Rachel Hernandez
Mayor / Chair Richard D. O'Brien

5. AGENDA CHANGES

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.

7. PRESENTATIONS (Informational only)

- Item 7.1** **Presentation – Stanislaus Arts Council- Heartland Creative Corps Grant Program-** It is recommended that the City Council receive a presentation from Austin Romito, Project Manager with Stanislaus Arts Council.

Stanislaus Arts Council, Project Manager, Austin Romito gave a presentation to the City Council and Community regarding Heartland Creative Corps Grant Program.

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 Opened Public Comment at 6:08 P.M.

Residents who spoke regarding concerns with the Bruin Heights Subdivision

Syd Halterman, Riverbank Resident

Jason Shrider, Riverbank Resident

Residents who spoke in opposition of the Riverwalk Project

Jamie Aggers, Modesto Resident

Karen Conrotto, Modesto Resident

Gilbert Rosa, Riverbank Resident spoke regarding his corner lot received a notice that his 5th wheel has to be on a driveway not on a lawn. Would like to see his fence line be moved out, closer to the sidewalk, so that he may put his 5th wheel inside.

There being no further public comments, Mayor O'Brien closed the Public Comment period at 6:21 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.

Mayor O'Brien Opened Public Comment at 6:36 P.M.

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

ACTION: By motion moved and seconded (Uribe / Jones Cruz 5/0) to approve the consent calendar as presented.

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

AYES: Uribe, Hernandez, Jones Cruz, Barber-Martinez, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

10. PUBLIC HEARINGS

*The Public Notice for **Item 10.1** and **LRA Item 10.2** was published on February 15, 2023 in the Riverbank News.*

Item 10.1 **A Resolution Approving the Fiscal Year 2022-23 Mid-Year Budget Amendments-** It is recommended that the City Council consider approval of the Fiscal Year 2022-23 Mid-Year Budget Amendments.

Assistant City Manager/ Finance Director, Alcator presented a comprehensive Staff Report and Power Point Presentation on the Fiscal Year 2022-23 Mid-Year Budget amendments.

City Council discussed item with Staff.

Mayor O'Brien Opened the Public Hearing at 6:33 P.M.

Mayor O'Brien Closed the Public Hearing at 6:34 P.M.

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

ACTION: By motion moved and seconded (Jones Cruz / Uribe 5/0) to approve **Resolution 2023-013** Approving the Fiscal Year 2022-23 Mid-Year Budget Amendments.

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

LRA
Item 10.2 **A Resolution Approving the Local Redevelopment Authority (LRA) Fiscal Year 2022-2023 Mid-Year Budget Amendments-** It is recommended that the Local Redevelopment Authority ("LRA") Board of Directors ("Board") accept and adopt the attached resolution approving mid-year budget adjustments to the Fiscal Year ("FY") 2022/2023 Local Redevelopment Authority Budget.

Administrative Analyst II, Holdaway presented a comprehensive Staff Report and Power Point Presentation on the Local Redevelopment Authority (LRA) Fiscal Year 2022-23 Mid-Year Budget amendments.

LRA Board discussed item with Staff.

Chair O'Brien Opened the Public Hearing at 6:37 P.M.

Chair O'Brien Closed the Public Hearing at 6:38 P.M.

There being no public comments, Chair O'Brien brought the item back to LRA Board.

ACTION: By motion moved and seconded (Uribe/ Barber-Martinez 5/0) to approve **Local Redevelopment Authority Resolution 2023-001** Approving the LRA's Fiscal Year 2022-2023 Mid-Year Budget Amendments.

Motion carried by unanimous LRA Board roll call vote:
AYES: Uribe, Hernandez, Jones Cruz, Barber-Martinez, and Chair O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

11. NEW BUSINESS

- Item 11.1** **A Resolution Approving the Amendments to the Memorandum of Understanding Between the City of Riverbank and Cary Pope (DBA Ammo Plant Management, Inc.) Relating to the Ward Villas Affordable Housing Project-** It is recommended that the City Council consider adopting a Resolution that will amend the existing Memorandum of Understanding between the City and Cary Pope (DBA Ammo Plant Management, Inc.) for the Ward Villas Affordable Housing Project

City Manager, Garcia gave a comprehensive staff report on the Amendments to the Memorandum of Understanding Between the City of Riverbank and Cary Pope (DBA Ammo Plant Management, Inc.) Relating to the Ward Villas Affordable Housing Project.

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 (Jones Cruz / Uribe 5/0) to approve **Resolution 2023-014** amending the existing Memorandum of Understanding between the City and Cary Pope (DBA Ammo Plant Management, Inc.) for the Ward Villas Affordable Housing Project.*

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

12. WORKSHOPS

- Item 12.1** **Yard Regulations Workshop-** It is recommended that City Council listen to the presentation, take public comment, and provide staff direction.

Building and planning Manager Kenney presented a PowerPoint Presentation on the Yard Regulations Workshop regarding current regulations for driveways, paving in yards, water pecculation, fencing, ADA sidewalk ramps, etc.

City Council discussed item with Staff.

Senior Neighborhood Improvement officer, Garcia made clarification on the process which code enforcement follows when issuing and mailing code enforcement violations for the items being discussed.

Mayor O'Brien opened Public Comment at 7:16 P.M.

Reverend Randy Richardson, Riverbank Resident commented on the responsibility on new construction for the builder and seller to share and let the homeowners know of the regulations of Riverbank prior to them moving in and that way the information is in their

hands. Also look into the properties that are grandfathered, may have to be regulated differently.

Gilbert Rosa, Riverbank Resident commented regarding his corner lot property a quarter acre lot purchased six months ago. Paid to get trees taken out and side yard cleaned up, did not want to move into a homeowner's association for this reason, to be able to do what needed to put my RV inside. Bought specifically this home for his Boat and RV, would like just to put gravel, to allow for water percolation on the side of his home. Received a notice for this violation.

Amber Cooper, Riverbank Resident received a violation letter, have been working with Donna and Michele on this issue. Home is on a corner lot, and are trying to fix the ADA Issue, the yard is rocky not paved, so still have the water percolation. The letters are hard to understand, a lot of legal verbiage and codes, I have a deep working background and education, and these violation letters are difficult to make out and understand what is going on with your home and what the violations mean and how to fix them. Would like to see, better communication and better clarification on these letters. It is disheartening to hear that someone is going around taking pictures of homes to turn into the city over and over again, that is very frustrating.

Kevin Cooper, Riverbank Resident moved to Riverbank about thirteen years ago, with a background in construction. Have had and just recently had his work truck broken into. Right now, that truck is parked in front of home, its too big to fit in his driveway, so its not in camera view or inside protected. Spoke to someone at City Hall a few years ago, regarding a permit to rebuild his fence, that person stated he did need or did not need a permit to build that fence. So, he took it as he could build the fence, built a nice fence with a nice gate. It was just till recently that I received a violation letter, because a busy body went around and complained. There are several homes around in crossroads area that have a fenced moved out with paved side and are using the ADA ramp, so since we saw other homes around with it, we assumed we could do it. We do want to comply with the code, and we've been in contact with Donna and Michele, we just want to see if the code can be changed. I think if the fence and the yard look nice, we should really be looking at those who are not taking care of their yards and making our neighborhoods look bad.

Evelyn Halbert, Riverbank Resident are these older homes going to be required and be forced into these new changes, or are we going to be preexisting and not be required to make these changes, when the fences were allowed. Downtown homes, we do not have that public utility easements, I don't know how that would apply to us. Storm Drains, this side of town is not flat, the water does not drain equally, how is this going to apply to us.

DIRECTION: City Staff will work on putting a plan together to receive community/resident input and feedback regarding these workshop topics.

13. COMMENTS/REPORTS

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

Item 13.1 Staff

City Manager Garcia advised the City Council and the public on the following items:

- Parks & Recreation Activity Guides are now available, you can find them online and City Hall Offices. A lot of different programs available.
- Structures/poles at Crossroads there is some movement of electrical lines, if one should happen to fall on the street it does not hit a resident driving by.

Item 13.2 Council/Authority Member

Councilmember Jones Cruz reported on the following:

- It is nice to see the roundabout at crossroads is being repaired.

Councilmember Uribe reported on the following:

- American Veteran's First is having two events:
 - 1) A luncheon on March 31st from 11:00am to 2:00pm at 3500 Coffee Road talking about issues facing the VA System, if interest contact Shirley at (209) 281-5170
 - 2) Save the Date for Nationals Women's Veterans Day on June 9th at the County's Veteran's Center.

Councilmember Barber-Martinez reported on the following:

- Thank you, the City, for the repair of the Roundabout statue at crossroads, to our residents please be careful driving and slow down with this wet weather.
- We are having improved Route 60 bus transportation, it will now provide service to our Community Center, better access to the community pool, teen center, and also it will make a stop at our public library and just more frequent stops. This service will start on March 5th, when you ride from March 5th through March 18th the service will be free for Go Green Weeks. There will also will be a new bus transportation service from Patterson Road in Riverbank to Senior Grove in Modesto, which is something that has been very dear to our hearts with our students that are walking on Roselle to get to Enoch's High School or other schools.

Vice Mayor Hernandez reported on the following:

- Thank you to the residents for coming in and having their comments, the best way to know the next steps will be to follow up on social media, it is the quickest and easiest way and also a good source is our website: www.riverbank.org. Also, our utility newsletter, although it is once every two months, make sure you are opening your utility bill and looking at the newsletter, do not throw it away, or if you have auto pay, please click on that link to the newsletter.
- Interest in forming a Soroptimist Chapter here in Riverbank please contact me if you are interested.
- Working with an intern from Stanislaus State currently in partnership with the Central Valley Hispanic Chamber to hold a small Business Boot Camp for folks that would like to start a business license, it will be only in Spanish we will connect them with resources and possibly funding, that will m be in May. We will keep you al posted.

Item 13.3 Mayor/Chair

Mayor O'Brien reported on the following:

- *Attended the State of the City Address for the City of Modesto and was amazed that they received a Helen Putnam award for a program they purchased that allows as they are holding a meeting its being translated directly into Spanish, I'd like to see if we could piggy back off what they have, and tie into one way or the other. We need to look into everything we write and publish translated into Spanish.*
- *We received a letter from the Commission on the Aging, on nominating an older citizen who we would like to recognize for the month of May (May is Senior Citizen Awareness) who has made contributions, or gave civil or military service. Please think and share who you would like to see recognized. Would like to have each councilmember nominate someone from your district, we can recognize more than one.*
- *We have been asked to solicit from the public for the Civil Grand Jury for this year, if you would like to participate please contact the Administration Department main number 209-863-7122.*
- *It has been a long time coming, to change the Route 60. We do have to talk to StanRTA about the stop at Roselle and Patterson and blocks traffic, because as you are making a right hand turn it does have some blocked vision.*
- *Tomorrow starts Women's History Month, take a look at the history of women, please thank them. Congratulations to all the women who have imparted some history on this great land.*
- *State of the City is on March 9th at 6:30pm at the Community Center, it is an opportunity for the Mayor to highlight all of the great things the city has done this last year.*

14. CLOSED SESSION

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

Item 14.1 **CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation**
Significant Exposure to Litigation, pursuant to Gov. Code § 54956.9(d)
Number of Potential Cases: 1

There being No Public Comment, Mayor O'Brien adjourned to Closed Session at 7:56 P.M.

Reconvened from Closed Session at 8:07 P.M.

15. REPORT FROM CLOSED SESSION

Item 15.1 Report from Closed Session on **Item 13.1**
CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation
Significant Exposure to Litigation, pursuant to Gov. Code § 54956.9(d)
Number of Potential Cases: 1

ACTION: *Direction has been provided to staff.*

16. ADJOURNMENT OF THE REGULAR MEETING

There being no further business, Mayor / Chair O'Brien adjourned the regular meeting at 8:08 P.M. to the next regular scheduled City Council / LRA Meeting of March 14, 2023 at 6:00 p.m.

ATTEST: (Adopted 3/14/2023)

APPROVED:

Gabriela Hernandez
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor/ Chair

DRAFT

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.3

SECTION 9: CONSENT CALENDAR

Meeting Date: March 14, 2023

Subject/ Title: Adopt a Resolution to Award Bid for the Castleberg Park Trail Project to Consolidated Engineering Inc., Authorize Execution of Future Change Orders, and Authorizing a Budget Amendment for an Additional \$102,688 from Fund 156 – Assessment District Fund

From: Marisela H. Garcia, City Manager

Submitted by: Sue Fitzpatrick, Parks and Recreation Director
Kathleen Cleek, Dev. 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, Consolidated Engineering Inc.; and
2. Authorize the City Manager to execute Change Orders within total project budget; and
3. Authorize a budget amendment for an additional \$102,688 from Fund #156 (Assessment District Fund).

SUMMARY

Castleberg Park was developed in the early 1990's, with two baseball fields, basketball courts, spectator seating, concession stand, playground equipment, restroom facilities, covered picnic areas, a walking trail, and a parking lot.

In July 2019, the City joined the Stanislaus County Urban County "Consortium" which will entitle us to receive an annual allocation of Community Development Block Grant (commonly referred to as CDBG) funds. The City of Riverbank will use CDBG funds as set forth in the Annual Action Plan of 2020 and will also use City funds from a former Assessment District established in 1991 for improvements in the Castleburg Park area. These funds are currently allocated in Fund #156. The scope of work includes clearing

and grubbing of lawn around existing pathway, asphalt removal and grading to meet Americans with Disabilities (ADA) slopes, parking and ramps, and a retaining wall and hand rail at ramp areas. The asphalt pathway will be re-constructed of aggregate base rock and asphalt paving. The areas adjacent to the asphalt path will be seeded with grass seed. Minor drainage improvements will include 4-inch drainage pipe and 6-inch drainage inlets. All drainage will be directed towards the existing basin. Minor concrete flat work will be placed at ADA ramps and wheelchair pads.

The purpose of the project is to ensure the residents will have high-quality, safer, cleaner, and easily accessible recreational and sporting venues as well as meet necessary ADA requirements.

The bid opening was held on Thursday, March 2, 2023 to consider the bids for the Castleberg Park Trail Project. The following bids were received:

Consolidated Engineering Inc.	\$225,439.00
Ross F. Carroll, Inc.	\$250,300.00
George Reed, Inc.	\$274,817.00
Harris Development Corp. dba HBC Enterprises	\$284,549.00

Work on the project includes, but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary for asphalt paving, sidewalk, striping, ADA improvements and all other work included on the plans for the above mentioned project. Bids are required for the entire work described herein.

Bids have been reviewed and Consolidated Engineering Inc. has been identified as the lowest responsible bidder for the project.

Staff originally budgeted \$135,000.00 from CDBG and \$45,700 from Fund #156. Preliminary Engineering and NEPA requirements for this project totaled \$30,404.31. The low bid came in higher than anticipated at \$225,439.00 but fortunately the City has funds available in Fund #156 to cover the additional costs plus 10% contingency of \$22,544.00 and \$5,000 for construction testing. A budget amendment is requested from Fund #156 in the amount of an additional \$102,688 to be combined with CDBG Funding to complete the project.

It is also 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 Community Development Block Grant (CDBG) funds - \$135,000.00 and Fund 156 - \$148,388 (\$45,700.00 already budgeted and an additional \$102,688 as a budget amendment being requested).

ATTACHMENT

- 1) Resolution 2023-
- 2) Site Map

CITY OF RIVERBANK

RESOLUTION 2023-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, TO AWARD A CONTRACT FOR THE CASTLEBERG PARK TRAIL PROJECT WITH CONSOLIDATED ENGINEERING INC. IN THE AMOUNT OF \$225,439.00, AND AUTHORIZE THE CITY MANAGER TO EXECUTE SAID CONTRACT AND APPROVE CHANGE ORDERS UP TO THE PROJECT CONTINGENCY FUND OF \$22,544.00, AND AUTHORIZE A BUDGET AMENDMENT OF AN ADDITIONAL \$102,688 IN FUNDING FROM FUND #156 TO BE COMBINED WITH THE CDBG FUNDING TO COMPLETE THE PROJECT

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

WHEREAS, the Castleberg Park Trail Project includes work to construct asphalt paving, sidewalk, striping, ADA improvements; and

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

WHEREAS, on March 2, 2023, the City of Riverbank received four (4) bids and publicly opened and read the bids; and

WHEREAS, the apparent responsive and responsible low bidder is Consolidated Engineering Inc., in the amount of \$225,439.00; and

WHEREAS, staff also recommends that the City Council approve a project contingency of \$22,544.00 for the Project to fund additional work as needed during renovation and construction; and

WHEREAS, staff is requesting a budget amendment of an additional \$102,688 from Fund #156 to be combined with CDBG Funding to complete the project; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves a contract with Consolidated Engineering Inc., in the amount of \$225,439.00; 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 \$22,544.00; and

NOW, THEREFORE BE IT FURTHER RESOLVED that the City Council of the City of Riverbank authorizes a budget amendment of an additional \$102,688 from Fund #156 to be combined with the CDBG Funding to complete the project.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of March, 2023; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

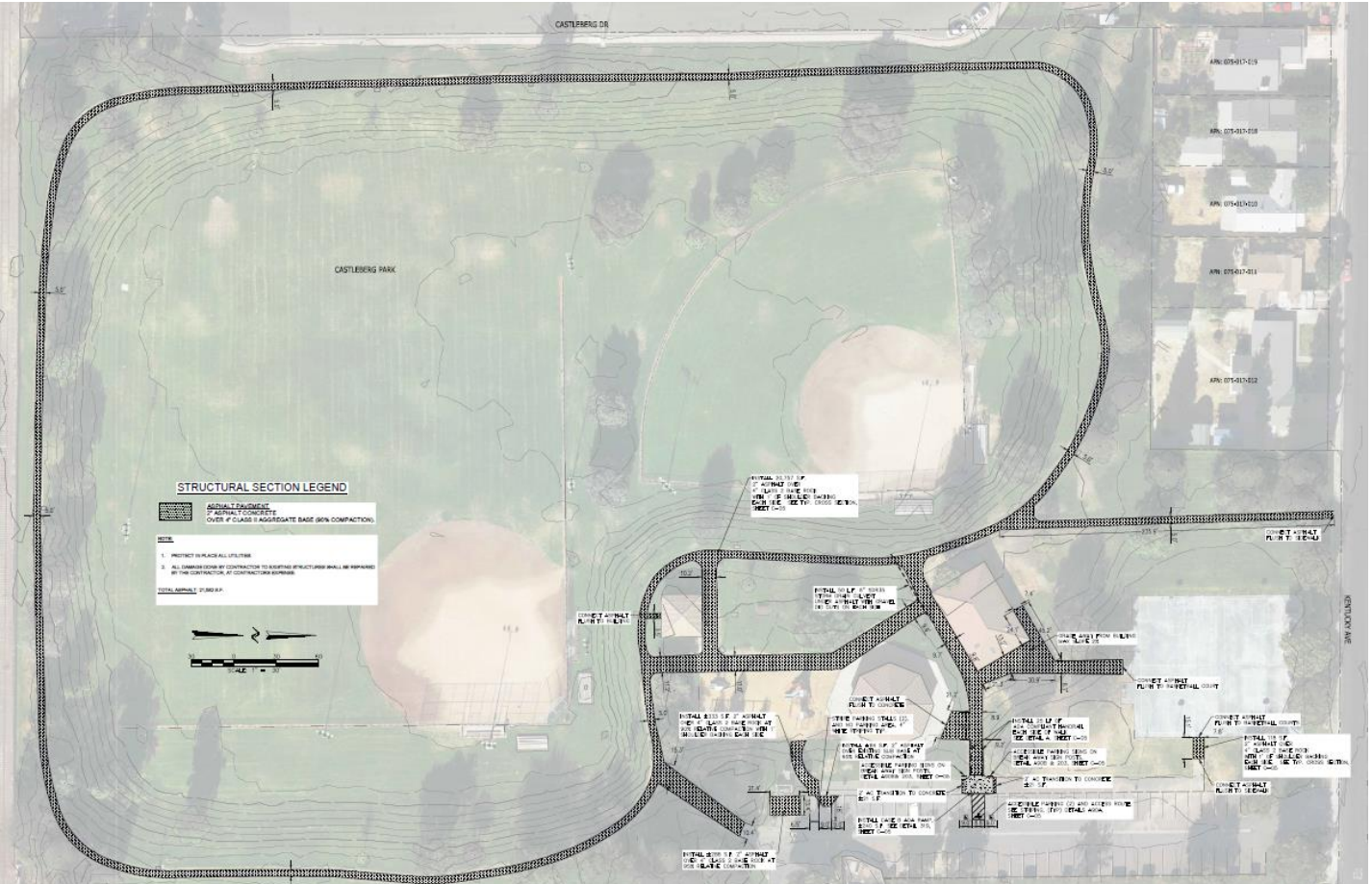
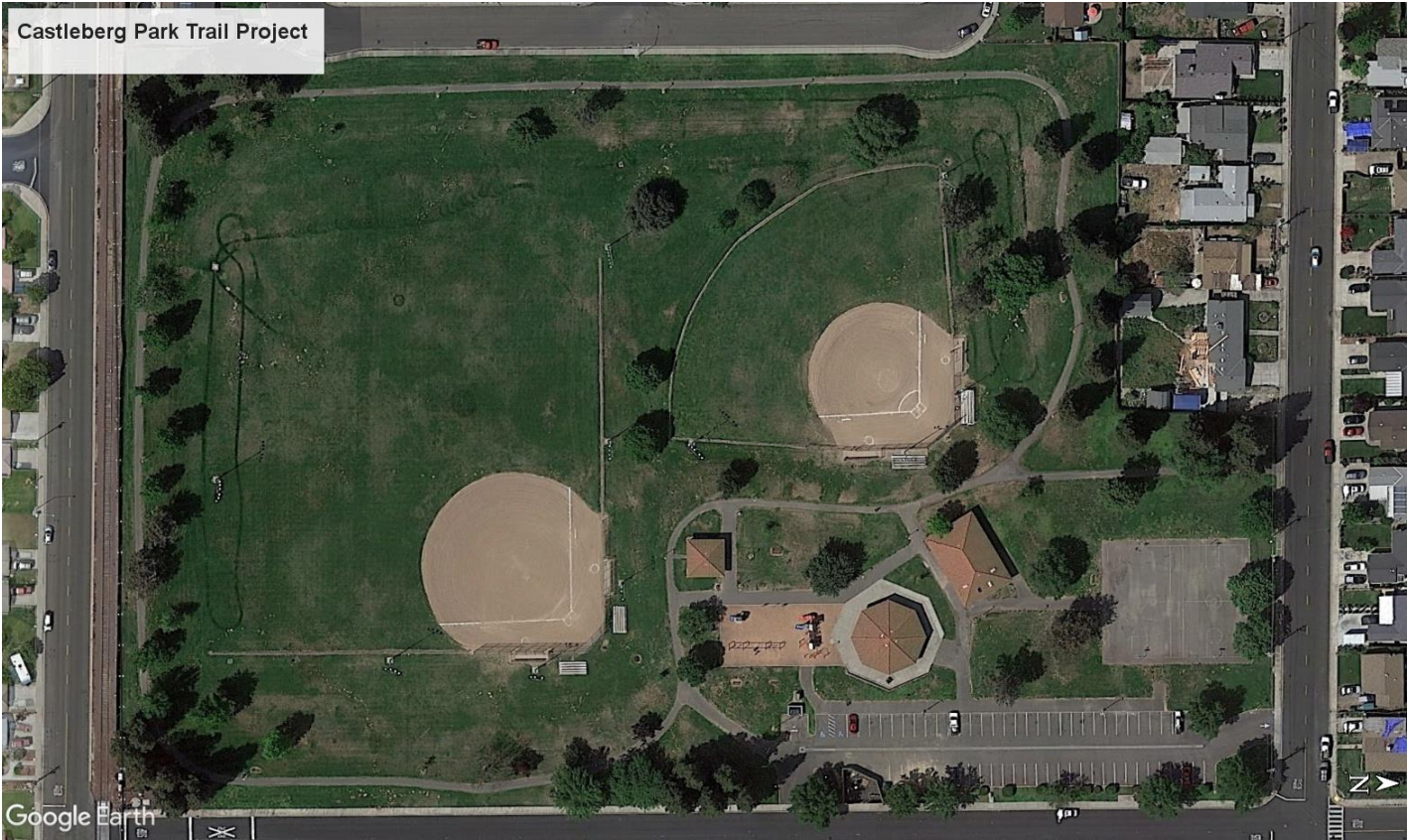
Gabriela Hernandez
City Clerk

Richard D. O'Brien
Mayor

Attachment: Hensley's Paving & general Engineering, Inc. Contract

Site Map

Castleberg Park Trail Project



RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.4

SECTION 9: CONSENT CALENDAR

Meeting Date: March 14, 2023

Subject: A Resolution Authorizing the Execution of a Performance Agreement between the City of Riverbank and SMA Entertainment for the Coordination of the 2023 Cheese & Wine Festival

From: Marisela H. Garcia, City Manager

Submitted by: Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council consider approval of the Resolution Authorizing the Performance Agreement with SMA Entertainment for the Coordination of the 2023 Cheese & Wine Festival.

SUMMARY

On February 14, 2023, the City Council gave staff direction to proceed with the contract that was in the best interest of the City for the coordination of the Cheese & Wine Festival that will occur on October 14th and 15th, 2023.

An updated performance agreement has been drafted for City Council approval to contract with SMA Entertainment

BACKGROUND

The Riverbank Cheese and Wine Festival has been held in Riverbank for the past 45 years. The Festival was administered by the Riverbank Chamber of Commerce for many years until it was sold to the Riverbank Rotary Club. The Rotary Club administered the Festival for eight years and in 2014 made the decision that they were unable to continue the event. The City then purchased the event from the Rotary Club for \$15,000.

The City Parks and Recreation Department contracted with Chris Ricci Presents, Inc. for six years for the coordination of the festival and Simply Devine Events, LLC for the past two years.

As presented to the City Council at the February 14, 2023 City Council meeting, there were a few options for this year's contract. After much consideration and meeting with each potential contractor again, it was determined that the best choice was to work with SMA Entertainment to oversee the entire festival at the cost of \$13,500 and an incentive of receiving 50% of revenue generated after all expenses are paid. The level of enthusiasm and confidence in coordinating this festival displayed by SMA Entertainment was a good portion of the deciding factor. Due to inflation and the overall economy, the plan is to only sub-contract the expertise in the cheese & wine component if deemed necessary as we proceed with the planning.

This year the City Parks and Recreation Department, with City Council approval, will contract with SMA Entertainment and enter into a performance agreement for services, by Resolution for the 2023 year, as attached in **Exhibit A**.

STRATEGIC PLAN

This item is relevant to the City Strategic Plan by ***Enhancing the Quality of Life through Recreation and Community Events***.

FINANCIAL IMPACT

The performance agreement engages SMA Entertainment to provide the 2023 Cheese & Wine Festival event coordination services and establishes that the costs for those services is \$13,500, with the incentive of a 50/50 split of revenue after all expenses are paid.

This Festival has operated without General Fund support for seven of the eight years it has been a city event. The goal is to check financial milestones during the planning stages and downsize the event as needed if those milestones are not met, therefore striving to make this festival self-sustaining.

ATTACHMENT

1. Resolution 2023-
2. Exhibit A: Performance Agreement
3. Exhibit B: Scope of Services

CITY OF RIVERBANK

RESOLUTION 2023-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AUTHORIZING THE EXECUTION OF A
PERFORMANCE AGREEMENT WITH SMA ENTERTAINMENT
FOR THE PLANNING, ORGANIZING AND IMPLEMENTATION OF THE CHEESE
AND WINE FESTIVAL IN THE AMOUNT OF \$13,500 AND A 50/50 SPLIT OF
REVENUE OVER EXPENSES**

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

WHEREAS, the Cheese and Wine Festival ("Festival") has been a tradition in the City of Riverbank ("City") for many years, the City of Riverbank purchased the Festival rights in 2014, establishing it as a safe and enjoyable event; and

WHEREAS, in November, 2022 a Request for Proposal was released for the coordination of the 2023 Cheese & Wine Festival; and

WHEREAS, on February 14, 2023, the City Council directed City staff to award the Festival Coordination to the bidder that would reduce costs and increase the quality of the festival; and

WHEREAS, on March 14, 2023 the City Council accepted the proposal submitted by S&M Entertainment and directed staff to plan for the 2023 Cheese & Wine Festival to be held on October 14th, and 15th, 2023 contracting with SMA Entertainment; and

WHEREAS, the Performance Agreement engages SMA Entertainment, to provide event coordination services and establishes that the costs for those services to be \$13,500 and a 50/50 split of revenue over expenses. These payments will be paid in three installments within the final payment due October 20, 2023. Any excess revenue over expenses will be split no later than November 30, 2023.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the City Manager to execute the Performance Agreement between SMA Entertainment and the City of Riverbank, attached hereto as **Exhibit A**.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of March, 2023; motioned by Councilmember_____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gaby Hernandez
City Clerk

Richard D. O'Brien
Mayor

Attachments: Exhibit A – Performance Agreement with SMA Entertainment

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT (the “Agreement”) is made and entered into this 14th day of March, 2023 (the “Effective Date”), by and between the City of Riverbank, a municipal corporation of the State of California (“City”) and SMA Entertainment (“Consultant”). City and Consultant may each be referred to hereinafter separately as “Party” and collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

This Agreement is being entered into with reference to the following facts:

- A.** City owns and operates the annual Riverbank Cheese and Wine Festival, a longstanding local tradition consisting of arts and crafts and food booths featuring award-winning cheese and wine which is normally held the second weekend of October (“Festival”).
- B.** On March 14, 2023, the Riverbank City Council (“City Council”) accepted the proposal submitted by SMA Entertainment for the operation of the Cheese & Wine Festival for 2023.
- C.** Consultant, SMA Entertainment desires to perform the scope of services included in its proposal for the 2023 Cheese & Wine Festival on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants entered into between the Parties, and in consideration of the benefits that accrue to each, it is agreed as follows:

AGREEMENT**Section 1. Description of Work.**

1.1. Scope of Services. Consultant shall perform the work set forth in **Exhibit B**, attached hereto (the “Services”). Consultant shall provide all labor, equipment, material and supplies required or necessary to properly, competently and completely perform the work or render the Services under this Agreement. Consultant shall determine the method, details and means of doing the work or rendering the Services. Any request for work or services not included in **Exhibit B** will be considered a request for additional or modified Services (“Modification” or “Modifications”). Consultant shall not receive additional compensation for any Modification of the Services unless the Parties agree otherwise in a writing executed by both Parties.

1.2. City Requested Modification of Services. City may, by written order, authorize Modifications to the Services. If such Modifications cause an increase in the cost or time required for performance of Consultant’s Services, the Parties shall enter into a written amendment to this Agreement to adjust the Services and the compensation to be paid to Consultant and, if necessary, amend the terms of **Exhibit B**. The Services, completion schedule, or compensation shall not be revised unless City and Consultant mutually agree to a written amendment to this Agreement

reflecting such revisions, additional compensation, time for performance or such other terms or conditions mutually agreed upon by the Parties.

1.3. Consultant Requested Modification in Services. Consultant shall not be compensated for work outside of the Services described in this Agreement, unless, prior to the commencement of the Services:

a. Consultant provides City with written notice that specific work requested by City or required to complete the Services is outside the agreed upon terms set forth in the Agreement. Such notice shall: (1) be supported by substantial evidence that the work is outside the Services; (2) set forth the Consultant's proposed course of action for completing the work and a specific request for the City to approve the Modification to the Services; (3) set forth the Consultant's proposed revisions, if any, to the completion schedule for the Services; and (4) set forth the Consultant's proposed revisions, if any, to the compensation of the Services; and

b. City agrees that the Services require a Modification;

c. City gives prior approval in writing to all adjustments, if any, to the completion schedule and compensation; and

d. The Parties execute a written amendment to this Agreement describing any Modification, together with any adjustment in the completion schedule or compensation for Consultant's work.

Section 2. Compensation and Payment Schedule. The total cost of the Services described in Section 1 of this Agreement shall not exceed Thirteen Thousand Five Hundred Dollars (\$13,500) and a 50/50 split of revenue over expenses. The payment schedule will be as follows:

1st Payment due June 1, 2023 in the amount of \$4,500, 2nd Payment due August 1, 2023 in the amount of \$4,500 and final payment due October 20, 2023 in the amount of \$4,500. Once the City Finance Department prepares the final revenue/expense report, any revenue exceeding expenses will be split 50/50 between the contractor and the City. This payment will be made no later than November 30, 2023.

Section 3. Late Payment. Parties agree that payment for the Services set forth in Section 2 of this Agreement that is more than ten (10) days late is subject to a late fee of one and half percent (1.5%) interest per amount due in a given thirty (30) day period.

Section 4. Term and Time for Completion. The term of this Agreement shall commence on the Effective Date and shall remain in effect for a period of one year or thirty (30) days after City affirms in writing that all required Services have been completed, whichever occurs first (the "Term"). The Parties may mutually agree in writing to terminate the Agreement earlier as provided in Section 13 or otherwise extend the Term pursuant to this Agreement.

Section 5. Time of Performance. Consultant warrants that it shall perform all Services for the benefit of the City in preparation of, during, and after the conclusion of the Festival. The time of performance is a material term of this Agreement relied on by City in entering into this Agreement.

Section 6. Independent Contractor. Consultant will employ, within the Festival Budget, as approved by the City, all personnel reasonably necessary to perform the Services. All acts of Consultant, its agents, officers, employees and all others acting on behalf of Consultant relating to this Agreement will be performed as independent contractors. Consultant, its agents, and employees will represent and conduct themselves as independent contractors and not as employees of City. Consultant has no authority to bind or incur any obligation on behalf of City.

Section 7. Sub-Consultants. Parties agree that Consultant may employ sub-consultants for purposes of carrying out the Services for the Festival including but not limited to 1) a concessionaire, 2) a sponsorship consultant, 3) a consultant to create and manage the Festival's website, 4) a consultant responsible for alcohol sales at the Festival Consultant shall be responsible for managing any sub-consultants, 5) Vendor Coordinator. **Consultant shall not enter into any agreements with sub-consultants without first obtaining written approval from City related to payment for sub-consulting services.** No subcontract shall be awarded or an outside consultant engaged by Consultant for any purpose not listed herein unless prior written approval is obtained from City.

Section 8. Compliance with Laws and Standards. Consultant agrees that it shall conduct its work and perform the Services in accordance with all applicable federal, state, and local laws, ordinances and regulations.

Section 9. Insurance. Consultant and City shall, at their sole expense, maintain in effect at all times during the duration of this Agreement, not less than the following coverage and limits of insurances:

9.1. Workers Compensation. Consultant shall carry such insurance as will protect City and Consultant from claims under Worker's Compensation and Employers' Liability Acts and the type and amount of such insurance shall be maintained in strict compliance with the State of California statutes. This insurance shall also waive all right to subrogation against City, its employees, directors, officers and agents.

9.2. General Liability. City shall obtain and keep in full force and effect general liability insurance including provisions for contractual liability, personal injury, independent consultants and broad form property damage coverages. This insurance shall be on a comprehensive occurrence basis form with a standard cross liability clause or endorsement. The limit for this insurance shall be no less than One Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage and Two Million Dollars (\$2,000,000.00) in the aggregate.

Such insurance shall also:

a. Name City and its officers, employees, agents and representatives, including Consultant, as additional insured by endorsement with respect to the performance of this Agreement. This coverage shall contain no special limitation on the scope of its protection afforded to the aforementioned additional insured.

b. Be primary with respect to any insurance or self-insurance programs covering City and its officers, employees, agents and representatives.

c. Contain standard separation of insured provisions.

9.3. Automobile Liability. Consultant shall maintain automobile liability insurance with coverage for any vehicle including those owned, leased, rented or borrowed. This insurance shall have a standard cross liability clause or endorsement. The limit amount for this insurance shall be no less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage.

9.4. Certificates of Insurance. Promptly upon execution of this Agreement and prior to commencement of any work, Consultant shall provide City with certificates of insurance evidencing that all insurance or endorsements required by this Agreement have been obtained and are in full force and effect. Approval of the insurance by City shall not relieve or decrease any liability of Consultant. In addition, in the event any change is made in the insurance carrier, policies or nature of coverage required under this Agreement, Consultant shall notify City in writing prior to making such changes. The failure to notify City of the cancellation of any insurance policy required herein shall be consider a material breach of this Agreement.

Such insurance shall include a provision for endorsement naming City, its officers, directors, employees and agents as additional insureds with respect to liability arising out of the performance of any work under this Agreement, and providing that such insurance is primary insurance with respect to the interest of City and that any other insurance maintained by City is in excess to and not contributing insurance with the insurance required in this Agreement. Consultant shall place all insurance required herein with insurers licensed to do business in the State of California, with an acceptable Best's Key Rating Guide rating of at least A:VII.

Section 10. Indemnification and Hold Harmless. Consultant shall protect, indemnify, hold harmless and defend City, its directors, officers, employees and agents, from any and all claims, fines, demands, costs, expenses (including but not limited to attorney's fees and costs of litigation or arbitration), liability, losses, penalties, causes of action, awards, suits or judgments for damages of any nature whatsoever (hereinafter collectively referred to as "Claims") to the extent arising out of the breach of this Agreement in whole or in part by, or willful or fraudulent misconduct or negligent acts, errors or omissions by Consultant, its employees, agents or consultants, or the agent, employee or consultant of any one of them in the performance of their duties or in their operations under this Agreement, but not including the sole or active negligence or the willful misconduct of City.

Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Consultant from its obligations to indemnify as to any Claims so long as the event upon which such Claims are predicated shall have occurred prior to the effective date of any such termination or completion and arose out of or was in any way connected with performance or operations under this Agreement by Consultant, its employees, agents or consultants, or the employee, agent or consultant of any one of them.

Submission of insurance certificates or other proof of compliance with the insurance requirements in this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. The obligation of this indemnity article shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

Section 11. Consequential Damages. In no event shall either of the Parties hereto be liable to the other for the payment of any consequential damages. However, the provisions of this section shall not restrict Consultant's indemnification obligations pursuant to this Agreement.

Section 12. Liabilities. Consultant will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier or other service provider whose facilities or services are used in furnishing any portion of the service received by the City. Consultant will not be liable for any failure of performance that is caused by or the result of any act or omission by City or any entity other than Consultant that furnishes services, facilities or equipment used in connection with Consultant services or facilities.

Except as expressly provided in this Agreement, Consultant makes no expressed or implied representations or warranties, including any warranties regarding merchantability or fitness for a particular cause.

Section 13. Termination. This Agreement may be terminated by City or Consultant upon the failure of the other Party to perform any of the material provisions of this Agreement ("Breach"). In the event a Breach of this Agreement occurs, the non-breaching Party shall provide the other written notice of the Breach. The Parties agree that this Agreement will terminate in the event the Breach is not remedied within ten (10) business days following written notice, or if remedy is not possible within 10 business days, or if the breaching Party has not taken meaningful steps within such time period to remedy the Breach.

Notwithstanding the termination of this Agreement in the event of a Breach, City may terminate this Agreement prior to the expiration of the Term ("Early Termination"), without cause or reason, by notifying Consultant in writing of City's desire to terminate this Agreement early (the "Early Termination Notice"). Upon receipt of any Early Termination Notice, Consultant shall immediately cease performing the Services. Consultant will be entitled to compensation, as of the date Consultant receives the Early Termination Notice, for the Services actually (a) performed and (b) costs incurred, provided that such compensation amount shall not in any case exceed the maximum sum set forth in Section 2 of this Agreement. In the event of Early Termination, City shall pay the remainder of the amount of any outstanding invoice within thirty (30) days of receipt of a final invoice from Consultant.

Section 14. Agreement Renewal. City may renew this Agreement for an additional contract term of one (1) year by providing Consultant thirty (30) days' written notice prior to the end of the Term of this Agreement.

Section 15. Attorney's Fees. In the event that any arbitration, litigation or other action or proceeding of any nature between City and Consultant becomes necessary to enforce or interpret all or any portion of this Agreement or because of an alleged breach by either Party of any of the terms contained herein, it is mutually agreed that the prevailing Party in such action shall be

entitled to their attorney's fees, costs and expenses incurred in connection with the prosecution or defense of such action or proceeding.

Section 16. Force Majeure. No Party shall have any liability to the other herein by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civic disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

Section 17. Remedies Not Exclusive. The use by either Party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the Party using such remedy of, or limit the application of any remedy provided by law.

Section 18. Notices. Any notice or communication required hereunder between City and Consultant must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:

City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: Sue Fitzpatrick, Director of Parks and
Recreation

With courtesy copies to:

City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: City Manager

And to: White Brenner LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Douglas L. White, Esq.

If to Consultant: SMA Entertainment
1615 Kyburz Ct.
Stockton, Ca. 95206
Attention: Stephen Alexander

Section 19. General Terms and Conditions.

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

19.2. Waiver. Any waiver at any time by either Party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

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

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

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

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

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

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

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

19.10. Document Preparation. This Agreement will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

19.11. Entire Agreement. This writing constitutes the entire agreement between the Parties relative to the services specified herein, and no modifications hereof shall be effective unless and until such modification is evidenced by a writing signed by both Parties to this Agreement. There are no understandings, agreements, conditions, representations, warranties or promises with respect to the subject matter of this Agreement except those contained in or referred to in this Agreement.

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

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

19.14. Term Includes Extensions. All references to the Term of this Agreement shall include any extensions of such Term.

19.15. Other Documents. The Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to the fulfill the purposes and intentions of this Agreement.

19.16. Authority. All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms nor conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Consultant and City as of the date of the Agreement set forth above.

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

By: _____
Marisela H. Garcia, City Manager

Date Signed: _____

Approved as to Form:

By: _____
Tom P. Hallinan, City Attorney

Attest:

By: _____
Gaby Hernandez, City Clerk

Consultant:

SMA Entertainment, Stephen Alexander

By: _____
Stephen Alexander

Date Signed: _____

Exhibit B
Scope of Services
2023 Riverbank Cheese & Wine Festival

Consultant shall perform the work set forth as follows:

- Plan, Coordinate and implement all aspects of the 46th Riverbank Cheese & Wine Festival
- Use various forms of publicity including but not limited to social media, banners, news articles and radio announcements to increase awareness of the festival in a timely manner. Present a marketing plan to our city council when requested.
- Recruit, communicate effectively with, and handle set up and take down of all vendors. Provide a vendor map and adequate directions to vendors prior to the festival set up date.
- Seek Sponsorships and donations to increase sources of revenue for the event. This includes Beer Sponsors, Wine, and Cheese donations.
- Arrange for all rental equipment such as golf carts, generators, portable restrooms, fencing, party rentals and all other equipment necessary for a successful event
- Arrange for all deliveries, set up, clean up and take down of all equipment.
- Set up all professional services, sub-contracts and labor necessary to implement the Festival. This includes but is not limited to a security company, electrician, sound/stages, Entertainment, DJ Services.
- Arrange for and monitor ticket sales for the Wine Tasting component of the Festival.
- Order Wine Glasses, recruit wineries, and schedule volunteers or labor needed to produce a well- organized, well supervised and successful wine and cheese tasting experience for attendees.
- Provide an opportunity for community involvement for our schools and non-profit organizations to participate in the Festival and where possible generate funds for their organizations.
- Ensure all ABC license requirements are met and monitored in all areas of the event.
- Work with City staff and obtain support and technical assistance as needed. Hold monthly meetings to update the Parks and Recreation Director and staff of Festival planning, challenges encountered and financial status both of revenue and expenses.
- Meet with Fire Department, Police Chief, and Security Personnel to review security requirements and Emergency Action Plan.
- Work closely with the City Parks Supervisor and Public Works Supervisor for street closure information, notifications, fire lanes, instructions and placement of fencing, concrete barriers and post Festival clean up.

- Create a map of the Festival Boundary and present an update to the City Council on event planning status in a few months prior to the Festival.
- Communicate with businesses and residents well in advance and throughout the planning stages of the Festival and during the Festival.
- Hold at minimum two meetings with the downtown businesses to listen to their concerns regarding the Festival.

The City will provide the following Services:

- Assistance retaining current sponsorships.
- Information learned from operating the festival for the past years.
- Street Closure prior to event, and street clean up and re-opening.
- Assistance with maps, fire clearances, permits as needed.
- Mailing lists
- Administrator rights to the Cheese & Wine Website and Facebook
- Tent Donations from Gilton and in-kind services that they provide to the City
- Part time staff as needed for custodial at the Community Center and festival as needed.

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.5

SECTION 9: CONSENT CALENDAR

Meeting Date:	March 14, 2023
Subject/ Title:	A Resolution Authorizing the Mayor to Execute a Lease with SMA Entertainment for the Area Associated with the Riverbank Cheese and Wine Festival
From:	Marisela H. Garcia, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

Motion to adopt Resolution 2023-XXX authorizing the Mayor to enter into a lease agreement with SMA Entertainment for the area associated with the Cheese and Wine Festival to be held on October 14, and October 15, 2023.

SUMMARY

The City of Riverbank ("City") plans to hold the 46th Annual Cheese and Wine Festival ("Festival") on October 14, and 15, 2023. Earlier this evening, the City Council authorized staff to enter into an agreement with SMA Entertainment to provide event coordination for the festival. In furtherance of the agreement with SMA Entertainment, City staff proposes that the City enter into a lease agreement with SMA Entertainment to temporarily lease the property upon which the festival will be held on October 14, 2023 and October 15, 2023.

The resolution, if adopted, will authorize the Mayor to execute a lease agreement with SMA Entertainment.

BACKGROUND

The city has organized the festival for a number of years and will be contracting with SMA Entertainment. The increased interest requires that SMA Entertainment and the City have more flexibility in managing the area and streets where the festival will be held. The lease agreement does not charge rent to SMA Entertainment for the two-day lease but instead

provides the City and SMA Entertainment with safeguards in the form of insurance requirements and other provisions for providing a Festival that serves the residents of the City and the greater community at large who may wish to attend the festival. This will ensure that the Festival continues to be a successful and enjoyable activity that brings City residents and visitors from near and far to City events.

FINANCIAL IMPACT

There is no direct cost to the City in entering into the lease agreement. The City will be entering into a separate agreement with SMA Entertainment for services.

ATTACHMENT

1. Resolution 2023-
2. Lease Agreement
3. Boundary Maps

CITY OF RIVERBANK

RESOLUTION 2023-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT
WITH SMA ENTERTAINMENT FOR THE RIVERBANK CHEESE AND WINE
FESTIVAL**

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

WHEREAS, the City has entered into a contract with SMA Entertainment to provide event coordination for the 2023 annual Cheese and Wine Festival; and

WHEREAS, on March 14, 2023, the Riverbank City Council approved an agreement with SMA Entertainment to coordinate the 2023 Cheese & Wine Festival; and

WHEREAS, in furtherance of the partnership between the City of Riverbank and SMA Entertainment, the City desires to temporarily lease City-controlled property to SMA Entertainment, for the Cheese and Wine Festival time period of October 14, 2023 through October 15, 2022; and

WHEREAS, pursuant to Government Code Sections 37380(a) and 40602(b) the City may lease property it owns or controls through an agreement signed by the Mayor.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the Mayor of the City to execute an agreement, hereto as **Exhibit A**, with SMA Entertainment to lease the property upon which the Cheese and Wine Festival is held for the time period of October 14, 2023, through October 15, 2023.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of March, 2023; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gaby Hernandez
City Clerk

Richard D. O'Brien
Mayor

EXHIBIT C**TEMPORARY LEASE AGREEMENT**

THIS TEMPORARY LEASE AGREEMENT (the “Lease”) is made and entered into on this 14th day of March 2023, by the City of Riverbank, a California municipal corporation (the “City”), and SMA Entertainment (the “Lessee”). City and Lessee shall be referred to herein individually as “Party” and collectively as the “Parties”. There are no other parties to this Lease.

RECITALS

A. City desires to lease to Lessee certain real property, including any and all improvements, in the City of Riverbank, County of Stanislaus, State of California that will be used in conjunction with the services Lessee has agreed to provide for the Riverbank Cheese and Wine Festival, the scope of which is described in the Performance Agreement the City and Lessee entered into on March 14, 2023 and is attached hereto as **Exhibit A** (the “Property”); and

B. City, as a municipal corporation, may lease property it owns or controls pursuant to Government Code section 37380(a); and

C. Lessee desires to lease the Property from the City for uses related to the Riverbank Cheese and Wine Festival; and

D. This Lease does not involve a public project as defined in Public Contract Code section 20161, and does not require bidding pursuant to Public Contract Code section 20162.

NOW, THEREFORE, with reference to these recitals and on the terms and conditions contained in this Lease, City agrees to lease the Property to Lessee on the following terms and conditions:

AGREEMENT

Section 1. Recitals. The recitals above are true and correct and are hereby incorporated into and made part of this Lease by this reference. In the event of any inconsistency between the recitals and Sections 1 through 20 of this Lease, Sections 1 through 20 shall prevail.

Section 2. Effective Date. This Lease and all of its provisions shall become effective once it is executed by all of the Parties (the “Effective Date”).

Section 3. Term of Lease. The term of this Lease shall be for a period of two (2) days (“Term”) commencing at 6:00 a.m. October 14, 2023 and expiring 11:59 p.m. October 15, 2023 (“Expiration Date”). Either Party may terminate this Lease prior to the Expiration Date by providing the other Party written notice of the intent to terminate at least thirty (30) calendar days in advance of any early termination date.

Section 4. Condition of the Property. Lessee acknowledges and agrees that the Property is to be leased to Lessee in an “as is” condition with all faults. City does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property, its

suitability for Lessee's Intended Use (as defined below) or use of the Property or any such related matters. Lessee agrees with and represents to City, that the Property has been inspected by it and that the Lessee has been assured by means independent of City or City's agents of the truth of all facts material to this Lease and that the Property is being leased by Lessee as a result of its inspection and investigation and not of a result of any representations made by City and City's agents.

Section 5. Permitted Uses of the Property. Lessee shall use the Property for activities related to the annual Riverbank Cheese and Wine Festival as detailed in **Exhibit A** (the "Intended Use"). Lessee shall only use the Property for the purposes provided herein or uses that are incidental, supporting and compatible with the uses provided herein.

Section 6. Changes in Permitted Uses. If Lessee desires to change the use of the Property to another use or uses, or add another use, such change in use shall require the prior written approval of the City.

Section 7. Compliance with Laws. Lessee shall promptly comply with all laws and with the requirements of any governmental authority having jurisdiction over Property, including but not limited to: the federal government, the state of California, the County of Stanislaus, all ordinances of the City, and all rules and regulations of the police and fire departments or other municipal authorities of the County of Stanislaus or the City that have authority over the premises. Lessee's compliance may include the obligation to make improvements, repairs, and alterations on the Property whether such compliance was foreseen or unforeseen. Lessee shall immediately furnish City with a copy of any notices received from any governmental agency, financial institution, insurance company, or inspection bureau pertaining to or in connection with the Premises.

Section 8. City's Access to Property. City or City's agents, representatives or employees retain the right to enter the Property at all reasonable times to determine whether Lessee is complying with the terms of this Lease, to perform any other obligation of Lessee after Lessee's failure to perform same, if Lessee defaults under this Lease, and for the purpose of doing other lawful acts that may be necessary to protect the City's interest in Property. City shall be permitted to enter on the Property, as may reasonably be necessary, in order to make improvements or do other work, or to make improvements, repairs, or maintenance to adjacent property owned by City. Nothing in this section shall imply any duty on the part of the City to make any inspection or take any action related to the Property.

Section 9. Assignment and Subleasing. Lessee shall not assign, transfer or encumber this Lease or any interest herein without the prior written consent of City. Lessee shall not sublease all or any part of the Property or allow any persons other than Lessee's agents, subcontractors or employees to use all or part of the Property without the prior written consent of City. City's consent to one assignment, sublease, occupations, or use by another person shall not be deemed to be a consent to any subsequent assignment, sublease or occupation or use by any other person. Any assignment or sublease without the prior written consent of City shall be void. City shall have the right to assign or transfer all or any part of this Lease or any rights to it at any time without Lessee's consent.

Section 10. Insurance Coverage. Lessee, and any and all of Lessee's subcontractors, shall at all times during the Lease Term maintain and keep in force insurance coverage with an insurer approved by City which will adequately protect City against liability and property damages upon the Property. The minimum coverage required by this section shall be liability insurance for two million dollars (\$2,000,000.00) per injury or occurrence. Proof of the insurance coverage obtained by Lessee shall be given to City at least thirty (30) calendar days before the Lease Term commences in the form of a Certificate of Liability issued by the insurer.

Such insurance shall also:

A. Name City and its officers, employees, agents and representatives, as additional insured by endorsement with respect to the performance of this Lease. This coverage shall contain no special limitation on the scope of its protection afforded to the aforementioned additional insured.

B. Be primary with respect to any insurance or self-insurance programs covering City and its officers, employees, agents, and representatives.

C. Contain standard separation of insured provisions.

Section 11. Indemnification of City. Lessee shall indemnify, hold harmless and defend City and City's officials, employees, agents, representatives and contractors from all liability associated with the Property or Lessee's operations, business, conduct, or management of the Property, or any act, omission, or negligence of Lessee or any other Lessee's representatives, subcontractors or invitees, pertaining to this Lease and the use of the Property contemplated herein. This indemnification shall extend and protect City against any liability, claim, suit, action or other proceeding for damage of any kind relating to the Property, directly or indirectly, allegedly suffered, incurred, or threatened including: personal injury, death, property damage, inverse condemnation, or any combination of these, regardless of whether or not such liability, claim or damage was foreseeable by City or Lessee prior to execution of this Lease.

Section 12. Termination of Lease and Remedies. In the event of any default by Lessee, in addition to any and all other rights and remedies available to City at law or in equity, City shall have the right to immediately terminate this Lease and all rights of Lessee hereunder by giving written notice to Lessee of such election by City, in the manner provided in Section 17 of this Lease. If City shall elect to terminate this Lease, then it may recover any amount permitted under California law.

Section 13. Remedies Cumulative. All rights and remedies under this Lease shall be nonexclusive of and in addition to any other remedy available at law or in equity.

Section 14. Destruction of Premises. In the event that the Lessee causes or allows the total or partial destruction of the Property, the Lessee, at its sole expense, shall repair, reconstruct or cause to repair or reconstruct any damaged property or structure of the City.

Section 15. Surrender of Property. Lessee agrees that, on expiration of the Lease Term, the Property and all attachments, fixtures and improvements thereon, shall be surrendered to City in good order, condition, and repair.

Section 16. Expenses of Enforcement. Should any legal action or proceeding be necessary to enforce or interpret this Lease, the prevailing Party shall be entitled to reasonable costs of enforcement or interpretation, including but not limited to, attorney fees, costs, disbursements, and collection costs in addition to other relief to which such Party is entitled.

Section 17. Notice. Any notice or communication required hereunder between City and Lessee must be in writing, and may be given either personally, by email, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by email, a notice or communication shall be deemed to have been given and received upon the email timestamp of the receiving party. Notice transmitted by email after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to be given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City: City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: Sue Fitzpatrick, Director of Parks and Recreation

With courtesy copies to: City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: City Manager

And to: Brenner White
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Douglas L. White, Esq.

If to Lessee: SMA Entertainment
1615 Kyburz Ct.
Stockton, Ca. 95206

Any Party may change their address for the purposes of this section by giving written notice of the change to the other Parties in the manner provided in this section.

Section 18. *Omitted*

Section 19. Amendments to Lease. This Lease may be supplemented, amended, or modified only by the mutual written consent of the Parties. No supplement, amendment, or modification of this Lease will be binding unless it is in writing and signed by all of the Parties. No provisions in either Party's correspondence or other business forms used by either Party will supersede or add to the terms and conditions of this Lease.

Section 20. General Provisions.

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

B. Partial Invalidity. If a court or an arbitrator of competent jurisdiction holds any provision of this Lease to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Lease would be defeated by the loss of the illegal, unenforceable, or invalid provision.

C. Ambiguities. Each Party has participated fully in the review and execution of this Lease. Any rule of construction that ambiguities are to be resolved against the drafting Party does not apply in interpreting this Lease.

D. Headings Not Controlling. The headings in this Lease are included for convenience only and neither affect the construction or interpretation of any provision in this Lease nor affect any of the rights or obligations of the Parties to this Lease.

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

F. Governing Law. This Lease shall be governed and construed in accordance with the laws of the State of California.

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

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

preceding or succeeding breach of the same or any other covenant, term, or condition. Acceptance by City of any performance by Lessee after the time the same was due shall not constitute a waiver by City of the breach or default of any covenant, term, or condition unless otherwise expressly agreed to by City in writing.

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

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

IN WITNESS WHEREOF, City and Lessee have duly executed this Lease, with the intention of being bound by it as of the Effective Date set forth above.

CITY:

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

By: _____
Richard D. O'Brien, Mayor

Approved as to Form:

By: _____
Tom P. Hallinan, City Attorney

Attest:

By: _____
Gaby Hernandez, City Clerk

LESSEE:

SMA Entertainment
1615 Kyburz Ct.
Stockton, Ca. 95206

By: _____
Stephen Alexander, Consultant

Date: _____

EXHIBIT A
PERFORMANCE AGREEMENT

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT (the “Agreement”) is made and entered into this 14th day of March, 2023 (the “Effective Date”), by and between the City of Riverbank, a municipal corporation of the State of California (“City”) and SMA Entertainment (“Consultant”). City and Consultant may each be referred to hereinafter separately as “Party” and collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

This Agreement is being entered into with reference to the following facts:

- A. City owns and operates the annual Riverbank Cheese and Wine Festival, a longstanding local tradition consisting of arts and crafts and food booths featuring award-winning cheese and wine which is normally held the second weekend of October (“Festival”).
- B. On March 14, 2023, the Riverbank City Council (“City Council”) accepted the proposal submitted by S&M Entertainment for the operation of the Cheese & Wine Festival for 2023.
- C. Consultant, SMA Entertainment desires to perform the scope of services included in its proposal for the 2023 Cheese & Wine Festival on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants entered into between the Parties, and in consideration of the benefits that accrue to each, it is agreed as follows:

AGREEMENT

Section 1. Description of Work.

1.1. Scope of Services. Consultant shall perform the work set forth in **Exhibit B**, attached hereto (the “Services”). Consultant shall provide all labor, equipment, material and supplies required or necessary to properly, competently and completely perform the work or render the Services under this Agreement. Consultant shall determine the method, details and means of doing the work or rendering the Services. Any request for work or services not included in **Exhibit B** will be considered a request for additional or modified Services (“Modification” or “Modifications”). Consultant shall not receive additional compensation for any Modification of the Services unless the Parties agree otherwise in a writing executed by both Parties.

1.2. City Requested Modification of Services. City may, by written order, authorize Modifications to the Services. If such Modifications cause an increase in the cost or time required for performance of Consultant’s Services, the Parties shall enter into a written amendment to this Agreement to adjust the Services and the compensation to be paid to Consultant and, if necessary, amend the terms of **Exhibit B**. The Services, completion schedule, or compensation shall not be revised unless City and Consultant mutually agree to a written amendment to this Agreement

reflecting such revisions, additional compensation, time for performance or such other terms or conditions mutually agreed upon by the Parties.

1.3. Consultant Requested Modification in Services. Consultant shall not be compensated for work outside of the Services described in this Agreement, unless, prior to the commencement of the Services:

a. Consultant provides City with written notice that specific work requested by City or required to complete the Services is outside the agreed upon terms set forth in the Agreement. Such notice shall: (1) be supported by substantial evidence that the work is outside the Services; (2) set forth the Consultant's proposed course of action for completing the work and a specific request for the City to approve the Modification to the Services; (3) set forth the Consultant's proposed revisions, if any, to the completion schedule for the Services; and (4) set forth the Consultant's proposed revisions, if any, to the compensation of the Services; and

b. City agrees that the Services require a Modification;

c. City gives prior approval in writing to all adjustments, if any, to the completion schedule and compensation; and

d. The Parties execute a written amendment to this Agreement describing any Modification, together with any adjustment in the completion schedule or compensation for Consultant's work.

Section 2. Compensation and Payment Schedule. The total cost of the Services described in Section 1 of this Agreement shall not exceed Thirteen Thousand Five Hundred Dollars (\$13,500) and a 50/50 split of revenue over expenses. The payment schedule will be as follows:

1st Payment due June 1, 2023 in the amount of \$4,500, 2nd Payment due August 1, 2023 in the amount of \$4,500 and final payment due October 20, 2023 in the amount of \$4,500. Once the City Finance Department prepares the final revenue/expense report, any revenue exceeding expenses will be split 50/50 between the contractor and the City. This payment will be made no later than November 30, 2023.

Section 3. Late Payment. Parties agree that payment for the Services set forth in Section 2 of this Agreement that is more than ten (10) days late is subject to a late fee of one and half percent (1.5%) interest per amount due in a given thirty (30) day period.

Section 4. Term and Time for Completion. The term of this Agreement shall commence on the Effective Date and shall remain in effect for a period of one year or thirty (30) days after City affirms in writing that all required Services have been completed, whichever occurs first (the "Term"). The Parties may mutually agree in writing to terminate the Agreement earlier as provided in Section 13 or otherwise extend the Term pursuant to this Agreement.

Section 5. Time of Performance. Consultant warrants that it shall perform all Services for the benefit of the City in preparation of, during, and after the conclusion of the Festival. The time of performance is a material term of this Agreement relied on by City in entering into this Agreement.

Section 6. Independent Contractor. Consultant will employ, within the Festival Budget, as approved by the City, all personnel reasonably necessary to perform the Services. All acts of Consultant, its agents, officers, employees and all others acting on behalf of Consultant relating to this Agreement will be performed as independent contractors. Consultant, its agents and employees will represent and conduct themselves as independent contractors and not as employees of City. Consultant has no authority to bind or incur any obligation on behalf of City.

Section 7. Sub-Consultants. Parties agree that Consultant may employ sub-consultants for purposes of carrying out the Services for the Festival including but not limited to 1) a concessionaire, 2) a sponsorship consultant, 3) a consultant to create and manage the Festival's website, 4) a consultant responsible for alcohol sales at the Festival Consultant shall be responsible for managing any sub-consultants, 5) Vendor Coordinator. **Consultant shall not enter into any agreements with sub-consultants without first obtaining written approval from City related to payment for sub-consulting services.** No subcontract shall be awarded or an outside consultant engaged by Consultant for any purpose not listed herein unless prior written approval is obtained from City.

Section 8. Compliance with Laws and Standards. Consultant agrees that it shall conduct its work and perform the Services in accordance with all applicable federal, state, and local laws, ordinances and regulations.

Section 9. Insurance. Consultant and City shall, at their sole expense, maintain in effect at all times during the duration of this Agreement, not less than the following coverage and limits of insurances:

9.1. Workers Compensation. Consultant shall carry such insurance as will protect City and Consultant from claims under Worker's Compensation and Employers' Liability Acts and the type and amount of such insurance shall be maintained in strict compliance with the State of California statutes. This insurance shall also waive all right to subrogation against City, its employees, directors, officers and agents.

9.2. General Liability. City shall obtain and keep in full force and effect general liability insurance including provisions for contractual liability, personal injury, independent consultants and broad form property damage coverages. This insurance shall be on a comprehensive occurrence basis form with a standard cross liability clause or endorsement. The limit for this insurance shall be no less than One Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage and Two Million Dollars (\$2,000,000.00) in the aggregate.

Such insurance shall also:

a. Name City and its officers, employees, agents and representatives, including Consultant, as additional insured by endorsement with respect to the performance of this Agreement. This coverage shall contain no special limitation on the scope of its protection afforded to the aforementioned additional insured.

b. Be primary with respect to any insurance or self-insurance programs covering City and its officers, employees, agents and representatives.

c. Contain standard separation of insured provisions.

9.3. Automobile Liability. Consultant shall maintain automobile liability insurance with coverage for any vehicle including those owned, leased, rented or borrowed. This insurance shall have a standard cross liability clause or endorsement. The limit amount for this insurance shall be no less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage.

9.4. Certificates of Insurance. Promptly upon execution of this Agreement and prior to commencement of any work, Consultant shall provide City with certificates of insurance evidencing that all insurance or endorsements required by this Agreement have been obtained and are in full force and effect. Approval of the insurance by City shall not relieve or decrease any liability of Consultant. In addition, in the event any change is made in the insurance carrier, policies or nature of coverage required under this Agreement, Consultant shall notify City in writing prior to making such changes. The failure to notify City of the cancellation of any insurance policy required herein shall be consider a material breach of this Agreement.

Such insurance shall include a provision for endorsement naming City, its officers, directors, employees and agents as additional insureds with respect to liability arising out of the performance of any work under this Agreement, and providing that such insurance is primary insurance with respect to the interest of City and that any other insurance maintained by City is in excess to and not contributing insurance with the insurance required in this Agreement. Consultant shall place all insurance required herein with insurers licensed to do business in the State of California, with an acceptable Best's Key Rating Guide rating of at least A:VII.

Section 10. Indemnification and Hold Harmless. Consultant shall protect, indemnify, hold harmless and defend City, its directors, officers, employees and agents, from any and all claims, fines, demands, costs, expenses (including but not limited to attorney's fees and costs of litigation or arbitration), liability, losses, penalties, causes of action, awards, suits or judgments for damages of any nature whatsoever (hereinafter collectively referred to as "Claims") to the extent arising out of the breach of this Agreement in whole or in part by, or willful or fraudulent misconduct or negligent acts, errors or omissions by Consultant, its employees, agents or consultants, or the agent, employee or consultant of any one of them in the performance of their duties or in their operations under this Agreement, but not including the sole or active negligence or the willful misconduct of City.

Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Consultant from its obligations to indemnify as to any Claims so long as the event upon which such Claims are predicated shall have occurred prior to the effective date of any such termination or completion and arose out of or was in any way connected with performance or operations under this Agreement by Consultant, its employees, agents or consultants, or the employee, agent or consultant of any one of them.

Submission of insurance certificates or other proof of compliance with the insurance requirements in this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. The obligation of this indemnity article shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

Section 11. Consequential Damages. In no event shall either of the Parties hereto be liable to the other for the payment of any consequential damages. However, the provisions of this section shall not restrict Consultant's indemnification obligations pursuant to this Agreement.

Section 12. Liabilities. Consultant will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier or other service provider whose facilities or services are used in furnishing any portion of the service received by the City. Consultant will not be liable for any failure of performance that is caused by or the result of any act or omission by City or any entity other than Consultant that furnishes services, facilities or equipment used in connection with Consultant services or facilities.

Except as expressly provided in this Agreement, Consultant makes no expressed or implied representations or warranties, including any warranties regarding merchantability or fitness for a particular cause.

Section 13. Termination. This Agreement may be terminated by City or Consultant upon the failure of the other Party to perform any of the material provisions of this Agreement ("Breach"). In the event a Breach of this Agreement occurs, the non-breaching Party shall provide the other written notice of the Breach. The Parties agree that this Agreement will terminate in the event the Breach is not remedied within ten (10) business days following written notice, or if remedy is not possible within 10 business days, or if the breaching Party has not taken meaningful steps within such time period to remedy the Breach.

Notwithstanding the termination of this Agreement in the event of a Breach, City may terminate this Agreement prior to the expiration of the Term ("Early Termination"), without cause or reason, by notifying Consultant in writing of City's desire to terminate this Agreement early (the "Early Termination Notice"). Upon receipt of any Early Termination Notice, Consultant shall immediately cease performing the Services. Consultant will be entitled to compensation, as of the date Consultant receives the Early Termination Notice, for the Services actually (a) performed and (b) costs incurred, provided that such compensation amount shall not in any case exceed the maximum sum set forth in Section 2 of this Agreement. In the event of Early Termination, City shall pay the remainder of the amount of any outstanding invoice within thirty (30) days of receipt of a final invoice from Consultant.

Section 14. Agreement Renewal. City may renew this Agreement for an additional contract term of one (1) year by providing Consultant thirty (30) days' written notice prior to the end of the Term of this Agreement.

Section 15. Attorney's Fees. In the event that any arbitration, litigation or other action or proceeding of any nature between City and Consultant becomes necessary to enforce or interpret all or any portion of this Agreement or because of an alleged breach by either Party of any of the terms contained herein, it is mutually agreed that the prevailing Party in such action shall be

entitled to their attorney's fees, costs and expenses incurred in connection with the prosecution or defense of such action or proceeding.

Section 16. Force Majeure. No Party shall have any liability to the other herein by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civic disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

Section 17. Remedies Not Exclusive. The use by either Party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the Party using such remedy of, or limit the application of any remedy provided by law.

Section 18. Notices. Any notice or communication required hereunder between City and Consultant must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:

City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: Sue Fitzpatrick, Director of Parks and
Recreation

With courtesy copies to:

City of Riverbank
6707 Third Street
Riverbank, California 95367
Attention: City Manager

And to: White Brenner LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Douglas L. White, Esq.

If to Consultant: SMA Entertainment
1615 Kyburz Ct.
Stockton, Ca. 95206
Attention: Stephen Alexander

Section 19. General Terms and Conditions.

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

19.2. Waiver. Any waiver at any time by either Party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

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

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

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

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

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

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

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

19.10. Document Preparation. This Agreement will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

19.11. Entire Agreement. This writing constitutes the entire agreement between the Parties relative to the services specified herein, and no modifications hereof shall be effective unless and until such modification is evidenced by a writing signed by both Parties to this Agreement. There are no understandings, agreements, conditions, representations, warranties or promises with respect to the subject matter of this Agreement except those contained in or referred to in this Agreement.

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

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

19.14. Term Includes Extensions. All references to the Term of this Agreement shall include any extensions of such Term.

19.15. Other Documents. The Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to the fulfill the purposes and intentions of this Agreement.

19.16. Authority. All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms nor conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Consultant and City as of the date of the Agreement set forth above.

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

By: _____
Marisela H. Garcia, City Manager

Date Signed: _____

Approved as to Form:

By: _____
Tom P. Hallinan, City Attorney

Attest:

By: _____
Gaby Hernandez, City Clerk

Consultant:

SMA Entertainment, Stephen Alexander

By: _____
Stephen Alexander

Date Signed: _____

Exhibit B
Scope of Services
2023 Riverbank Cheese & Wine Festival

Consultant shall perform the work set forth as follows:

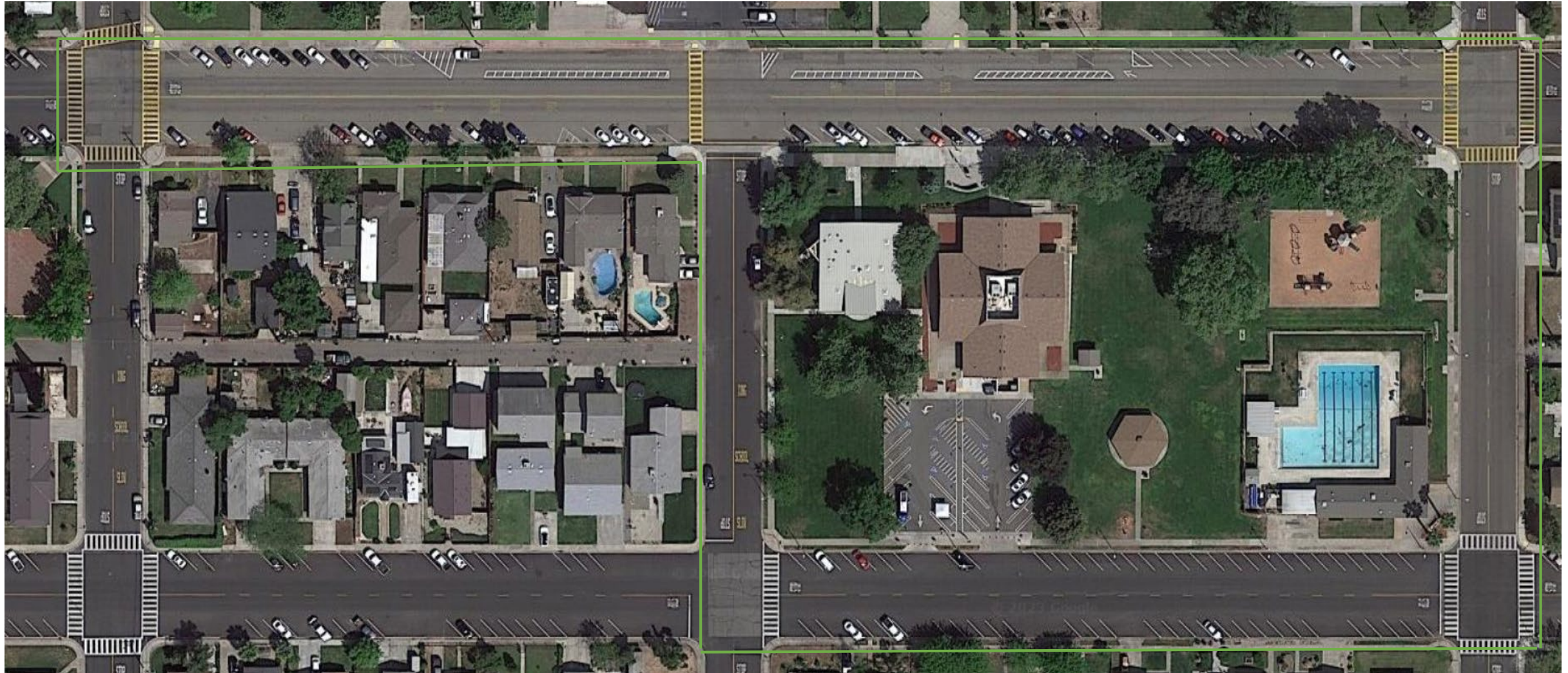
- Plan, Coordinate and implement all aspects of the 46th Riverbank Cheese & Wine Festival
- Use various forms of publicity including but not limited to social media, banners, news articles and radio announcements to increase awareness of the festival in a timely manner. Present a marketing plan to our city council when requested.
- Recruit, communicate effectively with, and handle set up and take down of all vendors. Provide a vendor map and adequate directions to vendors prior to the festival set up date.
- Seek Sponsorships and donations to increase sources of revenue for the event. This includes Beer Sponsors, Wine, and Cheese donations.
- Arrange for all rental equipment such as golf carts, generators, portable restrooms, fencing, party rentals and all other equipment necessary for a successful event
- Arrange for all deliveries, set up, clean up and take down of all equipment.
- Set up all professional services, sub-contracts and labor necessary to implement the Festival. This includes but is not limited to a security company, electrician, sound/stages, Entertainment, DJ Services.
- Arrange for and monitor ticket sales for the Wine Tasting component of the Festival.
- Order Wine Glasses, recruit wineries, and schedule volunteers or labor needed to produce a well- organized, well supervised and successful wine and cheese tasting experience for attendees.
- Provide an opportunity for community involvement for our schools and non-profit organizations to participate in the Festival and where possible generate funds for their organizations.
- Ensure all ABC license requirements are met and monitored in all areas of the event.
- Work with City staff and obtain support and technical assistance as needed. Hold monthly meetings to update the Parks and Recreation Director and staff of Festival planning, challenges encountered and financial status both of revenue and expenses.
- Meet with Fire Department, Police Chief, and Security Personnel to review security requirements and Emergency Action Plan.
- Work closely with the City Parks Supervisor and Public Works Supervisor for street closure information, notifications, fire lanes, instructions and placement of fencing, concrete barriers and post Festival clean up.

- Create a map of the Festival Boundary and present an update to the City Council on event planning status in a few months prior to the Festival.
- Communicate with businesses and residents well in advance and throughout the planning stages of the Festival and during the Festival.
- Hold at minimum two meetings with the downtown businesses to listen to their concerns regarding the Festival.

The City will provide the following Services:

- Assistance retaining current sponsorships.
- Information learned from operating the festival for the past years.
- Street Closure prior to event, and street clean up and re-opening.
- Assistance with maps, fire clearances, permits as needed.
- Mailing lists
- Administrator rights to the Cheese & Wine Website and Facebook
- Tent Donations from Gilton and in-kind services that they provide to the City
- Part time staff as needed for custodial at the Community Center and festival as needed.

Map option 1 – Condensed Boundary



Fencing – approx. 3100 linear ft

Option 2 – Full Festival Boundary Map



Fencing – approx. 4600 linear ft

RIVERBANK CITY COUNCIL/ LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.6

SECTION 9: CONSENT CALENDAR

Meeting Date: March 14, 2023

Subject: A Resolution of the City Council of the City of Riverbank, California, to Approve a Subdivision Improvement Agreement for Ward Villas with Ammo Plant Management, Inc. and Authorizing the City Manager to Execute the Agreement

From: Marisela H. Garcia, City Manager

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

RECOMMENDATION

It is recommended that the City Council consider the attached resolution approving the Subdivision Improvement Agreement with Ammo Plant Management, Inc. for Ward Villas and directing the City Manager to execute the agreement.

SUMMARY

On February 9, 2016, the City Council adopted Resolution No. 2016-008, approving a General Plan Amendment redesignating 2.42 acres to Medium Density Residential (MDR) which allows for a net density of eight to sixteen (8-16) dwelling units per acre.

On February 9, 2016, the City Council adopted Resolution No. 2016-009, approving Tentative Subdivision Map No. 01-2015 ("the Ward Villas Tentative Map") and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of 28 residential lots on 2.45 acres.

On February 23, 2016, the City Council adopted Ordinance No. 2016-010 approving the Rezone 01-2015. This action rezoned the property to Planned Development (PD) and allows for a net density of eight to sixteen (8-16) dwelling units per acre. The developer is providing seven (7) amenities within the subdivision for the PD zoning, including rear patio covers, window blinds, and additional benches at the landscaped basin to name a few.

One of the last steps in the subdivision map process is the approval of a final map which subdivides the parcel into the individual lots planned for homes, streets, utilities,

and parkland or other public areas. Commonly, there are two ways to achieve a final map. The first way is for the developer to install all required infrastructure improvements (roads, street lighting, water/sewer lines, etc.) in advance of requesting the final map. The second way is to enter into a Subdivision Improvement Agreement (“SIA”) and submit bonds, which provide security for the City that the improvements will be completed as required by the tentative map conditions of approval. In the past, the City has used both methods depending on the individual needs and timelines of each project.

Ammo Plant Management, Inc. has completed the on-site grading and has almost completed installing infrastructure improvements. They have requested that Council consider approving their final map (also agendaized for this Council meeting). As such, the Riverbank Municipal Code (“RMC”) requires that a Subdivision Improvement Agreement be approved in advance of the approval of a final map.

Exhibit A is a standard Subdivision Improvement Agreement that lays out many of the bonding and insurance requirements set forth in the Riverbank Municipal Code. Specific items in the agreement have been tailored to fit the circumstances of Ward Villas. Approval of this document will allow the developer to request final map consideration by Council.

The estimated cost of the required infrastructure improvements for Ward Villas are approximately **\$477,795.10**. This estimate has been reviewed and approved by the City Engineer. RMC §152.076 requires that two specific improvement securities be filed with the City: the first security (bond) shall secure faithful performance of the agreement in an amount equal to 100% of the estimated cost of the improvements and the second security shall secure the obligations set forth in Cal Govt. Code §66499.3(b) of payment of the contractor, his subcontractors and to persons renting equipment or furnishing labor or materials to them for the improvements, and shall be in an amount equal to 50% of the total estimated cost of the improvements. The Municipal Code provides a variety of options for developers to provide these securities, including the provision of bonds to the City Clerk. The City Attorney reviews these documents as to form.

FINANCIAL IMPACT

There is no direct financial impact as a result of the Subdivision Improvement Agreement. However, approval of the SIA will allow the review and approval of the Final Map and facilitate the development of single-family residential units and associated amenities.

ATTACHMENTS

1. Resolution 2023 -
Exhibit A - Subdivision Improvement Agreement between the City of Riverbank and Ammo Plant Management, Inc. for Ward Villas

CITY OF RIVERBANK

RESOLUTION 2023-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT FOR WARD VILLAS
WITH AMMO PLANT MANAGEMENT, INC. AND AUTHORIZING THE
CITY MANAGER TO EXECUTE THE AGREEMENT**

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

WHEREAS, Ammo Plant Management, Inc is the property owner of Ward Villas, a proposed 28 lot subdivision on approximately 2.42 acres; and

WHEREAS, on February 9, 2016, the City Council adopted Resolution No. 2016-009 to approve Tentative Subdivision Map 01-2015 and related conditions of approval, which set forth the infrastructure obligations and conditions of approval related to the development and build out of 28 residential lots on 2.42 acres; and

WHEREAS, significant infrastructure improvements are needed in order to serve the area for future growth; and

WHEREAS, Ammo Plant Management, Inc. is close to completing the infrastructure for Ward Villas; and

WHEREAS, Ammo Plant Management, Inc. will be requesting that Council consider approval of a final map for Ward Villas at tonight’s City Council meeting; and

WHEREAS, the Riverbank Municipal Code requires that if improvements are not complete when the final map is considered for approval, a subdivision improvement agreement be entered into; and

WHEREAS, the Subdivision Improvement Agreement has been developed in cooperation with Ammo Plant Management, Inc. and City of Riverbank staff.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby declares the following:

1. The City Council approves the Subdivision Improvement Agreement as presented (**Exhibit A**); and
2. The City Council directs the City Manager to execute the attached Subdivision Improvement Agreement subject to verification and receipt of the securities

required within the agreement and any other requirements as set forth by the agreement.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of March 2023; 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
City Clerk

Richard D. O'Brien
Mayor

Attachment: Exhibit A – Subdivision Improvement Agreement

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attn: City Clerk

Exempt from recording fees
(Gov. Code §§ 6103 and 27383)

(Space above this line for Recorder's use)

SUBDIVISION IMPROVEMENT AGREEMENT FOR THE WARD VILLAS SUBDIVISION

This **SUBDIVISION IMPROVEMENT AGREEMENT** ("Agreement") is made and entered into this ____ day of _____ 2023, by and between the City of Riverbank, a California municipal corporation ("City") and Cary Pope, DBA Ammo Plant Management, Inc ("Subdivider"). City and Subdivider may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement. This Agreement is made with reference to the following:

RECITALS

A. Subdivider is possessed of a tract of land consisting of approximately 2.42 acres, lying in the City of Riverbank, County of Stanislaus, California, known as "Ward Villas" (the "Subdivision").

B. On February 9, 2016, the City Council adopted Resolution No. 2016-008, approving a general plan amendment redesignating 2.42 acres to medium density residential (MDR) which allows for a net density of eight to sixteen (8-16) dwelling units per acre.

C. On February 9, 2016, the City Council adopted Resolution No. 2016-009, approving Tentative Subdivision Map No. 01-2015 ("the Ward Villas Tentative Map") and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of 28 residential lots on 2.42 acres. Resolution No. 2016-009 is attached hereto as **Exhibit A**.

D. The Tentative Map is subject to the Subdivision Map Act (Gov. Code § 66410 *et seq.*) and the City's ordinances and regulations related to the filing, approval, and recordation of subdivision maps (together, the "Subdivision Laws") and the requirements and conditions contained in the Resolution of Approval.

E. On February 9, 2016, the City Council adopted Ordinance No. 2016-010 approving Rezone 01-2015. This action rezoned the property to Planned Development (PD) and allows for a density of eight to sixteen (8-16) dwelling units per net acre.

F. Complete improvement plans for the construction, installation, and completion of the improvements (“Improvement Plans”) have been prepared by Subdivider and approved by the City of Riverbank City Engineer (“Engineer”) and Planning and Building Manager or her designee (“Manager”).

G. Subdivider has presented to the City a proposed final map (“Final Map”) for the Subdivision, pursuant to the provisions of the Subdivision Laws for approval and recordation.

H. In order for the City to approve and record a Final Map for the Subdivision, the Subdivider must either complete all of the improvements required by the Subdivision Laws, Resolution of Approval, Improvement Plans and Tentative Map (“Improvements”), or execute an agreement with the City to complete the Improvements within a specified period of time.

I. In order for the City to approve and record a Final Map for the Subdivision, Subdivider desires to enter into this Agreement, whereby Subdivider promises to install and complete, at Subdivider’s sole cost, expense and risk, all of the Improvements required in connection with the Subdivision, including but not limited to grading work, constructing and installing the Improvements, and all labor that is required to complete these tasks to the satisfaction of the City (“Improvement Work”).

J. Subdivider has secured this Agreement by depositing security with the City consisting of a cash deposit, bond, or letter of credit in form acceptable to the City to secure a one-year warranty of workmanship in accordance with the terms provided herein (the “Securities”).

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the Parties agree as follows:

AGREEMENT

1. Recitals. The recitals above (“Recitals”) are true and correct and are hereby incorporated into and made part of this Agreement. In the event of any inconsistency between the Recitals and Sections 1 through 23 of this Agreement, Sections 1 through 23 shall prevail.

2. Effective Date and Term. This Agreement shall only become effective on the date that both Subdivider and the City have executed this Agreement (the “Effective Date”), and shall terminate only after the release of all Securities, unless this Agreement is terminated in writing signed by both Parties.

3. Dedication. Except as otherwise provided in this Agreement or in the action of the City Council approving the Final Map, the City hereby rejects all lands, rights-of-way and easements offered for dedication on the Subdivision Map or by separate instrument. Such offers, however, shall remain open and constitute irrevocable offers of dedication in accordance with Government Code section 66477.2. All such offers of dedication may be accepted by the City in its sole discretion at any later date without any further notice to the Subdivider.

4. Installation of Required Improvements. Subdivider agrees to furnish, construct and install at Subdivider’s own expense the Improvements, as shown on the Improvement Plans,

which are to be installed to the sole satisfaction of the Manager and will be on file in the Development Services Department. The Improvement Plans may only be modified by the Subdivider subject to prior written approval by the Manager.

In-lieu of providing a performance bond and payment bond, Subdivider agrees to construct all of the required Improvements prior to the approval and recordation of the final map. As such, the ordinary requirements for providing a performance bond and payment bond has been waived in this Agreement.

5. Subdivider's Obligations. Subdivider shall perform each of the following, at all times, throughout the term of this Agreement:

A. Complete, at Subdivider's sole cost and expense in a good and workmanlike manner, all of the Improvements in conformance with the Resolution of Approval (and any amendments thereto), the Subdivision Laws, and all applicable standards under City codes and ordinances and the City's general plan related to the Improvements (collectively, the "Improvement Standards").

B. Commence construction of the Improvements within three (3) months from the Effective Date of this Agreement. Subdivider shall notify the Manager in writing three days before the commencement of construction of the Improvements.

C. Complete all Improvements within twelve (12) months from the Effective Date of this Agreement, unless otherwise approved or extended in writing by the City Manager for good cause, after written application by Subdivider. Such application shall state fully the grounds and facts showing good cause for such extension to be granted. In granting any extension of time, the City may require a new or amended subdivision improvement agreement to reflect increases in the costs of constructing the Improvements or other conditions related to the extension of time.

D. Furnish and pay for all necessary equipment, labor and materials to complete the Improvements in conformity with the Improvement Standards.

E. Replace or repair all public improvements, private property, public utility facilities, and surveying or subdivision monuments that are destroyed or damaged in the performance of any work related to this Agreement. Subdivider shall bear the entire cost of replacement or repairs of any and all public or private property damaged or destroyed in the performance of any work related to this Agreement. Any repair or replacement work shall be to the satisfaction, and subject to the approval, of the Manager.

F. Provide safe access for inspection by the City to the Improvements.

G. Give good and adequate warning to the public of each and every dangerous condition existing on or near the Improvements, and take reasonable action to protect the public from any such dangerous condition.

H. Perform all construction work related to installing the Improvements between 6:00 a.m. and 6:30 p.m. on weekdays and between 8:00 a.m. and 5:00 p.m. on weekends and legal holidays, unless otherwise approved in writing by the Manager.

I. Require each contractor and subcontractor to have a competent foreman on the job at all times when that contractor or subcontractor, or any employee or agent thereof, is performing any work related to the Improvements. Subdivider shall maintain an office with a telephone and Subdivider or a person authorized to make decisions and act for Subdivider in Subdivider's absence shall be available at the site of any Improvements within three (3) hours of being called at such office by the City at any time when construction work is being performed on the Improvements.

J. Assume all costs for utility and cable television undergrounding or relocation which is not the responsibility of the cable television, gas, electric, telephone or other utility company under the terms of any franchises with the City or otherwise imposed upon the utility companies by law.

K. Obtain and comply with all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all fees and taxes required by law.

6. Estimated Cost of Improvements. The total estimated cost of the Improvements, as provided by Subdivider and reviewed and confirmed by the Engineer and Manager, is _____ (\$_____).

7. Title to Improvements. The City shall not accept any property to be dedicated or the Improvements unless they are constructed in conformity with the Improvement Plans and Improvement Standards, to the satisfaction of the Engineer and Manager. Subdivider shall retain title to, shall be responsible for, and shall bear the risk of loss to, any of the Improvements constructed or installed, until such time as the Improvements are accepted by the City. Title to and ownership of the Improvements and any real property to be dedicated shall vest absolutely in the City upon completion and acceptance of such Improvements by the City Council. The City shall not accept the Improvements unless title to the Improvements is entirely free from all liens. Prior to acceptance, at City's request, Subdivider shall supply the City with appropriate lien releases, at no cost to and in a form acceptable to the City.

8. Acquisition and Dedication of Easements or Rights-of-Way. If any of the Improvements are to be constructed or installed on land not within the Subdivision or an already existing public right-of-way, no construction or installation shall commence before:

A. The irrevocable offer of dedication or conveyance to City of appropriate rights-of-way, easements or other interests in real property, and appropriate authorization from the property owner to allow construction or installation of the Improvements; or

B. The issuance of an order of possession by a court of competent jurisdiction pursuant to the State Eminent Domain Law (Cal. Code Civ. Proc. § 1230.010 *et seq.*). Subdivider shall comply in all respects with any such order of possession.

9. Final Acceptance of Work. Acceptance of the Improvement Work on behalf of the City shall be made by the City Council upon recommendation of the Engineer and Manager, after satisfactory completion and inspection of all Improvements. Such acceptance shall not constitute a waiver by the City of any defects or deficiencies in the Improvements.

10. Repair of Defective Work. If, however, within a period of one (1) year after final acceptance by the City Council of the Improvements, any portion of the Improvements or any work done under this Agreement fails to fulfill any of the requirements of this Agreement, the Improvement Plans or the Improvement Standards, Subdivider shall without delay and without any cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements or work. If the Subdivider fails to act promptly in accordance with this requirement, or if the exigencies of the situation require repairs or replacements to be made before Subdivider can be notified or correct the situation, then the City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Subdivider shall pay to City the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by City.

11. Securities. Concurrently with or before the Effective Date of this Agreement, Subdivider shall furnish to the City:

A. *Faithful Performance Security.* [omitted; see Section 4 above]

B. *Payment Security.* [omitted; see Section 4 above]

C. *Guarantee and Warranty Security.* Securities to guarantee workmanship shall be in the amount of ten percent (10%) of the estimated cost of the Improvements, as stated in Section 6 above, to guarantee and warrant the Improvements for a period of one (1) year following their completion and acceptance against any defective work or labor done, or defective materials.

D. *Bonds.* Any bonds submitted as Securities shall be executed by a surety company authorized to conduct a surety business in California and shall be in a form as specified by the Subdivision Laws and approved by the City. All Securities deposited as bonds under this Agreement shall be irrevocable, shall not be limited as to time (except as to the guarantee and warranty period), and shall provide that they may be released, in whole or part, only upon the written approval of the Director, as provided under the Subdivision Laws and in Section 12 below. All Securities shall expressly obligate the surety for any extension of time authorized by the City for Subdivider's completion of the Improvements, whether or not the surety is given notice of such an extension by the City. No change, alteration or addition to the terms of this Agreement or the plans and specifications incorporated herein shall in any manner affect the obligation of the sureties, except as required by the Subdivision Laws.

E. *Records.* Evidence of the Securities required by this Agreement shall be kept on file with the City Clerk. If the City Council gives specific, written approval to replace the Securities by another approved security, such replacement Securities shall be filed with the City Clerk and, upon filing, shall be deemed to be incorporated into this Agreement. Upon filing of replacement Securities with the City Clerk, the replaced Securities may be released.

12. Release of Securities. The Securities required by this Agreement shall be released in accordance with the Subdivision Laws and the following provisions:

A. *Faithful Performance Securities.* [omitted]

B. *Payment Security.* [omitted]

C. *Guarantee and Warranty Securities.* The Securities provided for guarantee and warranty of workmanship shall be released after one (1) year following the completion and acceptance of the Improvements, and inspection thereof by the City's Construction Inspector and approved by the Engineer. If, however, the Engineer and Manager determine there are defects in the Improvements that require correction pursuant to Section 10 above, the Manager shall utilize the Securities to make all necessary corrections, including payment of reasonable expenses and fees and attorney's fees.

13. Inspections.

A. The City reserves the right to inspect all Improvements at any time. Subdivider shall at all times maintain safe access for inspection of the Improvements.

B. Upon completion of the Improvements the Subdivider may request a final inspection by the City's Construction Inspector. If the Construction Inspector determines that the Improvements have been completed in accordance with all Improvement Standards and Subdivision Laws, then the Manager shall certify the completion of the Improvements to the City Council, to accept or reject in their sole discretion. The City bears no liability for any costs or expenses resulting from delays in inspections.

C. Subdivider shall bear all costs of inspection and certification, including but not limited to the direct costs of all third-party inspection agencies and City inspection consultants.

14. Default of Subdivider.

A. *Default of Subdivider.* Events of default by ("Default") by Subdivider may include, but shall not be limited to, any of the following:

i. Subdivider's failure to timely complete construction of the Improvements;

ii. Subdivider's failure to timely cure any defect in the Improvements to the satisfaction of the Manager;

iii. Subdivider's failure to timely deposit additional Securities as may be required by this Agreement;

iv. Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which Subdivider fails to discharge within thirty (30) days;

v. the commencement of a foreclosure action against the Subdivision or a portion thereof, or any conveyance in-lieu or in avoidance of foreclosure; or

vi. Subdivider's failure to perform any material obligation under this Agreement.

B. *Notice of Default.* In the event of Subdivider's default, Subdivider shall be deemed to be in breach of this Agreement and the City may serve written notice upon Subdivider and Subdivider's surety, if any, of the breach of this Agreement. Subdivider shall have fifteen (15) days from receipt of written notice by City to cure any default.

C. *Remedies; Performance by City.*

i. In the event of Subdivider's default under this Agreement, and the applicable cure period set forth in this Paragraph has expired without such default having been cured, the City may thereafter deliver a notice of breach to Subdivider and Subdivider's surety, if any. If the default remains uncured within fifteen (15) days from receipt of the written notice of breach, Subdivider authorizes the City to complete all work on the Improvements at the sole expense of Subdivider, and Subdivider authorizes to utilize the Securities to complete all work on the Improvements and to pay all labor costs of contractors, subcontractors and workers related to the Improvements. The City may take over the Improvements and prosecute the same to completion, by contract or by any other method the City may deem advisable, for the account and at the expense of Subdivider, and Subdivider shall be liable to City for any excess cost or damages incurred by the City thereby. In the event the City takes over the Improvements or prosecutes the same to completion, the City, without liability for so doing, may take possession of, and utilize such materials, appliances, equipment, plant and other property belonging to Subdivider as may be necessary for completion of the Improvements.

ii. The City reserves to itself all remedies available to it at law or in equity for breach of Subdivider's obligations under this Agreement. The right of the City to draw upon or utilize the Securities is additional to and not in lieu of any other remedy available to the City.

iii. Failure of Subdivider to comply with the terms of this Agreement shall constitute consent to the filing by the City of a notice of violation against all the lots in the Subdivision, or to rescind the approval or otherwise revert the Subdivision to acreage. The remedy provided by this Subsection is in addition to and not in lieu of other remedies available to the City, and is not required to implement other available remedies. Subdivider agrees that the choice of remedy or remedies for Subdivider's default shall be at the discretion of the City.

iv. In the event that Subdivider fails to perform any obligation hereunder, Subdivider agrees to pay all costs and expenses incurred by the City in securing performance of such obligations, including but not limited to costs of suit and attorney's fees, costs

of Improvements in the event of failure of performance, and all administrative costs. Such costs and fees shall be a proper charge against the Securities of Subdivider.

v. The failure of the City to take an enforcement action with respect to a default or breach, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of Subdivider.

D. *Lien.* In accordance with the Subdivision Laws (Gov. Code § 66499), the recordation of this Agreement creates a lien attached to the property underlying the Subdivision and has the priority of a judgment lien in the amount necessary to complete the Improvements.

15. Environmental Warranty.

A. For purposes of this Agreement, the terms below have the following meanings:

i. “Environmental Laws” shall mean any federal, state, or local law, rule, regulation administrative or court order, ordinance, regulatory guidance document, standard, or requirements of any government authority regulating, relating to, or imposing liability standards of conduct concerning Hazardous Substances, or that pertains to the protection of human health or the environment, including, but not limited to, the Comprehensive Environmental Response, Conservation and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq.*); the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§6901 *et seq.*); the Clean Water Act (33 U.S.C. §§1251 *et seq.*); the Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 *et seq.*); the Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 *et seq.*); the Superfund Amendments and Reauthorization Act (42 U.S.C. §§ 6901 *et seq.*); the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*); the Safe Drinking Water Act (42 U.S.C. §§ 300f *et seq.*); the Solid Waste Disposal Act (42 U.S.C. §§ 6901 *et seq.*); the Surface Mining Control and Reclamation Act (30 U.S.C. §§ 1201 *et seq.*); the Occupational Safety and Health Act (29 U.S.C. §§ 655, 657); the California Underground Storage of Hazardous Substances Act (Health and Safety Code §§ 25280 *et seq.*); the California Hazardous Waste Control Act (Health and Safety Code §§ 25100 *et seq.*); the California Safe Drinking Water and Toxic Enforcement Act (Health and Safety Code §§ 24249.5 *et seq.*); and the Porter-Cologne Water Quality Control Act (Water Code §§ 13000 *et seq.*); together with any amendments of or regulations promulgated under the statutes cited above.

ii. “Hazardous Substances” or “Hazardous Substance” shall include any hazardous, toxic or dangerous waste, substance or material, pollutant or contaminant, as so defined under any Environmental Laws or any substance which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls (PCBs), radon gas, urea formaldehyde, asbestos, lead, or electromagnetic waves. Hazardous Substances include any hazardous or toxic substance, material or waste which is regulated by the State of California, the United States government, or any other governmental authority with jurisdiction over the Property. Hazardous Materials include asbestos and any other hazardous waste or substance which has, as of the date hereof, been determined to be hazardous

or a pollutant by the U.S. Environmental Protection Agency, the U.S. Department of Transportation, or any instrumentality authorized to regulate substances in the environment which has jurisdiction over the Property which substance causes the Property (or any part thereof) to be in material violation of Environmental Laws.

B. Prior to acceptance of any Improvements by the City, Subdivider shall provide the City with a written warranty that:

i. Subdivider and the property being dedicated are in compliance with all Environmental Laws and are not subject to any existing, pending or threatened investigation by a federal, state, or local governmental authority regarding violations of Environmental Laws.

ii. Subdivider and its third-party agents, contractors and subcontractors have not used, generated, manufactured, produced, discharged, or released on, under, or about the property to be dedicated, any Hazardous Substance except in accordance with all applicable Environmental Laws.

iii. Subdivider has not caused or permitted the release or discharge of, and has no knowledge of the release, discharge, or presence of Hazardous Substances on the property to be dedicated or the migration of any Hazardous Substances from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

C. Throughout the term of this Agreement, Subdivider shall give written notice within fifteen (15) days to the City of:

i. Any proceeding or investigation by any federal, California, or local governmental authority regarding the presence of Hazardous Substances on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated;

ii. Any claims made or threatened by any third party against the City or property to be dedicated regarding any loss or injury resulting from any Hazardous Substances; and

iii. Subdivider's discovery of any occurrence or condition on any property to be dedicated or any property adjacent to, or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability, or suit under any Environmental Law.

16. Design or Construction Defect.

A. After acceptance of the Improvements, the Subdivider shall remain obligated to eliminate any defect in design or dangerous condition caused by a latent design or construction defect.

B. Provisions of this section shall remain in full force and effect for ten (10) years following the acceptance of the Improvements by the City.

C. It is the intent of this section that Subdivider shall be responsible for all liability for design and construction of the Improvements and that the City shall not be liable for any negligence, nonfeasance, misfeasance, or malfeasance in approving, reviewing, checking, or correcting any plans or specifications or in approving, reviewing or inspecting any Improvement Work. The Securities shall not be required to cover the provisions of this paragraph.

17. No Agency Relationship. Neither Subdivider nor any of Subdivider's agents or contractors are or shall be considered to be agents of the City in connection with the performance of Subdivider's obligations under this Agreement. City elected and appointed councils, commissions, officers, agents, employees and representatives ("City Agents") shall not, be liable or responsible for any accident, loss or damage, regardless of the cause, happening or occurring to the Improvement Work or Improvements specified in this Agreement prior to the completion and acceptance of the Improvement Work or Improvements. All such risks shall be the responsibility of and are hereby expressly assumed by Subdivider.

18. Other Agreements. Nothing contained in this Agreement shall preclude the City from expending monies pursuant to agreements concurrently or previously executed between the Parties, or from entering into agreements with other subdividers for the apportionment of costs of water and sewer mains, or other improvements, pursuant to the provisions of the City ordinances providing therefore, nor shall anything in this Agreement commit the City to any such apportionment.

19. Indemnity/Hold Harmless.

A. The City and City Agents shall not be liable and Developer agrees to indemnify, hold harmless and defend the City and City Agents from any and all claims, costs, and liability for claims of damage, for any property damage or personal injury, including death, which may arise as a result of any negligent acts or omissions by Developer or Developer's contractors, subcontractors, agents, or employees in connection with the construction, improvement, or operation, of the Improvements, including all claims, demands, causes of action, liability, or loss because of, or arising out of, in whole or in part, the design or construction of the Improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design or construction of the Subdivision and the Improvements as provided herein, and in addition, to injuries to adjacent property owners as a consequence of the diversion of waters from the design or construction of public drainage systems, streets and other Improvements.

B. Acceptance by the City of the Improvements shall not constitute an assumption by the City of any responsibility for any damage or taking covered by this Section.

C. Provisions of this paragraph shall remain in full force and effect for ten (10) years following the acceptance by the City of the Improvements. It is the intent of this section that Subdivider shall be responsible for all liability for design and construction of the Improvements installed or Improvement Work done pursuant to this Agreement and that City shall not be liable

for any negligence, nonfeasance, misfeasance, or malfeasance in approving, reviewing, checking, or correcting any plans or specifications or in approving, reviewing or inspecting any Improvement Work. The Security shall not be required to cover the provisions of this section.

D. City shall not be liable for approving, reviewing, checking, or correcting any plans or specifications or for approving, reviewing or inspecting any Improvement Work. Nothing contained in this section is intended to, or shall be deemed to, limit or waive any protections or immunities afforded by law to the City or City Agents for the approval of the plan or design of the Improvements, including but not limited to the protections and immunities afforded by Government Code section 830.6. Subdivider shall defend, indemnify, and hold harmless the City and City's Agents from any claim, action, or proceeding against City or City Agents to attack, set aside, void, or annul an approval of the City or City Agents concerning the Subdivision.

20. Insurance. Without limiting Subdivider's duty to indemnify the City, Subdivider shall maintain in effect throughout this Agreement a policy or policies of insurance with the specifications and limits of liability specified herein.

A. Proof of Insurance.

i. Subdivider shall provide to the City a properly executed certificate of insurance, in a form satisfactory to the City Attorney for commercial general liability coverage; automobile liability, worker's compensation insurance, professional liability insurance, and course of construction coverage from an insurance provider approved by the City and licensed by the California Department of Insurance ("Certificates").

ii. Each Certificate shall provide that such insurance will not be cancelled, reduced in coverage, or allowed to expire without thirty (30) days' prior written notice to the City.

B. Minimum insurance limits. Contractor shall maintain limits no less than:

i. General Liability. Subdivider shall maintain such commercial general liability insurance with an insurance company admitted in California with an AM Best Rating of not less than A+, as shall protect the City, the City's Agents, Subdivider, contractors, and subcontractors from claims for damages for personal injury, including death, as well as from claims of property damage which may arise from acts or omissions from Subdivider, contractors, or subcontractors for in relation to this Agreement. The amount of such insurance shall not be less than two million dollars (\$2,000,000.00) per occurrence with umbrella liability coverage of not less than two million dollars (\$2,000,000.00). Such insurance shall also:

1. Name the City and the City Agents as insured by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitation on the scope of its protection afforded to the above-listed additional insured; and

2. Be primary with respect to any insurance or self-insurance programs covering the City and City Agents.

ii. Automotive Liability Insurance. Subdivider shall maintain automotive liability insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services or performing work under this Agreement for bodily injury and property damage with a limit of not less than one million dollars (\$1,000,000.00) for each occurrence. Such insurance shall also:

1. Name City and City Agents as insured by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitation on the scope of its protection afforded to the above-listed additional insured; and

2. Be primary with respect to any insurance or self-insurance programs covering the City and City Agents.

iii. Worker's Compensation Insurance.

1. Subdivider shall maintain worker's compensation insurance in accordance with California Labor Code Section 3700, and with a limit of not less than one million dollars (\$1,000,000.00) per occurrence for employer's liability.

2. In the event any work is sublet, Subdivider shall require any contractor or subcontractor to provide worker's compensation insurance for all contractor's employees or subcontractor's employees, unless such employees are covered by the protection afforded by Subdivider.

C. *Course of Construction.* Subdivider shall maintain course of construction insurance for a value of not less than the completed value of the Subdivision and the Improvements.

D. *Professional Liability Insurance.* Subdivider shall maintain professional liability insurance, as applicable, in the amount of not less than two million dollars (\$2,000,000.00) per claim and three million dollars (\$3,000,000.00) in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services.

21. No Vesting of Rights. Performance of this Agreement shall not be construed to vest Subdivider's rights with respect to any change in any zoning or building law or ordinance.

22. Notices. Any notice or communication required hereunder between City and Subdivider must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date

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

If to City: City of Riverbank
6707 Third Street
Riverbank, CA 95367
Attn: Marisela H. Garcia, City Manager

With copies to: Brenner White, LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attn: Douglas L. White, Esq.

If to Subdivider: Cary Pope, President
DBA Ammo Plant Management, Inc
3237 Riverside Drive
Riverbank, CA 95367
Email: cpope@pmz.com
Phone: 209-456-6297

and

23. General Provisions:

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

B. *Compliance with Laws.* Subdivider, its agents, employees, contractors, and subcontractors shall comply with all federal, state and local laws in the performance of the work required by this Agreement, including but not limited to all Improvement Standards or any other applicable land use approvals. Subdivider shall be responsible for obtaining all applicable licenses and permits.

C. *Venue.* Venue for any legal proceedings initiated in connection with this Agreement shall be in the Superior Court for the County of Stanislaus.

D. *Severability.* The provisions of this Agreement are severable. If any provision of this Agreement is held invalid by a court of competent jurisdiction, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

E. *Waiver.* The waiver by either Party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this Agreement. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

F. *Approvals by the City.* Any approval or consent that is to be given by the City under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on the City.

G. *Integration.* This Agreement, together with its specific references, attachments and Exhibits, constitute all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the Parties with respect to the subject matter of this Agreement. Neither Party shall be liable for any representations made, express or implied, not specifically set forth herein. It is the intention of the Parties that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

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

I. *Mandatory and Permissive.* "Shall" and "will" and "agrees" are mandatory. "May" or "can" are permissive.

J. *Successors and Assigns – Covenant Running With the Land.* Subdivider shall not assign any of its obligations under this Agreement without the prior written consent of the City. Notwithstanding the above, all representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of or for the benefit of any or all of the Parties, shall be binding upon and inure to the benefit of such Party, its successors and assigns. This Agreement, however, shall not be binding on any lot that has been conveyed to an individual homebuyer and for which a Certificate of Occupancy has been issued by the City.

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

L. *Other Documents.* Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to fulfill the purposes and intentions of this Agreement.

M. *Time is of the Essence.* Time is of the essence in this Agreement in each covenant and term and condition herein.

N. *Authority.* The Parties warrant and represent that they have the power and authority to enter into this Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities,

persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement have been fully complied with.

O. *Construction and Interpretation.* It is agreed and acknowledged by Subdivider that the provisions of this Agreement have been arrived at through negotiation, and that Subdivider has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in construing or interpreting this Agreement.

P. *Advice of Legal Counsel.* Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement.

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

R. *No Monetary Damages Against the City.* In the event of the City's default under this Agreement, Subdivider agrees that Subdivider may not seek, and shall forever waive any right to, monetary damages against the City.

S. *Modification.* This Agreement may be amended only by a written instrument signed by the Parties. Subdivider shall bear all costs of amendments to this Agreement that are requested by Subdivider.

T. *Exhibits.* All exhibits attached hereto are incorporated into this Agreement:

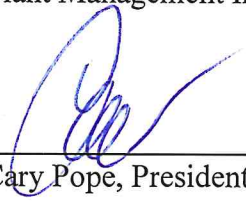
[Signatures on following page]

IN WITNESS WHEREOF, this Agreement has been entered into by and between Subdivider and City as of the day and year first above written.

SUBDIVIDER:

Ammo Plant Management Inc

By:


Cary Pope, President

CITY:

CITY OF RIVERBANK, a California
municipal corporation:

By:

Marisela H. Garcia, City Manager

ATTEST:

By:

Gabriela Hernandez, City Clerk

APPROVED AS TO FORM:

By:

Tom Hallinan, City Attorney

California All-Purpose Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Stanislaus)

On 02/16/2023, before me LAURA Graybill, a Notary Public, personally appeared Cary Pope who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Sarah Raybill
(Signature)



(Seal)

California All-Purpose Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Stanislaus)

On _____, before me _____, a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

(Signature)

(Seal)

EXHIBIT A

Tentative Map Resolution of Approval

CITY OF RIVERBANK

RESOLUTION NO. 2016-009

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
APPROVING THE REQUEST OF TROY WRIGHT FOR TENTATIVE SUBDIVISION
MAP 01-2015 TO SUBDIVIDE 2.42 ACRES INTO 28 PLANNED DEVELOPMENT
SINGLE FAMILY RESIDENTIAL LOTS, LOCATED SOUTH OF WARD AVENUE,
WEST OF ROSELLE AVENUE APN: 132-036-003**

WHEREAS, a development application has been received from Troy Wright representing the real property owners: Rachel Garcia and Mary Chavez for a Tentative Subdivision Map to divide 2.42 acres into 28 planned development single family residential lots, a private street lot and a drainage/EVA lot of lands more particularly described as:

The East half of Lot 96 of Riverbank Acreage Tract as per Map filed March 23, 1912 in Vol. 6 of Maps, Page 33, Stanislaus County Records.

Stanislaus County Assessor Parcel Number 132-036-003.

WHEREAS, the City Subdivision Ordinance, Section 152.037, states that as condition of approval of a tentative map, the subdivider shall dedicate and develop parkland, pay a fee in lieu thereof, or both, at the option of the City. In this case the City has chosen to accept the payment of an in-lieu fee for parkland dedication based on values of land at the time the Final map is recorded. The obligation for this project is 0.24 acres of park land pursuant to the General Plan Policy PUBLIC - 11.1 which requires a dedication obligation of five acres of parkland per 1,000 residents; and

WHEREAS, public facilities represent the public's investment in the development of the complex, urban infrastructure that is necessary to support the physical operation of the city; and

WHEREAS, the proposed tentative map is consistent with General Plan Goal CONS-4.2 which states "Approved projects, plans and subdivisions shall provide for collection, conveyance, treatment, detention, and other storm water management measures in a way that does not decrease water quality or alter hydrology in the Stanislaus River or associated groundwater recharge areas"; and

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

WHEREAS, the proposed tentative map is consistent with General Plan Goal CONS-8.9 which states that "Approved projects, plans, and subdivision requests shall include native, drought-tolerant landscaping"; and

WHEREAS, the proposed tentative map is consistent with General Plan Goal DESIGN-2.5 which states that "The City will require visually attractive streetscapes with street trees and sidewalks on both sides of streets, planting strips, attractive transit shelters, benches and pedestrian-scale streetlights in appropriate locations"; and

WHEREAS, the proposed tentative map is consistent with General Plan Goal DESIGN-2.8 which states that "The City will coordinate with transit providers and, as appropriate, require land and amenities to accommodate transit"; and

WHEREAS, the City Council finds that the proposed subdivision, together with the provisions for its design and improvements, is consistent with the general plan and applicable specific plans of the city.

- 1) The Planning Commission has considered the effect of its actions on the housing needs of the region in which the local jurisdiction is situated and balance those needs against the public service needs of the city's residents and available fiscal and environmental resources.
- 2) The proposed tentative map is consistent with applicable general and specific plans.
- 3) The site is physically suitable for the type of development.
- 4) The site is physically suitable for the proposed density of the development.
- 5) The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- 6) The design of the subdivision or the type of improvements will not cause serious public health problems.
- 7) The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of, property within the proposed subdivision.

WHEREAS, the location, size, timing, and financing of major streets, water, sewer, and drainage systems, parks and playgrounds, police and fire stations, and libraries must be planned well in advance of their construction. This advance planning is an essential to minimizing project costs, optimizing project need and usefulness, and maximizing the public benefits and private sector support; and

WHEREAS, Riverbank's investments in public facilities are designed to respond to the identified needs of the forecasted population and how these improvements relate to other existing public facilities; and

WHEREAS, newly developed properties must be adequately serviced with parks, sewerage, water, electricity, gas, street lighting and telecommunications in a timely, cost-effective coordinated and efficient manner; and

WHEREAS, Tentative Map 01-2015 was reviewed by the Riverbank Planning Commission at a regular meeting held on January 19, 2016 in the manner prescribed by law; and.

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

WHEREAS, pursuant to the California Environmental Quality Act, the Planning Commission has determined that the proposed VTM is exempt pursuant to Section 15332 (Class 32, In-Fill Development Projects) of the State CEQA Guidelines. The proposed Vesting Tentative Map meets the conditions prescribed by CEQA Section 15332(a-e); and

WHEREAS, the Riverbank City Council approves the requested Tentative Map as prepared by Hawkins and Associates Engineering, Inc. and dated January 13, 2016 presented by Troy Wright as depicted in attached exhibit "A", incorporated herein as a part of this City Council Resolution; and

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

- A. The project, as conditioned, is consistent with the General Plan in that the project directly implements adopted policies of the General Plan Land Use and Housing Elements.
- B. Notice to the general public and adjoining neighbors in the time and in the manner required by State Law and City Code.
- C. Pursuant to the California Environmental Quality Act, it has been determined that the proposed VTM is exempt pursuant to Section 15332 (Class 32, In-Fill Development Projects) of the State CEQA Guidelines. The proposed Vesting Tentative Map meets the conditions prescribed by CEQA Section 15332(a-e) and a Notice of Exemption will be filed with the County Recorder.
- D. The site is physically suitable for the proposed type and intensity of development in that the site is generally flat with no unique geologic characteristics visible and construction of the project will result in adequate infrastructure available to the site to handle the anticipated development.

- E. The circulation of the Tentative Subdivision Map to all responsible and trustee agencies has provided sufficient opportunity to review the proposed development plan and ensure minimal impacts on surrounding properties in that the hearing was held in the manner prescribed by law and surrounding properties are not expected to be impacted by the additional residential housing units.
- F. The approval of the Tentative Map 01-2015 for the establishment of 28 planned development single family dwelling units will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood in that proposed are similar to, and compatible with, neighboring uses in the area.

WHEREAS, the request and plans of Troy Wright are hereby approved by the City Council of the City of Riverbank, subject to the following conditions:

1. Applicant shall comply with the City of Riverbank Standard Conditions as contained in Planning Commission Resolution 2013-014, including annexing into a Community Facilities District, or receive confirmation from the Community Development Director that a specific condition or conditions does not apply to the subject project; and
2. All frontage improvements (curb, gutter, and sidewalk) along Ward Avenue and the private street shall be designed, completed, and inspected by the City prior to Final Map Recordation.
3. Fencing along the east, west, and south property lines and separating individual lots shall be six (6) feet tall. If adjacent neighbor fences need replacement during construction, vinyl shall be replaced with vinyl and wood shall be replaced with wood or vinyl. A decorative wall meeting city standards shall be installed on the two parcels fronting Ward Avenue to the satisfaction of the Community Development Director. Any new fencing visible from Ward or Chavez shall be vinyl.
4. A Major Tree Conservation Permit including a Tree Removal Permit Application, Tree Survey and Tree Protection Plan is required before a grading permit can be issued.
5. The private street name, Chavez Street shall be approved by City Council unless a street with that name already exists in Stanislaus County.
6. The developer shall minimize driveway and garage widths where possible.

7. The required Home Owner's Association shall be responsible for maintenance of the basin and common areas, landscaping (including front yards), and walls and fences (including graffiti removal and re-staining wooden fencing when it fades from sprinklers).
8. The Park-in-lieu fee obligation for this project is .24 acres to be paid based on values of land at the time the Final Map is recorded.
9. Three (3) sets of landscape and irrigation plans shall be prepared and submitted with fee for review and approval by the City's contract landscape architect.
10. The developer shall provide functionally opening windows on all elevations to the satisfaction of the Community Development Director.
11. The developer shall install sidewalks on both sides of the private street.
12. The developer shall install a concrete pad on Ward Avenue for school children to wait on to the satisfaction of the Community Development Director.
13. All structures shall be designed and oriented for passive energy savings.
14. The developer shall record a ten (10) foot water line easement between Lot 10 and Lot 11, from Rocky Lane to the private street to loop the water system
15. Pursuant to RMC section 153.162 (E)(3) the developer shall provide seven (7) amenities for the seven (7) deviations from standard ordinance requirements:
 - 1.) enhanced landscaping (i.e. larger size plants, more dense plantings);
 - 2.) a colored concrete or brick crosswalk across the private street at Ward Avenue;
 - 3.) A decorative block wall and vinyl fencing instead of wooden fencing where fencing is visible from the streets;
 - 4.) upgraded garage (carriage) doors;
 - 5.) French doors instead of sliding doors in the living rooms;
 - 6.) outdoor outlets to support electric mowers, trimmers, and Christmas lights; and
 - 7.) two (2) benches at the storm water basin.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the Tentative Map Application No. 01-2015, subject to those aforementioned conditions established herein, to be built as illustrated in **Exhibit "A"** incorporated herein to this Resolution entitled TM dated January 13, 2016.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 9th day of February, 2016; motioned by Councilmember Leanne Jones Cruz, seconded by Vice Mayor Jeanine Tucker, and upon roll call was carried by the following City Council vote of 4-1:

AYES: Barber-Martinez, Jones Cruz, Tucker, and Mayor O'Brien
NAYS: Campbell
ABSENT: None
ABSTAIN: None

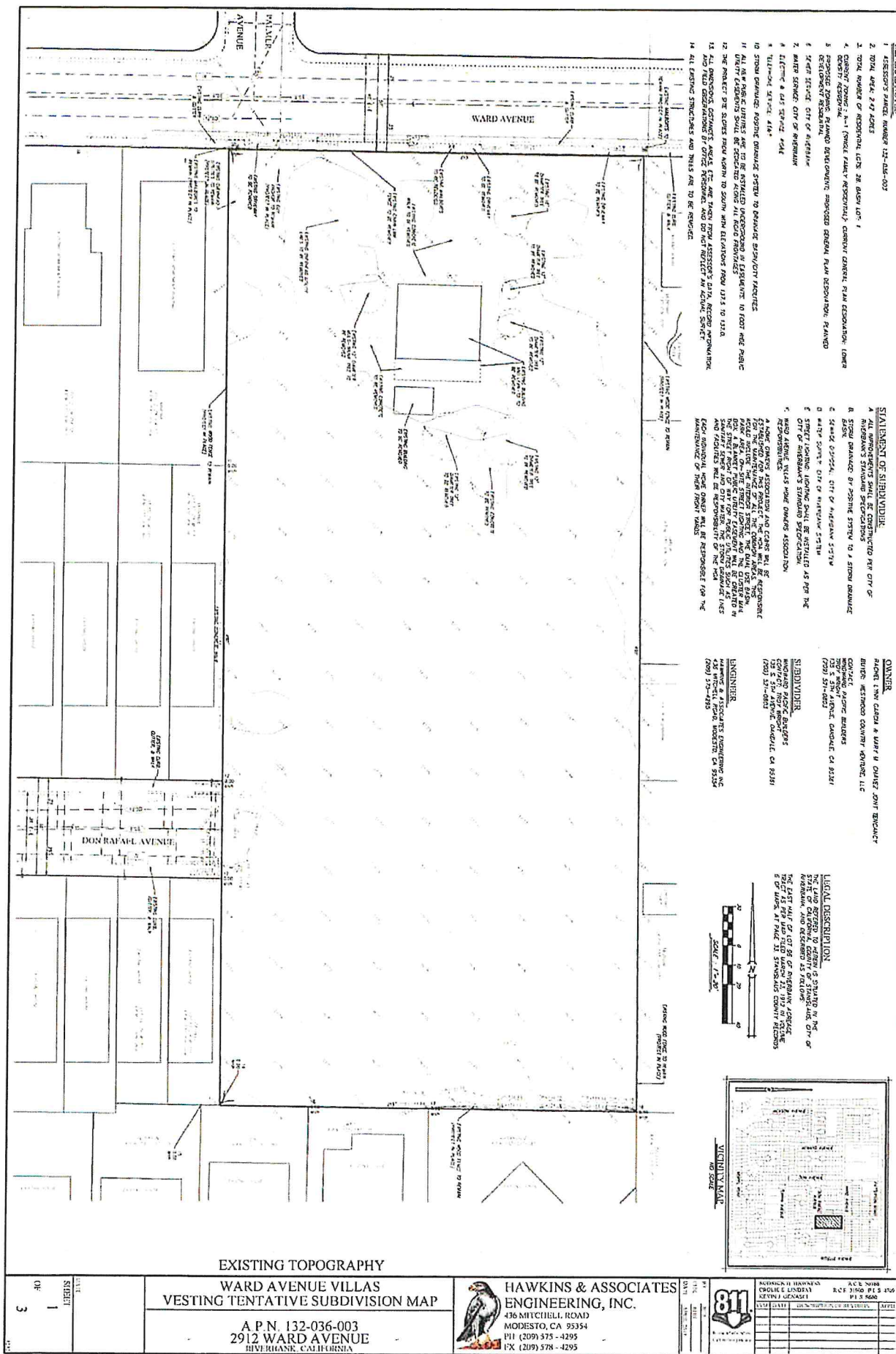
ATTEST:


Annabelle Aguilar, CMC
City Clerk

APPROVED:

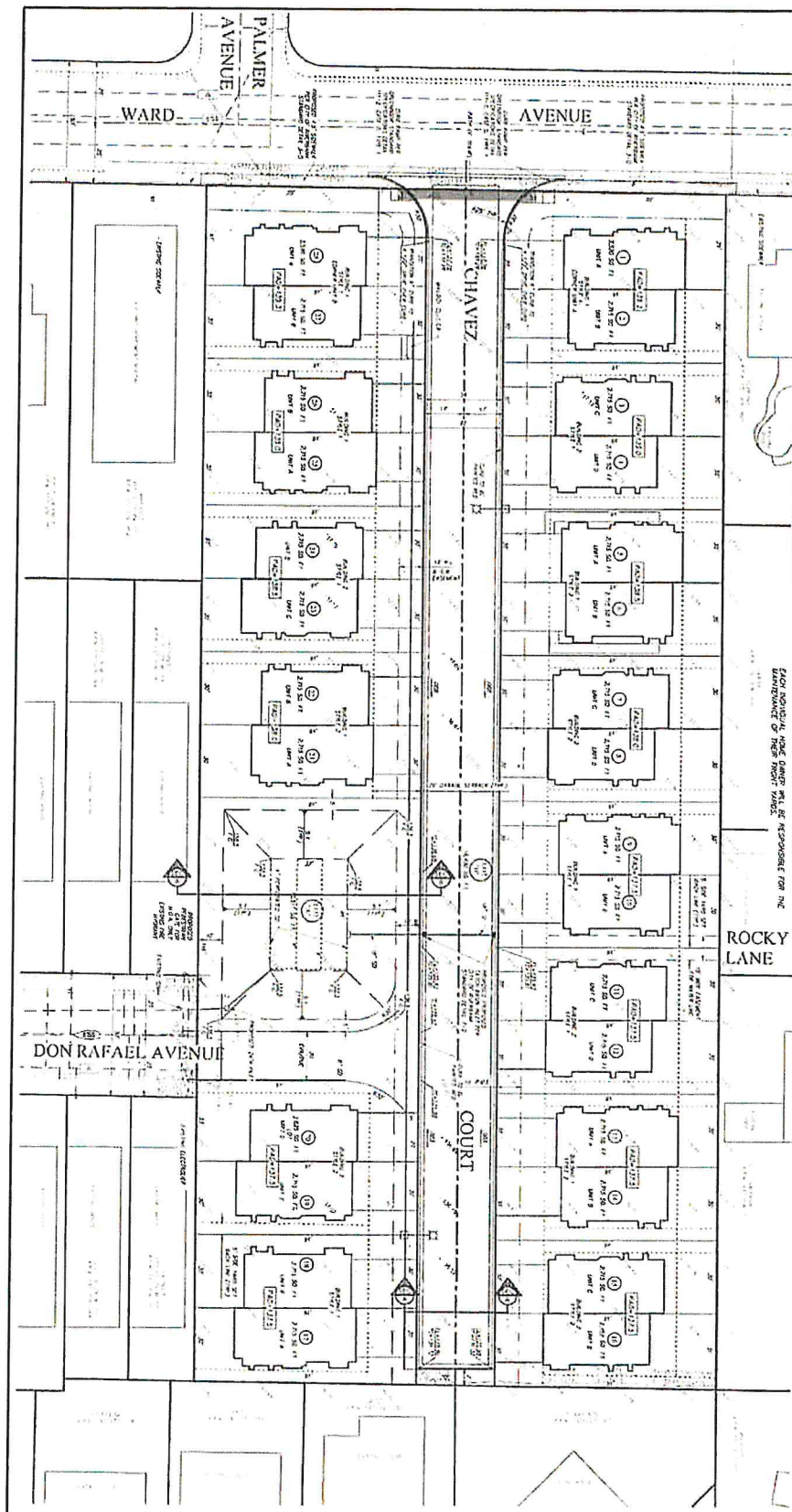

Richard D. O'Brien
Mayor

Attachment: Exhibit A – Tentative Map prepared by Hawkins and Associates Engineering, Inc. and dated 1-13-16



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20
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SOIL

[illegible][illegible][illegible][illegible]

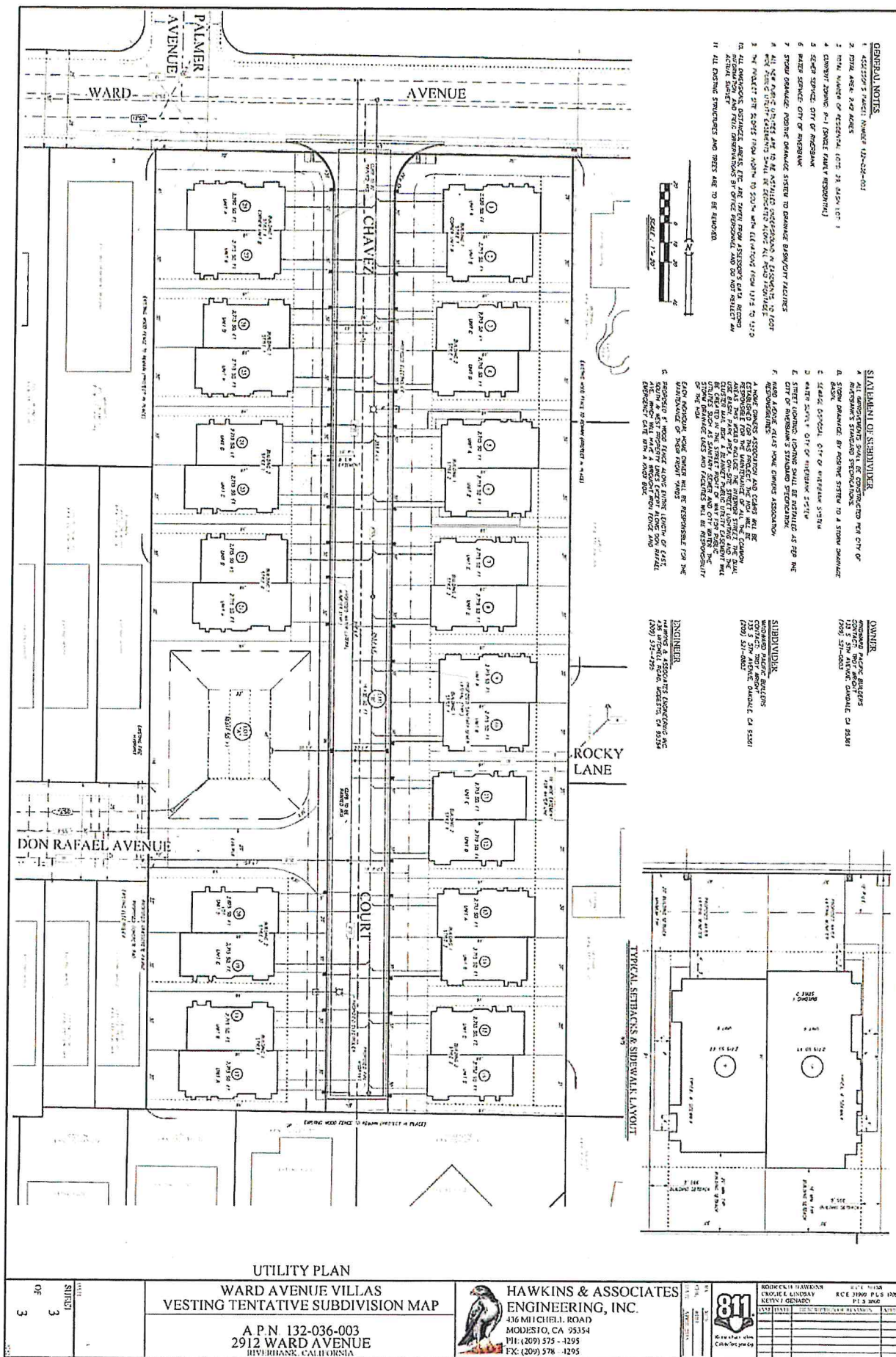
GRADING & DRAINAGE PLAN

WARD AVENUE VILLAS
VESTING TENTATIVE MAP

A.P.N. 132-036-003
2912 WARD AVENUE
RIVERDALE, CALIFORNIA



**HAWKINS & ASSOCIATES
ENGINEERING, INC.**
436 MITCHELL ROAD
MODESTO, CA 95354
P: (209) 575-4295
F: (209) 578-4295



RIVERBANK CITY COUNCIL/ LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.7

SECTION 9: CONSENT CALENDAR

Meeting Date:	March 14, 2023
Subject/ Title:	Final Map 03-2021 Ward Villas – APN: 132-036-003
From:	Marisela H. Garcia, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

Approve the Final Map (“FM”) for Ammo Plant Management, Inc. and Ward Villas based on the required finding that the map is in conformity with the provisions of subdivision law and city code.

BACKGROUND

On February 9, 2016, the City Council adopted Resolution No. 2016-008, approving a General Plan Amendment redesignating 2.42 acres to Medium Density Residential (MDR) which allows for a net density of eight to sixteen (8-16) dwelling units per acre.

On February 9, 2016, the City Council adopted Resolution No. 2016-009, approving Tentative Subdivision Map No. 01-2015 (“the Ward Villas Tentative Map”) and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of 28 residential lots on 2.45 acres (Attachment 2).

On February 23, 2016, the City Council adopted Ordinance No. 2016-010 approving Rezone 01-2015. This action rezoned the property to Planned Development (PD) and allows for a density of eight to sixteen (8-16) dwelling units per net acre.

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

determined not to be in conformity with the provisions of law and of this chapter and shall advise the subdivider of its disapproval, and the reason or reasons thereof.

The City Engineer and Planning and Building Manager have reviewed the final map (**Exhibit A**) and have determined that the plans are in substantial compliance with city standards and with the conditions placed upon the tentative map. The Project is compliant with CEQA – the Project qualified for a Notice of Exemption.

FISCAL IMPACT

None.

ATTACHMENTS

1. Draft City Council Resolution 2023-
Exhibit A - Final Map
2. Tentative Map

CITY OF RIVERBANK

RESOLUTION 2023-

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF RIVERBANK, CALIFORNIA
APPROVING FINAL MAP 03-2021 FOR AMMO PLANT MANAGEMENT, INC
FOR WARD VILLAS AT 2912 WARD AVENUE (APN 132-036-003)**

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

WHEREAS, Ammo Plant Management, Inc. is the property owner and applicant for Ward Villas Final Map 03-2021; and

WHEREAS, on February 9, 2016, the City Council adopted Resolution No. 2016-008, approving a General Plan Amendment redesignating 2.42 acres to Medium Density Residential (MDR);

WHEREAS, on February 9, 2016, the City Council adopted Resolution No. 2016-009, approving Tentative Subdivision Map No. 01-2015 (“the Ward Villas Tentative Map”) and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of 28 residential lots on 2.45 acres; and

WHEREAS, on February 23, 2016, the City Council adopted Ordinance No. 2016-010 approving Rezone 01-2015. This action rezoned the property to Planned Development (PD) and allows for a density of eight to sixteen (8-16) dwelling units per net acre; and

WHEREAS, the City has now received a Final Map application to subdivide the approximately 2.42 acre site into twenty-eight (28) lots at 2912 Ward Avenue; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the City Engineer to record Final Map 03-2021 (**Exhibit A**) for Ward Villas and Ammo Plant Management, Inc upon determination that the map is in conformity with the provisions of state law.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of March 2023; 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
City Clerk

Richard D. O'Brien
Mayor

Attachment: Exhibit A - Final Map

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THE MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID REAL PROPERTY; AND THAT WE HEREBY CONSENT TO THE MAKING AND RECORDING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BOUNDARY LINE.

WE HEREBY DEDICATE FOR PUBLIC USE, EASEMENTS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS, AND ANY AND ALL PUBLIC UTILITY FACILITIES INCLUDING POLES, WIRES, CONDUITS, SANITARY SEWERS, GAS, WATER AND ALL PUBLIC UTILITIES AND ANY AND ALL APPURTENANCES TO THE ABOVE, UNDER, UPON OR OVER THOSE CERTAIN PORTIONS OF LAND DELINEATED AND DESIGNATED AS "P.U.E." (PUBLIC UTILITY EASEMENT).

WE ALSO HEREBY DEDICATE FOR PUBLIC PURPOSES, EASEMENTS OF INGRESS AND EGRESS FOR EMERGENCY VEHICLE ACCESS, ON OR OVER THOSE CERTAIN PORTIONS OF LAND DELINEATED AND DESIGNATED "E.V.A.E." (EMERGENCY VEHICLE ACCESS EASEMENT).

WE HEREBY RESERVE EASEMENTS FOR INGRESS, EGRESS AND PARKING PURPOSES UNDER, ON OR OVER THOSE CERTAIN PORTIONS OF LAND DELINEATED AND DESIGNATED "P.A.E." (PRIVATE ACCESS EASEMENTS), SUBJECT TO THE LIMITATIONS, CONDITIONS AND RESTRICTIONS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED WITH RESPECT TO THIS TRACT. THE PRIVATE STREET CONTAINED WITHIN THIS TRACT [LOT C] IS NOT OFFERED OR ACCEPTED FOR DEDICATION FOR PUBLIC STREET PURPOSES.

WE ALSO RESERVE EASEMENTS FOR STORM DRAIN PURPOSES THOSE CERTAIN PORTIONS OF LAND DESIGNATED "P.S.D.E." (PRIVATE STORM DRAIN EASEMENTS) FOR THE INSTALLATION, REPAIR, MAINTENANCE, REPLACEMENT AND OPERATION OF THE PRIVATE STORM DRAIN FACILITIES LOCATED IN THE P.S.D.E. THE DUTY TO MAINTAIN, REPAIR AND/OR REPLACE THE PRIVATE STORM DRAIN FACILITIES LOCATED IN THE P.S.D.E. SHALL BE AS SET FORTH IN THE COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED WITH RESPECT TO THIS TRACT.

LOT "C" (COMMON LOT), CONTAINING PRIVATE STREET, IS A COMMON AREA TO BE GRANTED TO THE HOMEOWNERS' ASSOCIATION.

OWNER: AMMO PLANT MANAGEMENT, INC.

BY: _____ DATE: _____
SIGNATURE

TITLE: _____

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA }
COUNTY OF _____ }

ON _____ BEFORE ME, _____, A NOTARY PUBLIC, PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER **PENALTY OF PERJURY** UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.
WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY'S SIGNATURE _____
PRINT NOTARY'S NAME _____
PRINCIPAL COUNTY OF BUSINESS _____
COMMISSION # _____
MY COMMISSION EXPIRES: _____

WARD AVENUE VILLAS

VTSM MAP APPLICATION #01-2015

CONSISTING OF 4 SHEETS

BEING A SUBDIVISION OF THE EAST HALF OF LOT 96 OF RIVERBANK ACREAGE TRACT, AS PER MAP FILED MARCH 23, 1912, IN VOLUME 6 OF MAPS, AT PAGE 33, STANISLAUS COUNTY RECORDS, LYING IN SECTION 26, TOWNSHIP 2 SOUTH, RANGE 9 EAST, MOUNT DIABLO MERIDIAN, CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
NOVEMBER, 2021

HAWKINS & ASSOCIATES ENGINEERING
436 MITCHELL RD. MODESTO,
CALIFORNIA 95354
SHEET 1 OF 4

CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT THE OWNER(S) OF THE PROPERTY SHOWN ON THE ACCOMPANYING MAP HAVE FILED WITH THE BOARD OF SUPERVISORS: (CHECK ONE)

- ☐ A. A BOND OR DEPOSIT APPROVED BY SAID BOARD TO SECURE THE PAYMENT OF TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES, WHICH ARE AT THE TIME OF FILING THIS MAP, A LIEN AGAINST SAID PROPERTY OR ANY PART THEREOF.
- ☐ B. RECEIPTED TAX BILL OR BILLS OR SUCH OTHER EVIDENCE AS MAY BE REQUIRED BY SAID BOARD SHOWING FULL PAYMENT OF ALL APPLICABLE TAXES.

DATED THIS _____ DAY OF _____, 20____

ELIZABETH A. KING
CLERK OF THE BOARD OF SUPERVISORS
STANISLAUS COUNTY, CALIFORNIA

BY: _____, DEPUTY

(PRINT NAME)

SURVEYOR'S STATEMENT

THIS MAP WAS MADE BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF AMMO PLANT MANAGEMENT, INC. ON DECEMBER 01, 2020. I HEREBY STATE THAT ALL THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

RODRICK H. HAWKINS
P.L.S. 9489

DATE _____

CITY ENGINEER'S & SURVEYOR'S STATEMENT

THIS IS TO STATE I HAVE EXAMINED THE ACCOMPANYING FINAL MAP, THAT THE SUBDIVISION SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, THAT ALL PROVISIONS OF THE STATE SUBDIVISION MAP ACT, AND THE MUNICIPAL CODE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH, AND THE MAP IS TECHNICALLY CORRECT.

DATED THIS _____ DAY OF _____, 20____.

WILLIAM F. KULL
CITY ENGINEER, R.C.E. 39395
CITY SURVEYOR, L.S. 5792

CITY CLERK'S STATEMENT

THIS IS TO CERTIFY THAT AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 20____, THE CITY OF COUNCIL OF THE CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, APPROVED THIS FINAL MAP AND ACCEPTED ON BEHALF OF THE PUBLIC FOR PUBLIC USE, THE PUBLIC UTILITY EASEMENTS (P.U.E.), AND EMERGENCY VEHICLE ACCESS EASEMENT (E.V.A.E.).

DATED THIS _____ DAY OF _____, 20____.

BY: _____
GABRIELA HERNANDEZ, CITY CLERK

RECORDER'S CERTIFICATE

FILED THIS _____ DAY OF _____; 20____; AT _____, M.
IN BOOK _____, OF MAPS, AT PAGE _____; STANISLAUS COUNTY RECORDS,
AT THE REQUEST OF AMMO PLANT MANAGEMENT, INC..

INSTRUMENT NO. _____ FEE \$ _____

DONNA LINDER
STANISLAUS COUNTY CLERK RECORDER

BY: _____
DEPUTY COUNTY RECORDER

WARD AVENUE VILLAS
VTSM MAP APPLICATION #01-2015
CONSISTING OF 4 SHEETS

BEING A SUBDIVISION OF THE EAST HALF OF LOT 96 OF
RIVERBANK ACREAGE TRACT, AS PER MAP FILED MARCH 23,
1912, IN VOLUME 6 OF MAPS, AT PAGE 33, STANISLAUS
COUNTY RECORDS, LYING IN SECTION 26, TOWNSHIP 2 SOUTH,
RANGE 9 EAST, MOUNT DIABLO MERIDIAN, CITY OF
RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
NOVEMBER, 2021

HAWKINS & ASSOCIATES ENGINEERING
436 MITCHELL RD. MODESTO,
CALIFORNIA 95354
SHEET 2 OF 4

PLANNING COMMISSION & CITY COUNCIL CERTIFICATE

THIS IS TO CERTIFY THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE TENTATIVE
MAP RECOMMENDED BY THE PLANNING COMMISSION AT A DULY AUTHORIZED MEETING
HELD ON THE ____ DAY OF _____, 20_____, AND APPROVED BY THE
CITY COUNCIL AT A DULY AUTHORIZED MEETING HELD ON THE ____ DAY OF
_____, 20_____, AND THE ZONING ORDINANCE OF THE CITY OF RIVERBANK.

DATED THIS ____ DAY OF _____, 20____.

BY: _____, PLANNING AND BUILDING MANAGER
DONNA M. KENNEY

TAX COLLECTOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT THERE ARE NO LIENS AGAINST THE PROPERTY OR ANY PART THEREOF FOR
ANY UNPAID STATE, COUNTY, SCHOOL, MUNICIPAL OR LOCAL TAXES, OR SPECIAL ASSESSMENTS,
EXCEPT SPECIAL ASSESSMENTS OR TAXES NOT YET PAYABLE AGAINST THE LAND SHOWN ON THIS MAP.

DONNA RILEY, COUNTY TAX COLLECTOR OF STANISLAUS COUNTY, CALIFORNIA

DATED THIS ____ DAY OF _____, 20_____

BY: _____, DEPUTY

PRINT NAME: _____

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE
TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA }
COUNTY OF _____ } SS

ON _____ BEFORE ME, _____, A NOTARY PUBLIC,
PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF
SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN
INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR
AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE
PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER **PENALTY OF PERJURY** UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE
FOREGOING PARAGRAPH IS TRUE AND CORRECT.
WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY'S SIGNATURE _____
PRINT NOTARY'S NAME _____
PRINCIPAL COUNTY OF BUSINESS _____
COMMISSION # _____
MY COMMISSION EXPIRES: _____

BENEFICIARY'S STATEMENT:

WE CONCUR WITH THE FOREGOING OWNER'S STATEMENT AND WE HEREBY CONSENT
TO THE PREPARATION AND FILING OF THIS FINAL MAP IN THE OFFICE OF THE
COUNTY RECORDER OF STANISLAUS COUNTY, CALIFORNIA.

DATED THIS ____ DAY OF _____, 2022

BRIAN DOLE, AS BENEFICIARY, UNDER DEED OF TRUST RECORDED NOVEMBER 13,
2020 IN OFFICIAL RECORDS UNDER RECORDER'S INSTRUMENT NUMBER
2020-0089433-00.

SIGNATURE

PRINT NAME & TITLE

VTSM MAP APPLICATION #01-2015

BEING A SUBDIVISION OF THE EAST HALF OF LOT 96 OF
RIVERBANK ACREAGE TRACT, AS PER MAP FILED MARCH 23,
1912, IN VOLUME 6 OF MAPS, AT PAGE 33, STANISLAUS
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RANGE 9 EAST, MOUNT DIABLO MERIDIAN, CITY OF
RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
NOVEMBER, 2021

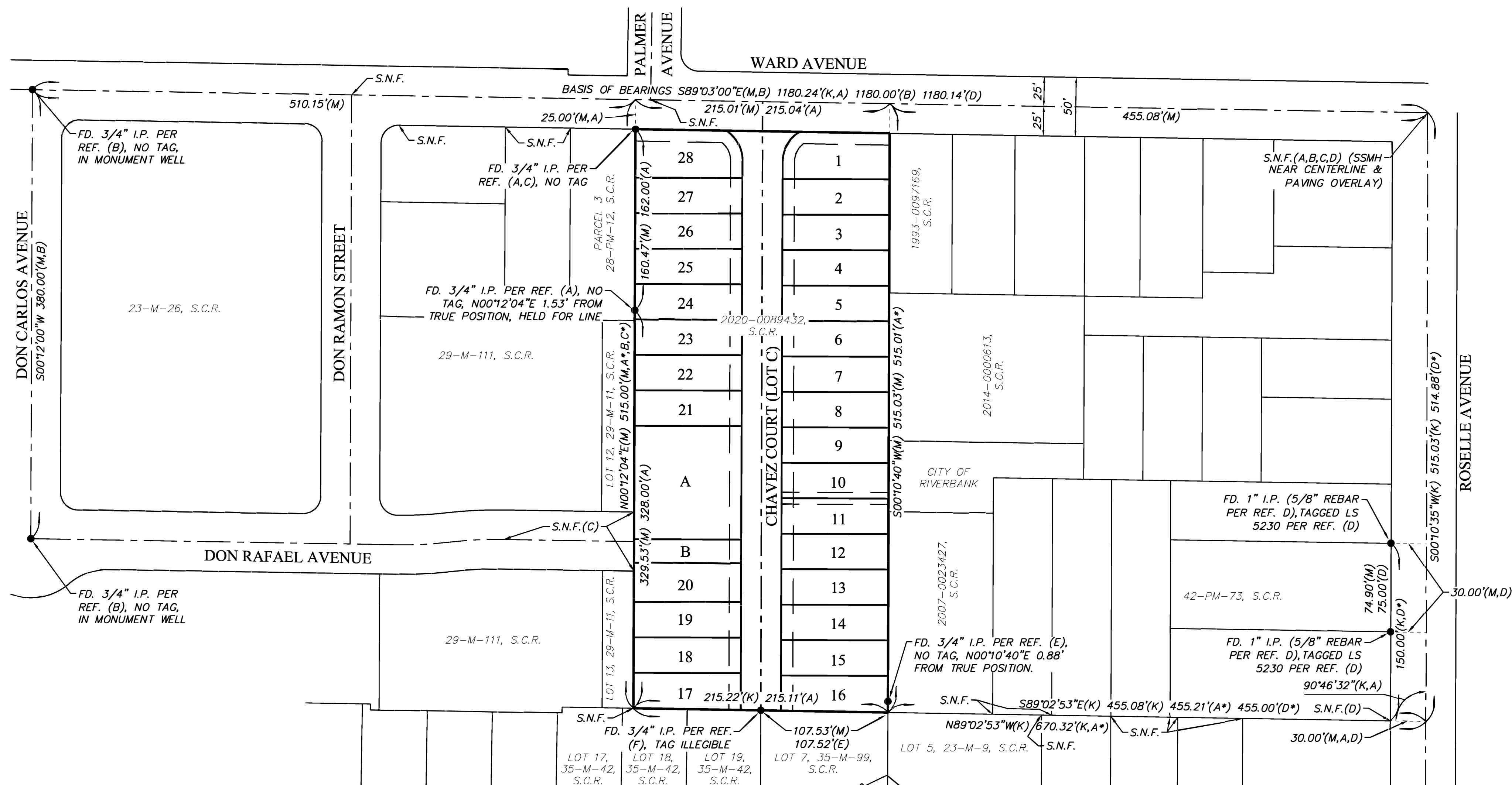
HAWKINS & ASSOCIATES ENGINEERING
436 MITCHELL RD. MODESTO,
CALIFORNIA 95354
SHEET 3 OF 4

- FOUND MONUMENT AS NOTED
- INDICATES SET NAIL & TAG STAMPED L.S. 9489
- INDICATES SET 3/4" I.P. TAGGED L.S. 9489
- _{6W} INDICATES SET 3/4" I.P. TAGGED L.S. 9489
6.00' FROM TRUE POSITION ALONG LOT LINE
- _{6X6W} INDICATES SET 3/4" I.P. TAGGED L.S. 9489
6.00' FROM LOT LINES AS SHOWN SHEET 3
- I.P. INDICATES IRON PIPE
- (M) MEASURED AS NOTED ON THIS MAP
- (K) CALCULATED DISTANCE
- S.C.R. STANISLAUS COUNTY RECORDS
- R.O.W. RIGHT-OF-WAY

P.U.E.	PUBLIC UTILITY EASEMENT
P.A.E.	PRIVATE ACCESS EASEMENT
P.S.D.E.	PRIVATE STORM DRAINAGE EASEMENT
E.V.A.E.	EMERGENCY VEHICLE ACCESS EASEMENT
S.N.F.	SEARCHED, NOTHING FOUND
*	COMBINED RECORD DISTANCES
-----	LOT LINE EXTENSION
_____	EXISTING LOT LINE
— — — —	EXISTING CENTER LINE
_____	EXISTING RIGHT-OF-WAY LINE
=====	BOUNDARY OF SUBDIVISION

THE BASIS OF BEARINGS FOR THIS SURVEY IS S89°03'00"E AS MEASURED ALONG THE CENTER LINE OF WARD AVENUE, AS SHOWN ON THE MAP FILED IN BOOK 23 OF MAPS, AT PAGE 26, STANISLAUS COUNTY RECORDS.

(A) BOOK 28 OF PARCEL MAPS, AT PAGE 12, S.C.R.
(B) BOOK 23 OF MAPS, AT PAGE 26, S.C.R.
(C) BOOK 29 OF MAPS, AT PAGE 111, S.C.R.
(D) BOOK 42 OF PARCEL MAPS, AT PAGE 73, S.C.R.
(E) BOOK 35 OF MAPS, AT PAGE 99, S.C.R.
(F) BOOK 35 OF MAPS, AT PAGE 42, S.C.R.



SCALE: 1"=60'

WARD AVENUE VILLAS

VTSM MAP APPLICATION #01-2015

CONSISTING OF 4 SHEETS

BEING A SUBDIVISION OF THE EAST HALF OF LOT 96 OF RIVERBANK ACREAGE TRACT, AS PER MAP FILED MARCH 23, 1912, IN VOLUME 6 OF MAPS, AT PAGE 33, STANISLAUS COUNTY RECORDS, LYING IN SECTION 26, TOWNSHIP 2 SOUTH, RANGE 9 EAST, MOUNT DIABLO MERIDIAN, CITY OF RIVERBANK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

NOVEMBER, 2021

HAWKINS & ASSOCIATES ENGINEERING

436 MITCHELL RD. MODESTO,

CALIFORNIA 95354

SHEET 4 OF 4

LEGEND

- FOUND MONUMENT AS NOTED
- INDICATES SET NAIL & TAG STAMPED L.S. 9489
- INDICATES SET 3/4" I.P. TAGGED L.S. 9489
- 6W INDICATES SET 3/4" I.P. TAGGED L.S. 9489 6.00' FROM TRUE POSITION ALONG LOT LINE
- 6X6W INDICATES SET 3/4" I.P. TAGGED L.S. 9489 6.00' FROM LOT LINES AS SHOWN SHEET 3
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- S.C.R. STANISLAUS COUNTY RECORDS
- R.O.W. RIGHT-OF-WAY

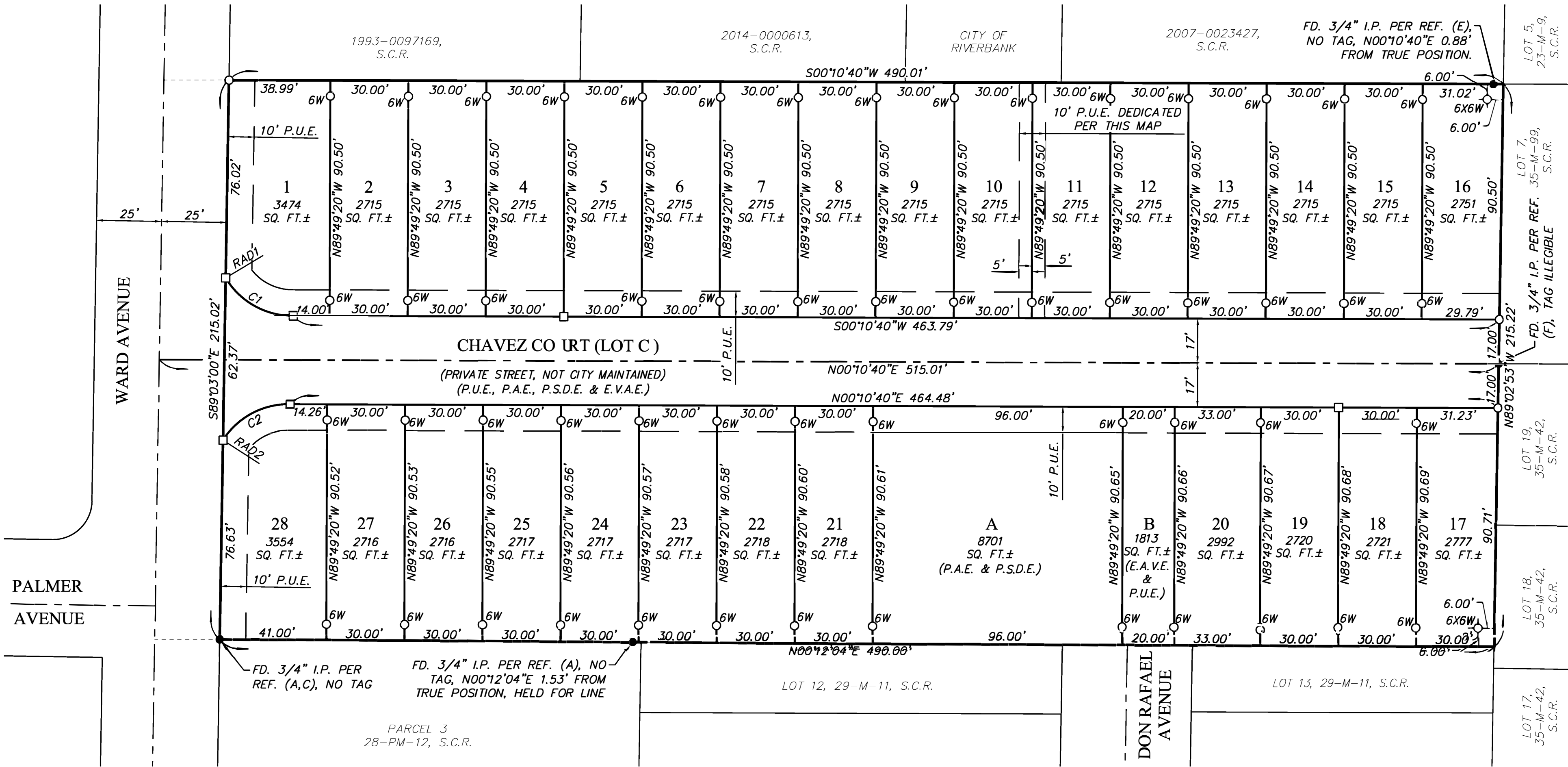
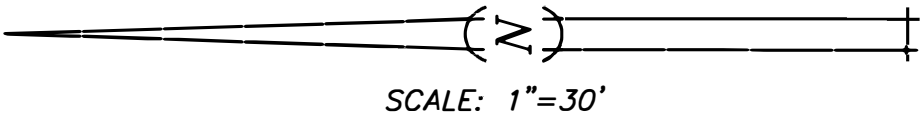
- P.U.E. PUBLIC UTILITY EASEMENT
- P.A.E. PRIVATE ACCESS EASEMENT
- P.S.D.E. PRIVATE STORM DRAINAGE EASEMENT
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- S.N.F. SEARCHED, NOTHING FOUND
- * COMBINED RECORD DISTANCES
- LOT LINE EXTENSION
- EXISTING LOT LINE
- -- EXISTING CENTER LINE
- EXISTING RIGHT-OF-WAY LINE
- ===== BOUNDARY OF SUBDIVISION

BASIS OF BEARINGS

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REFERENCES

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- (E) BOOK 35 OF MAPS, AT PAGE 99, S.C.R.
- (F) BOOK 35 OF MAPS, AT PAGE 42, S.C.R.



RADIAL TABLE	
RADIAL	RADIAL BEARING
RAD1	N30°57'52"W
RAD2	N32°40'38"E

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	30.00'	59°31'06"	31.16'
C2	30.00'	58°16'46"	30.52'

GENERAL NOTES:

- ASSESSOR'S PARCEL NUMBER 132-036-003
- TOTAL AREA: 2.42 ACRES
- TOTAL NUMBER OF RESIDENTIAL LOTS: 28, BASIN LOT: 1
- CURRENT ZONING: R-1 (SINGLE FAMILY RESIDENTIAL)
- SEWER SERVICE: CITY OF RIVERBANK
- WATER SERVICE: CITY OF RIVERBANK
- STORM DRAINAGE: POSITIVE DRAINAGE SYSTEM TO DRAINAGE BASIN/CITY FACILITIES.
- ALL NEW PUBLIC UTILITIES ARE TO BE INSTALLED UNDERGROUND IN EASEMENTS. 10 FOOT WIDE PUBLIC UTILITY EASEMENTS SHALL BE DEDICATED ALONG ALL ROAD FRONTAGES.
- THE PROJECT SITE SLOPES FROM NORTH TO SOUTH WITH ELEVATIONS FROM 137.5 TO 137.0.
- ALL DIMENSIONS, DISTANCES, AREAS, ETC. ARE TAKEN FROM ASSESSOR'S DATA, RECORD INFORMATION, AND FIELD OBSERVATIONS BY OFFICE PERSONNEL AND DO NOT REFLECT AN ACTUAL SURVEY.
- ALL EXISTING STRUCTURES AND TREES ARE TO BE REMOVED.

FLOOD ZONE CLASSIFICATION

THE SUBJECT PROPERTY FOR THE VESTING TENTATIVE SUBDIVISION MAP, SHOWN HEREON, LIES WHOLLY WITHIN FLOOD ZONE X - AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN ACCORDING TO THE FLOOD INSURANCE RATE MAP OF STANISLAUS COUNTY, CALIFORNIA AND INCORPORATED AREAS, COMMUNITY #060391, PANEL 0330 E, EFFECTIVE SEPTEMBER 26, 2008 (MAP #06099C0330E).

OWNER

WINDWARD PACIFIC BUILDERS
CONTACT: TROY WRIGHT
135 S. 5TH AVENUE, OAKDALE, CA 95361
(209) 521-0803

SUBDIVIDER:

WINDWARD PACIFIC BUILDERS
CONTACT: TROY WRIGHT
135 S. 5TH AVENUE, OAKDALE, CA 95361
(209) 521-0803

ENGINEER:

HAWKINS & ASSOCIATES ENGINEERING INC.
436 MITCHELL ROAD, MODESTO, CA 95354
(209) 575-4295

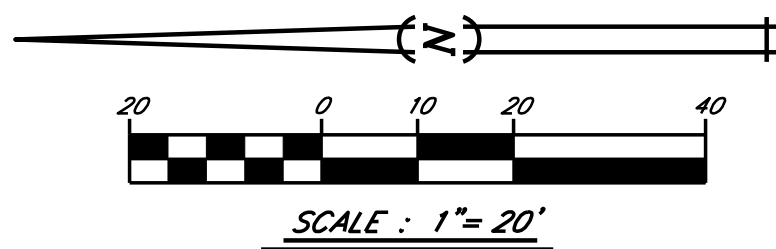
STATEMENT OF SUBDIVIDER:

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- STORM DRAINAGE: BY POSITIVE SYSTEM TO A STORM DRAINAGE BASIN.
- SEWAGE DISPOSAL: CITY OF RIVERBANK SYSTEM.
- WATER SUPPLY: CITY OF RIVERBANK SYSTEM.
- STREET LIGHTING: LIGHTING SHALL BE INSTALLED AS PER THE CITY OF RIVERBANK'S STANDARD SPECIFICATION.

- WARD AVENUE VILLAS HOME OWNERS ASSOCIATION RESPONSIBILITIES:

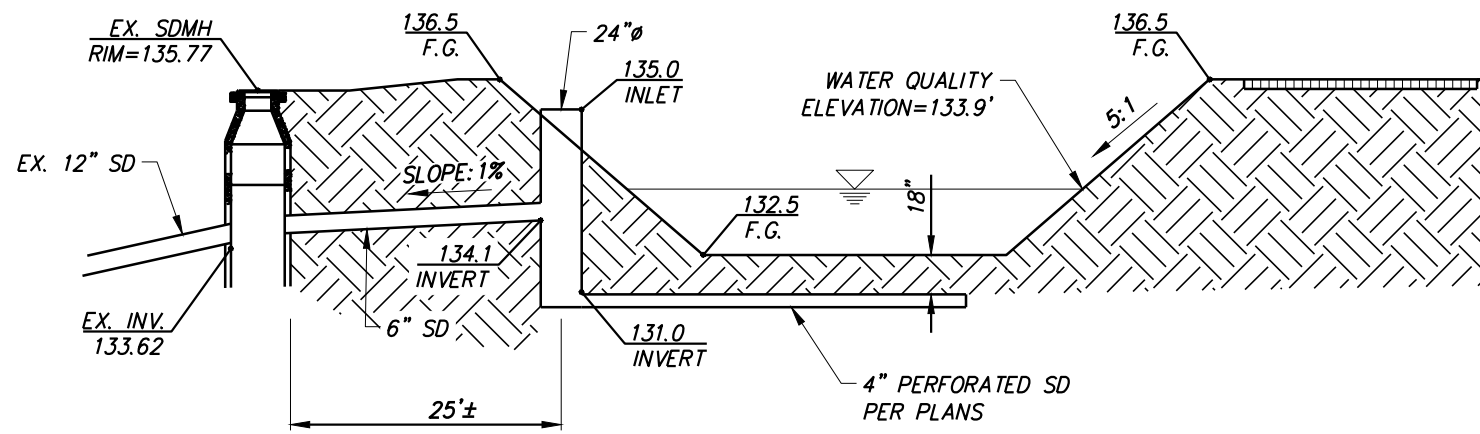
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EACH INDIVIDUAL HOME OWNER WILL BE RESPONSIBLE FOR THE MAINTENANCE OF THEIR FRONT YARDS.

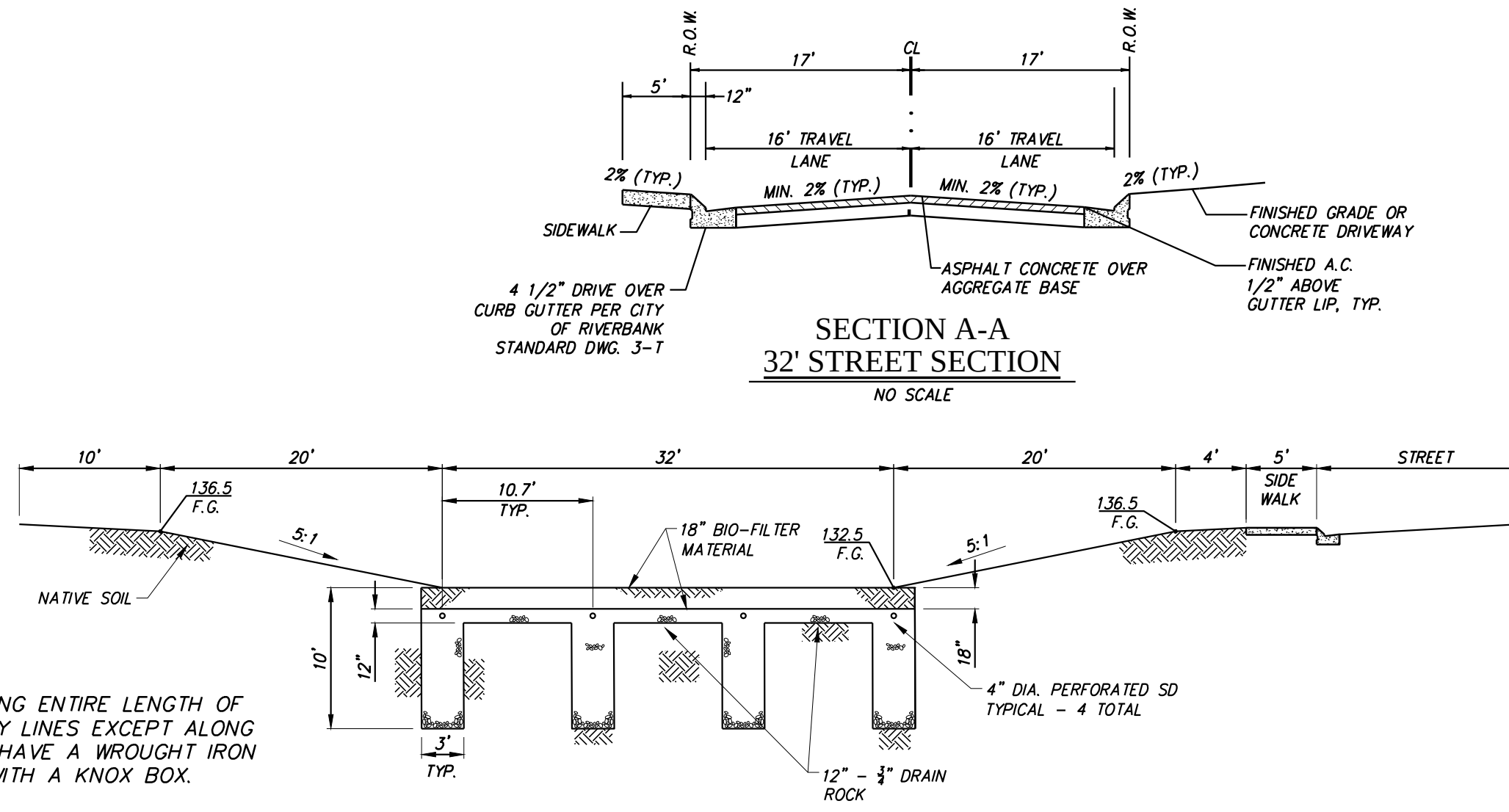


LOT SUMMARY

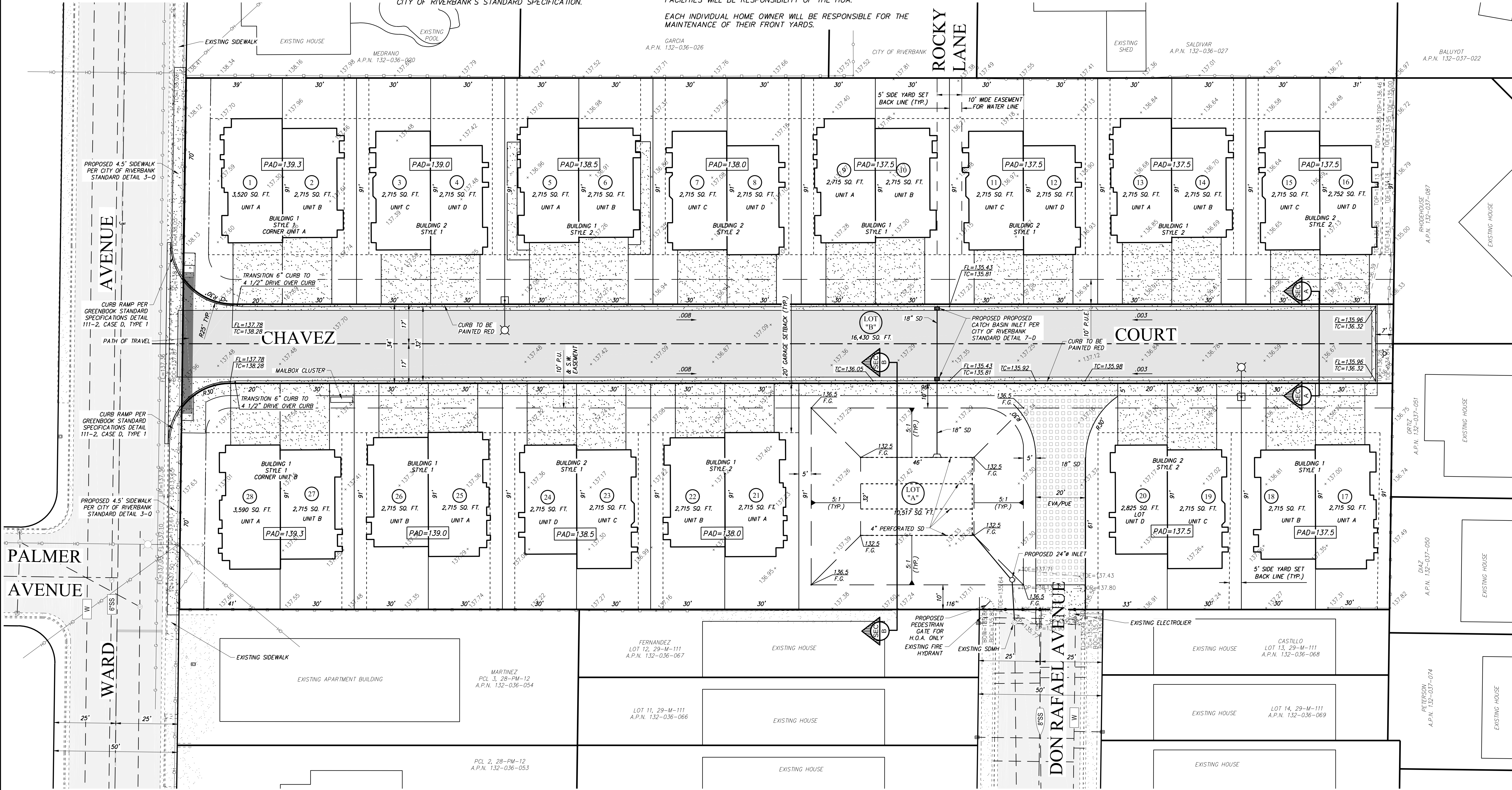
- LOTS 1-28: RESIDENTIAL
- LOT A: DRAINAGE BASIN/OPEN USE/E.V.A./P.U.E.
- LOT B: PRIVATE STREET/P.U.E.



STORM DRAIN PROFILE



CROSS SECTION - BB



GRADING & DRAINAGE PLAN

WARD AVENUE VILLAS
VESTING TENTATIVE MAP

A.P.N. 132-036-003
2912 WARD AVENUE
RIVERBANK, CALIFORNIA

DATE:

SHEET

2

OF

3

HAWKINS & ASSOCIATES
ENGINEERING, INC.

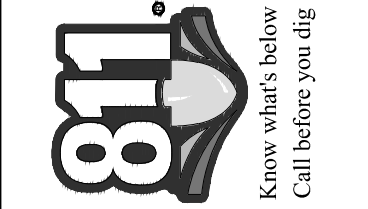


436 MITCHELL ROAD
MODESTO, CA. 95354
PH: (209) 575-4295
FX: (209) 578-4295

BY: RCS

CHK: RHH

DATE: APRIL 2015

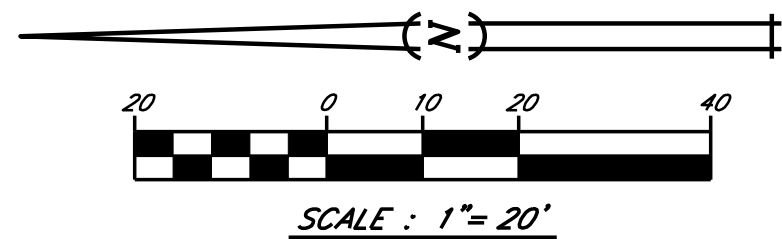


RODRICK H. HAWKINS
R.C.E. 30188
CROJIE E. LINDSAY
R.C.E. 31900, P.L.S. 4709
KEVIN J. GENASCI
P.L.S. 8660

SYM. DATE DESCRIPTION OF REVISION APPD.

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EACH INDIVIDUAL HOME OWNER WILL BE RESPONSIBLE FOR THE MAINTENANCE OF THEIR FRONT YARDS.

- PROPOSED 6' WOOD FENCE ALONG ENTIRE LENGTH OF EAST, SOUTH & WEST PROPERTY LINES EXCEPT ALONG DON RAFAEL AVE., WHICH WILL HAVE A WROUGHT IRON FENCE AND EMERGENCY GATE WITH A KNOX BOX.

OWNER

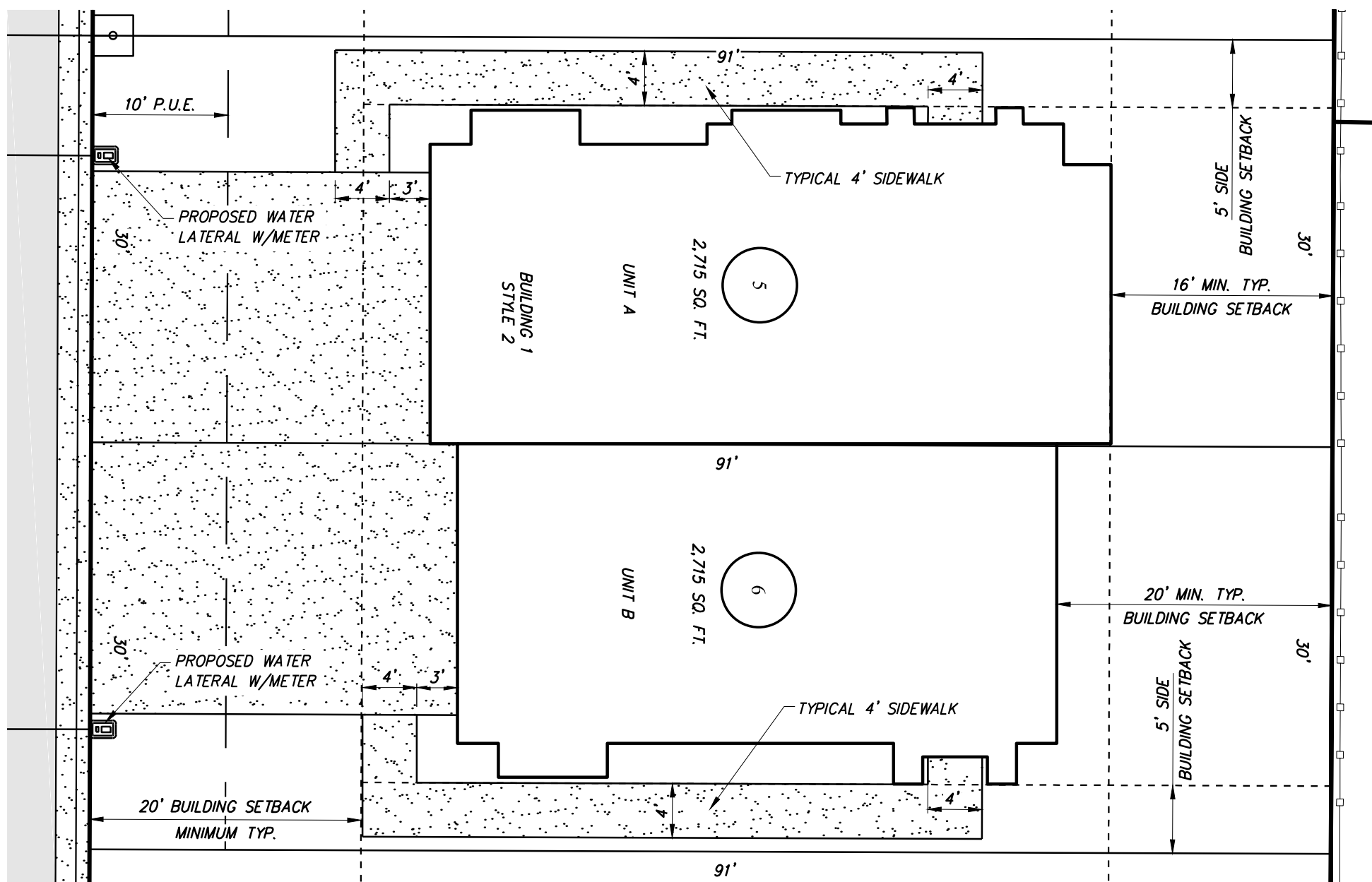
WINDWARD PACIFIC BUILDERS
CONTACT: TROY WRIGHT
135 S. 5TH AVENUE, OAKDALE, CA 95361
(209) 521-0803

SUBDIVIDER:

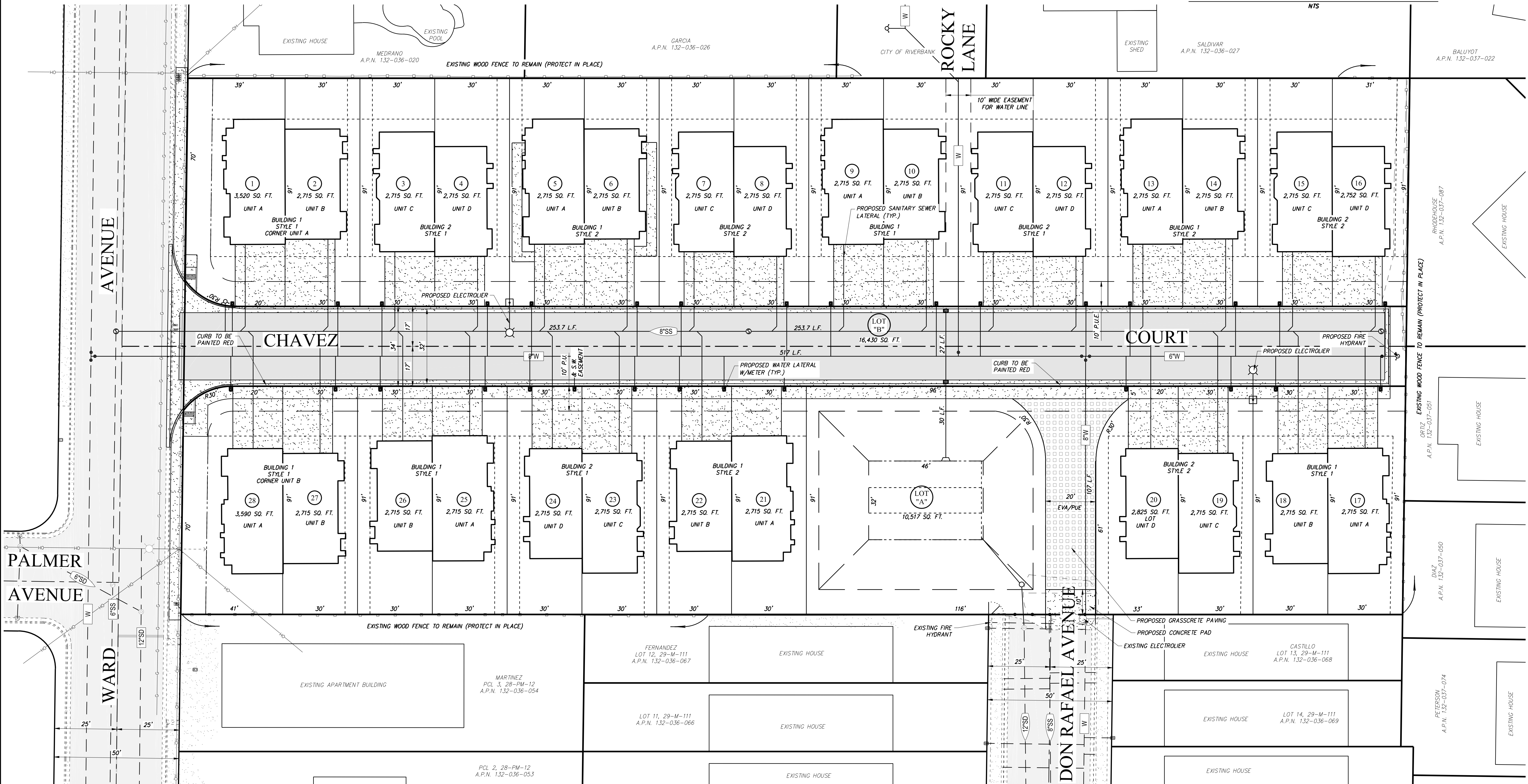
WINDWARD PACIFIC BUILDERS
CONTACT: TROY WRIGHT
135 S. 5TH AVENUE, OAKDALE, CA 95361
(209) 521-0803

ENGINEER:

HAWKINS & ASSOCIATES ENGINEERING INC.
436 MITCHELL ROAD, MODESTO, CA 95354
(209) 575-4295



TYPICAL SETBACKS & SIDEWALK LAYOUT



UTILITY PLAN

WARD AVENUE VILLAS
VESTING TENTATIVE SUBDIVISION MAP

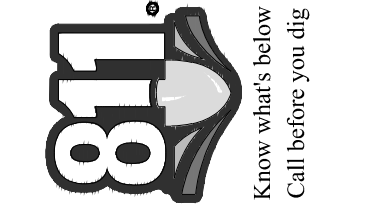
A.P.N. 132-036-003
2912 WARD AVENUE
RIVERBANK, CALIFORNIA

HAWKINS & ASSOCIATES
ENGINEERING, INC.



436 MITCHELL ROAD
MODESTO, CA. 95354
PH: (209) 575 - 4295
FX: (209) 578 - 4295

BY: RCS
CHK: RHH
DATE: APRIL 2015



RODRICK H. HAWKINS	R.C.E. 30188
CROJIE E. LINDSAY	R.C.E. 31900, P.L.S. 4709
KEVIN J. GENASCI	P.L.S. 8660
SYM. DATE	DESCRIPTION OF REVISION
APPD.	

DATE:
SHEET 3
OF 3

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.1

SECTION 11: NEW BUSINESS

Meeting Date: March 14, 2023

Subject: A Resolution to Nominate a Candidate from a “Large” City within Stanislaus County to the Special City Selection Committee for Appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District – Stanislaus City Seat or Reject all Candidates

From: Marisela H. Garcia, City Manager

Submitted by: Gabriela Hernandez, City Clerk/LRA Secretary

RECOMMENDATION

It is recommended that the City Council by roll call vote:

- 1) Consider adoption of the resolution to nominate candidate,
 - a. Councilmember David Wright, City of Modesto, or
 - b. Councilmember Rosa Escutia-Braaton, City of Modesto
- 2) Reject both candidates.

SUMMARY

On March 6, 2023 the City Clerk’s Office received notification from the San Joaquin Valley Air Pollution Control District (“District”) of the current vacancy on their Governing Board that must be filed by a City Representative from a “Large” city (population of 100,000 or more) within Stanislaus County. Pursuant to Health and Safety Code Section 40600.5, appointments to the District Governing Board will be made by the San Joaquin Valley Special City Selection Committee (“Committee”). According to the procedures adopted by the Committee, the first step in the appointment process is for all cities within Stanislaus County to select a candidate from the applicant(s) having applied for the vacant position.

The District Governing Board is a fifteen (15) member board consisting of eight (8) Board of Supervisors (one from each county), five (5) City Council Members, and two (2) public representatives appointed by the Governor. Councilmember appointments to the District Governing Board are made by the San Joaquin Valley Special City Selection Committee,

which consists of one (1) Councilmember and an alternate from each city within the eight counties of the District (Fresno, Kern, Kings, Merced, Madera, Stanislaus, San Joaquin, and Tulare).

The Riverbank City Council must hold a vote to either nominate one of the candidates to the Committee for appointment to the District Governing Board, or to reject both candidates.

In order for the City's vote to be counted towards nomination to the Committee, a copy of the City's Resolution must be submitted to the District by March 23, 2023.

FINANCIAL IMPACT

There is no financial impact associated with this item.

ATTACHMENTS

1. Resolution 2023-
2. Letter from San Joaquin Valley Air Pollution District
3. Copy of Candidate Applications

CITY OF RIVERBANK

RESOLUTION 2023-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
RIVERBANK NOMINATING A CANDIDATE TO THE SPECIAL CITY
SELECTION COMMITTEE FOR APPOINTMENT TO THE GOVERNING
BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL
DISTRICT – STANISLAUS CITY SEAT OR REJECT ALL CANDIDATES**

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

WHEREAS, Health and Safety Code Section 40600.5 created a Special City Selection Committee for the appointment of city members of the San Joaquin Valley Air Pollution Control District (District) Governing Board, and

WHEREAS, the Special City Selection Committee has adopted procedures and a rotation schedule for making their appointments, and based upon the adopted rotation schedule a city council member representing a city with a population of 100,000 or more from Stanislaus County shall be appointed to the District Governing Board, and

WHEREAS, in selecting a nominee for appointment by the Special City Selection Committee to the District Governing Board, the City Council considered the application materials from the eligible candidates, and

WHEREAS, the vote to select a nominee took place as an item on the publicly noticed agenda and was discussed during the normal city council meeting with time for public comment.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank does hereby:

- 1) Nominate City of Modesto City Councilmember, David Wright, to the Special City Selection Committee for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District – Stanislaus City Seat; **or**
- 2) Nominate City of Modesto City Councilmember, Rosa Escutia-Braaton, to the Special City Selection Committee for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District – Stanislaus City Seat; **or**
- 3) Rejects all candidates who applied to the Governing Board of the San Joaquin Valley Air Pollution Control District – Stanislaus City Seat.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of March 2023; 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
City Clerk

Richard D. O'Brien
Mayor



GOVERNING BOARD

Vito Chiesa, Chair
Supervisor, Stanislaus County

Deborah Lewis, Vice Chair
Councilmember, City of Los Banos

Drew M. Bessinger
Councilmember, City of Clovis

David Couch
Supervisor, Kern County

Robert Macaulay
Supervisor, Madera County

Buddy Mendes
Supervisor, Fresno County

Tania Pacheco-Werner, PhD.
Appointed by Governor

Lloyd Pareira
Supervisor, Merced County

Alvaro Preciado
Mayor, City of Avenal

Robert Rickman
Supervisor, San Joaquin County

Rusty Robinson
Supervisor, Kings County

Alexander C. Sherriffs, M.D.
Appointed by Governor

Amy Shuklian
Supervisor, Tulare County

Vacant
Large City

Vacant
Small City

Samir Sheikh
Executive Director
Air Pollution Control Officer

Northern Region Office
4800 Enterprise Way
Modesto, CA 95356-8718
(209) 557-6400 • FAX (209) 557-6475

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726-0244
(559) 230-6000 • FAX (559) 230-6061

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308-9725
(661) 392-5500 • FAX (661) 392-5585

www.valleyair.org

March 8, 2023

Gaby Hernandez, City Clerk
6707 Third St
Riverbank, CA 95367

RE: APPOINTMENT TO THE GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT – STANISLAUS CITY SEAT

Dear Gaby Hernandez:

There is currently a vacancy on the San Joaquin Valley Air Pollution Control District (District) Governing Board that must be filled by a Councilmember from a “large” city, having a population of 100,000 or more, within Stanislaus County. Pursuant to the Health and Safety Code Section 40600.5, appointments to the District Governing Board will be made by the San Joaquin Valley Special City Selection Committee (Committee). According to the procedures adopted by the Committee, the next step in the appointment process is for all cities within Stanislaus County to select a candidate from the applicants for the vacant position, as follows:

- **Councilmember David Wright, City of Modesto**
- **Councilmember Rosa Escutia-Braaton, City of Modesto**

Your City Council must hold a vote to either nominate one of the applicants listed above to the Committee for appointment to the District Governing Board, or reject all applicants. The vote must take place as an item on your City Council's publicly noticed agenda, and be discussed during your regularly scheduled City Council meeting. Attached is a sample resolution for your consideration. Also attached is a copy of the proposed candidates' applications.

In order for your city's vote to be counted towards nomination to the Committee, you must return a copy of your City Council Resolution on this matter to the District by March 23, 2023, to the following email address:

Samir Sheikh
Executive Director/APCO
Samir.Sheikh@valleyair.org

*APPOINTMENT TO THE GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION
CONTROL DISTRICT – MODESTO CITY SEAT*

March 8, 2023

Page 2

Thank you in advance for your timely action on this matter. If you have any questions, please call me at (559) 230-6036.

Sincerely,

A handwritten signature in blue ink, appearing to be 'S. Sheikh', with a stylized flourish at the end.

Samir Sheikh
Executive Director/APCO

Attachments:

Sample Resolution (1 page)
David Wright Candidate Application (2 pages)
Rosa Escutia-Braaton Candidate Application (2 pages)



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

APPLICATION FOR APPOINTMENT AS A CITY REPRESENTATIVE ON GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

Current Vacancies

Large City: One member representing the cities with a population greater than 100,000 from Stanislaus County. Councilmembers from City of **Modesto** are eligible to apply.

If you are an elected official on the council of the cities identified above, you may submit an application for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

Applicant Name: David Wright	
Residence Address (Must live within the boundaries of the San Joaquin Valley APCD) :	
[REDACTED] Modesto, CA 95355	
Mailing Address:	
[REDACTED] Modesto, Ca 95355	
Telephone: ([REDACTED])	()
Primary	Alt.
Email Address: dawright@modestoqov.com	
Applicant Signature: [Signature]	Date: 02-23-2023

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.**
Please complete this application and return it by **March 3, 2023**:

Samir Sheikh
Air Pollution Control Officer
San Joaquin Valley APCD
1990 E. Gettysburg Avenue, Fresno, CA, 93726



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT



RECEIVED

FEB 28 2023

EXECUTIVE OFFICE
SJVAPCD

GOVERNING BOARD

Vito Chiesa, Chair
Supervisor, Stanislaus County

Deborah Lewis, Vice Chair
Councilmember, City of Los Banos

Drew M. Bessinger
Councilmember, City of Clovis

David Couch
Supervisor, Kern County

Robert Macaulay
Supervisor, Madera County

Buddy Mendes
Supervisor, Fresno County

Tania Pacheco-Werner, PhD.
Appointed by Governor

Lloyd Pareira
Supervisor, Merced County

Alvaro Preciado
Mayor, City of Avenal

Robert Rickman
Supervisor, San Joaquin County

Rusty Robinson
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1990 East Gettysburg Avenue
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(559) 230-6000 • FAX (559) 230-6061

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308-9725
(661) 392-5500 • FAX (661) 392-5585

February 17, 2023

Subject: Application for Appointment as a City Member of the San Joaquin Valley Air Pollution Control District Governing Board

Dear Modesto City Councilmember,

I am sending you the attached application because as a member of the City Council for the City of Modesto you are eligible to apply to be appointed as a city member of the San Joaquin Valley Air Pollution Control District (District) Governing Board.

On March 31, 2009 the Valley-wide Special City Selection Committee adopted procedures and a rotation schedule for the appointment of City Council members to the District Governing Board. Appointment to the Board is for a three year term. Interested council members from eligible cities must submit completed applications to the District by March 3, 2023. Following submittal of a completed application, your name will be placed upon a ballot through which each city in your county will select their preferred nominee at a public hearing. The nominee receiving the greatest number of votes from the cities within their county will then be voted on by the Special City Selection Committee for appointment to the District Governing Board. The schedule for appointments is as follows:

February 17, 2023 - APCO mails application packets to eligible cities

March 3, 2023 - Application deadline

March 6, 2023 - Ballots mailed to cities within counties with an open seat

March 6-23 - each city schedules a public hearing to vote for a nominee

March 23, 2023 - APCO tallies votes and forwards nominations to the Special City Selection Committee (additional time may be necessary in the event of a tie to allow for re-vote)

March 28, 2023 or soon after- Special City Selection Committee convenes and makes appointments

If you have any questions please feel free to contact me or my staff at (559) 230-6036.

Sincerely,

Samir Sheikh
Executive Director/APCO

Enc.



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

APPLICATION FOR APPOINTMENT AS A CITY REPRESENTATIVE ON GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

Current Vacancies

Large City: One member representing the cities with a population greater than 100,000 from Stanislaus County. Councilmembers from City of **Modesto** are eligible to apply.

If you are an elected official on the council of the cities identified above, you may submit an application for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

Applicant Name: Rosa Escutia-Braaton

Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):

[REDACTED] Modesto CA 95356

Mailing Address:

[REDACTED] Modesto CA 95356

Telephone: ([REDACTED]) ([REDACTED])
Primary Alt.

Email Address:

Rescutiabraaton@modestogov.com

Applicant Signature: Rosa Escutia-Braaton

Date: 2/22/23

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.**
Please complete this application and return it by **March 3, 2023:**

Samir Sheikh
Air Pollution Control Officer
San Joaquin Valley APCD
1990 E. Gettysburg Avenue, Fresno, CA, 93726

February 24, 2023

To: San Joaquin Valley Air Pollution Control District

Attached please find my application for consideration to the San Joaquin Valley Air Pollution Control District Board. I believe my status as a Councilmember for District 1 of the City of Modesto (population 220,000) meets with the entrance requirements necessary for this opportunity.

Much of my work as Councilmember for the City of Modesto supports the District's vision of seeking to have healthful air that meets or exceeds air quality standards for all Valley residents. Some of these works include but are not limited to the following:

- As a Board Member for the Stanislaus County of Governments I actively seek to improve air quality in the region by coordinating with other organizations with common values and mission, including but not limited to:
 - Collaborating with SJVAPCD, other MPOs, and the Environmental Protection Agency to resolve air quality issues to meet state and federal regulations;
 - Analyzing air quality impacts from mobile sources (ie cars, and trucks) emissions and inform member agencies about air quality programs and Federal air quality regulations, and
 - Monitoring and responding to the air quality conformity regulations for the region, including State and Federal Clean Air Acts.
- As a previous member of the Stanislaus County Waste to Energy Joint Power Authority.
 - I addressed critical issues that impacted air quality in our region; and
 - heard public testimony regarding negative impacts to disadvantage communities due to landfills, waste treatment plants and other environmental contributors.

Growing up the youngest in a farming family the environmental impacts of air quality were highly visible to me and my family:

- While my mother and father worked in the fields harvesting the fruit/vegetable product they were directly exposed to chemicals and pesticides (from the air and ground);
- My home and neighborhood play-grounds were directly across from a tomato cannery which filled the air with huge clouds of smoke from its refining plants;
- Combined with the emissions from the dozens of trucks that drove in and around our neighborhood was so frequent that the dense and poignant smell of the air in my neighborhood was what I grew up thinking was normal.

In addition to my professional and personal experience referenced above, I bring the following experience that I believe may add value to the Board: I have served as a Planning Commissioner for the City of Modesto for seven years; and, have over 25 years of public policy experience in both private and public sectors, including serving a Gubernatorial Appointee to both Governor Davis and Governor Schwarzenegger. Outside my professional endeavors I enjoy serving on non profit organizations such as American Heart Association, Latino Community Roundtable, and Stanislaus Medical Society Alliance.

Sincerely,

Rosa Escutia-Braaton
rescutiabraaton@modestogov.com

