

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



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

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

TUESDAY, SEPTEMBER 26, 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)

Item 7.1



Proclamation Hispanic Heritage Month September 15th to October 15th, 2023- It is recommended that the City Council present the Proclamation for Hispanic Heritage Month from September 15th to October 15th, 2023, to Mrs. Nancy Garcia.

Item 7.2



Proclamation – Walk and Roll to School Day – October 4, 2023- It is recommended that the City Council read and present a Proclamation for Walk and Roll to School Day to Armando Nunez, Program/Grant Manager for CASA Del Rio Family Resource Center.

Item 7.3



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

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.

PLEASE SPEAK DIRECTLY INTO THE MICROPHONE.

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 September 12, 2023.

Item 9.3 **Resolution** to Award Bid for the 7th Street Outfall Project to Dirt Dynasty, Inc., Authorize Execution of Future Change Orders, and Authorizing a Budget Amendment for an Additional \$380,951.00 from American Rescue Plan Act Funds.

Item 9.4 **Resolution** Authorizing a Budget Amendment of \$32,693.00 to the American Rescue Plan Act Funds for the Riverbank Museum ADA Path and Ramp Project.

10. PUBLIC HEARING- No items Scheduled.

11. NEW BUSINESS

Item 11.1 **Permanent Local Housing Allocation (PLHA) Formula Allocation Plan Discussion-** It is recommended that the City Council receive a presentation regarding the Permanent Local Housing Allocation (PLHA) Formula Allocation Plan adopted in July 2020, and subsequently amended in December 2021, and provide feedback to staff on possible amendments as a result of the refund of grant funds from the River Terrace (formally Ward Villas) Project.

12. COMMENTS/REPORTS

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

Item 12.1 Staff

Item 12.2 Council/Authority Member

Item 12.3 Mayor/Chair

13. CLOSED SESSION

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

Item 13.1 **CONFERENCE WITH LEGAL COUNSEL– Anticipated Litigation**
Significant Exposure to **Litigation**,
(Pursuant to Gov. Code § 54956.9(d))
Number of Potential Cases: **1**

Item 13.2 **LIABILITY CLAIMS**
Pursuant to Government Code § 54961)
Claimant: Janet Pritsch
Agency Claimed Against: City of Riverbank

14. REPORT FROM CLOSED SESSION

Item 14.1 Report from Closed Session **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**

Item 14.2 Report from Closed Session **Item 13.1**
LIABILITY CLAIMS
Pursuant to Government Code § 54961)
Claimant: Janet Pritsch
Agency Claimed Against: City of Riverbank

15. ADJOURNMENT

- The Next Regular City Council Meeting will be on:

Tuesday, October 10th, 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 21st Day of September, 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/82963329089>

Join by accessing website: <https://zoom.us/join>, enter **Webinar ID: 829 6332 9089**

- Join by telephone: **1 669 444 9171 OR 1 669 900 9128, plus Webinar ID: 829 6332 9089**

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. 7.1

SECTION 7: PRESENTATIONS

Meeting Date: September 26, 2023

Subject: Proclamation for Hispanic Heritage Month September 15th to October 15th, 2023 and Honoring Mrs. Nancy Garcia

From: Marisela H. Garcia, City Manager

Submitted by: Jessica Barragan, Administrative Assistant - Confidential

RECOMMENDATION

It is recommended that the City Council present the Proclamation in honor of Hispanic Heritage Month from September 15th to October 15th, 2023, to longtime Riverbank resident Mrs. Nancy Garcia, original founder of Riverbank's Dia de los Muertos Celebration.

SUMMARY

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

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

Mrs. Nancy Garcia is a Riverbank High School graduate and worked with the Riverbank School District for 34 years. Nancy has been a crucial part of City of Riverbank's cultural events; such as Cinco de Mayo Festival for 5 years along with the Cinco de Mayo committee. This year will be the 4th year Mrs. Garcia will be partnering with the City of Riverbank for the Annual Dia de los Muertos Celebration.

BACKGROUND

According to the Library of Congress, the observance began in 1968 as Hispanic Heritage week under President Lyndon B. Johnson. In 1988, President Ronald Reagan expanded it to a month-long observance by celebrating histories, cultures and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean, and Central

and South America. September 15 is significant because it is the anniversary for Latin American Countries Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Mexico and Chile celebrate independence days on September 16 and September 18.

FINANCIAL IMPACT

None

ATTACHMENT

1. Proclamation



CITY OF RIVERBANK PROCLAMATION

HISPANIC HERITAGE MONTH SEPTEMBER 15TH - OCTOBER 15TH

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

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

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

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

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

WHEREAS, Mrs. Nancy Garcia is a Riverbank High School graduate and worked with the Riverbank School District for 34 years. Mrs. Garcia has been a crucial part of City of Riverbank's cultural events; such as the former Cinco de Mayo festival for 5 years along with the Cinco de Mayo committee. This year will be the 4th year Mrs. Garcia will be partnering with City of Riverbank for the Annual Day of the Dead event.

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

September 26, 2023

Richard D. O'Brien, Mayor

Riverbank City Council:

**District 1 – Luis Uribe, District 3 – Leanne Jones Cruz, District 4 – Darlene Barber-Martinez,
District 2 – Vice Mayor Rachel Hernandez, Mayor Richard D. O'Brien**

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO: 7.2

SECTION 7: PRESENTATIONS

Meeting Date:	September 26, 2023
Subject:	Proclamation – Walk and Roll to School Day – October 4, 2023
From:	Marisela H. Garcia, City Manager
Submitted by:	Jessica Barragan, Administrative Assistant – Confidential

RECOMMENDATION

It is recommended that the City Council read and present a Proclamation for Walk and Roll to School Day to Armando Nunez, Program/Grant Manager for CASA Del Rio Family Resource Center.

SUMMARY

There are many benefits associated with walking or rolling to school and it is an enjoyable activity that all ages can partake in. Walking and rolling provides exercise at the beginning of the day which may encourage additional healthy habits throughout the day. Walking and rolling to school gives children the opportunity to learn about safety as they obey traffic laws at crosswalks and signals. A stronger sense of community can be formed as students, families, neighbors, school officials, and community officials take pride in their communities and the conditions of their sidewalks and pathways. Additionally, less vehicles on the roadways helps to reduce traffic, emissions, and air pollution.

On Wednesday, October 4, 2023, students in Riverbank will join over 50 countries around the world to recognize the importance in walking and rolling to school. By partaking in Walk and Roll to School Day, each step taken is one step closer to a cleaner and healthier lifestyle. California Avenue Elementary School will participate with their event on October 4th at 7:15 am starting at the parking lot at Castleburg Park.

BACKGROUND

Walk and Roll to School Day was organized by the Partnership for a Walkable America in 1997 and originated as a one-day event to exhibit the importance for communities to become more walkable. Every October, millions of children from countries around the

world participate in this event to raise not only local community awareness; but also, global attention to walking or rolling safety and promoting healthy behavior.

FINANCIAL IMPACT

There is no financial impact with the report.

ATTACHMENT

1. Proclamation
2. Flyer



CITY OF RIVERBANK PROCLAMATION

WALK & ROLL TO SCHOOL DAY OCTOBER 4TH, 2023

WHEREAS, the City of Riverbank deems the health and safety of its students as a primary concern; and

WHEREAS, the lives of hundreds of children could be saved each year if communities took steps to make pedestrian safety a priority; and

WHEREAS, a lack of physical activity plays a leading role in rising rates of obesity, diabetes, and other health problems among children and being able to walk or bicycle to school offers an opportunity to build activity into daily routine; and

WHEREAS, driving students to school by private vehicle contributes to traffic congestion and air pollution; and

WHEREAS, an important role for parents and the community is to teach children about pedestrian safety and become aware of the difficulties and dangers that children face on their trip to school each day and the health and environmental risks related to physical inactivity and air pollution; and

WHEREAS, children, parents and community leaders around the world are joining together to walk and roll to school and evaluate walking and bicycling conditions in their communities.

NOW, THEREFORE, the City Council of the City of Riverbank hereby proclaims Wednesday, October 4, 2023 as **Walk and Roll to School Day** throughout the City of Riverbank, and as such, encourages everyone to promote the safety and health of children today and every day.

September 26, 2023

Richard D. O'Brien, Mayor

Riverbank City Council:

**District 1 – Luis Uribe, District 3 – Leanne Jones Cruz, District 4 – Darlene Barber-Martinez,
District 2 – Vice Mayor Rachel Hernandez, Mayor Richard D. O'Brien**

WALK & ROLL TO SCHOOL DAY

Join children and adults around the world to celebrate the benefits of walking and bicycling.



California Avenue Elementary School is participating in “Walk to School Day” on Wednesday, October 4, 2023

Meet at Castleberg Park, in the parking lot, at 7:15 a.m.

About the Event:

Join friends and neighbors in walking or biking to school!

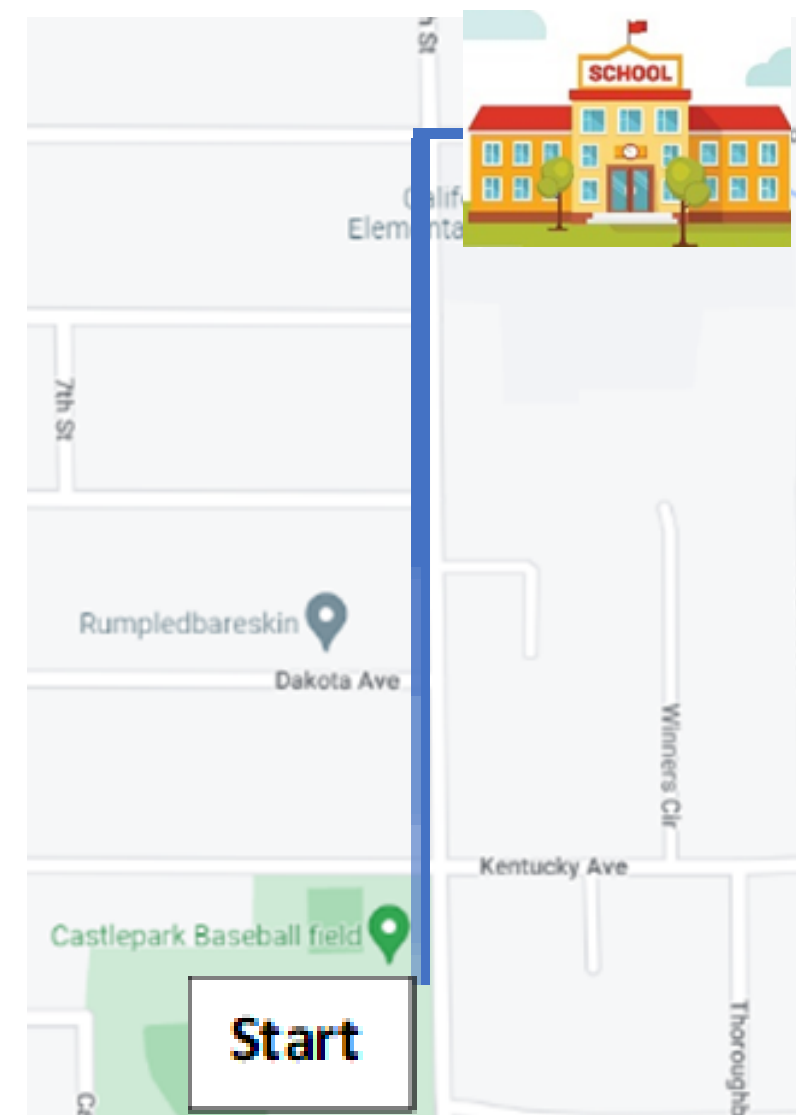
Meet at Castleberg Park at 7:15 a.m. and Grab a Healthy Snack!

Students, Parents, Teachers, & Community Members begin to

Walk or Bike to CA Ave School on 8th st. at 7:30 a.m.

CA Ave Students be ready for Music and Giveaways!

Learn more at walkbiketoschool.org



RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 7.3

SECTION 7: PRESENTATIONS

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

RECOMMENDATION

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

SUMMARY

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

STRATEGIC PLAN

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

FINANCIAL IMPACT

There is no financial impact associated with this item.

ATTACHMENT

1. 2023 Strategic Plan Update

2023 CITY OF RIVERBANK STRATEGIC PLAN UPDATE

GOAL: ENSURE THE CITY'S CONTINUED FINANCIAL STABILITY

Objective	Status
Maintain a minimum of 10% of the General Fund in reserves.	Achieved, on-going
Adhere to adopted policies and procedures.	On-Going
Continue to review and update Master Fee Schedules and Rate Schedules on regular basis.	On-Going. Recent updates include Sewer rates and Solid Waste Rates.
Continue to seek local, regional and federal grant opportunities to support City projects, programs and initiatives especially those that provide funding for diversity and equity.	Recent Grant Awards include a Department of Energy Award for the Battery Backup System at the Riverbank Community Center.
At Mid-Year review, Council will establish a % of reserves to commit to a 115 Trust or other investment option to reduce CalPERS liability.	\$700,000 in funding reserved for this project. Staff to proceed with Requests for Proposals.
Provide transparency in all activities related to municipal finance and ensure that financial records are accurate, reliable and timely.	On-Going. Warrant registers posted online on the Finance Dept. site.
Review contract options for Fire/Emergency Services.	Modesto FD contract in effect for administrative services to SCFPD.
Explore the use of renewable energy for City operations/vehicles.	On-Going. Energy Efficiency project currently underway. Estimated completion in 2024.

Goal: Improve Public Safety

Objective	Status
Ensure adequate funding for appropriate levels of staffing for law enforcement and fire department personnel.	On-Going. SRO contract between the City, School District & Sheriff's Office in effect as of 7/1/2023.
Expand community resource deputy program.	On-Going. Seek additional funding.
Ensure mental health training for officers.	To be discussed with County staff.
Support local and regional partnerships for mutual aid.	On-Going. Mutual aid for natural disasters and other emergencies may be requested from Stanislaus County Office of Emergency Services.

2023 CITY OF RIVERBANK STRATEGIC PLAN UPDATE

Continue to update emergency operations plan(s) and ensure appropriate staff training and engagement for implementation.	In Progress. Hazardous Material Mitigation Plan completed & working with staff on Continuity of Operations Plan.
Support emergency preparedness throughout the community, including those related to public health and natural disasters.	On-Going. Participated as part of the Central Valley Incident Management Team for the January and March Storm events.
Maintain safe, well-lit streets and roads.	On-Going. SB 1 and Measure L projects are on-going and include lighting upgrades. New staff added to the City's Streets/Sewer Division. Established Traffic Committee.
Complete the City's Active Transportation Plan	Completed in October 2021.
Continue to support enhancements for Safe Routes to Schools.	On-Going. Roselle Ave. Sidewalk Project recently completed.
Review ADA access and compliance working collaboratively with public utilities.	On-Going.
Consider development of a Local Road Safety Plan for the City.	To be evaluated.
Monitor treatment, storage and delivery systems to ensure safe, reliable delivery of water.	On-Going as required by the State Water Resources Control Board. Well #10 is now active.
Explore use of technology to including cameras.	On-Going. Camera project expanded and currently undergoing upgrades. Added Air Quality Monitoring to major intersections.
Eliminate use of illegal fireworks through aggressive/proactive monitoring.	On-Going. 10 citations issued in 2023.

Goal: Improve Historic Downtown

Objective	Status
Continue to work with Community Development to solicit feedback from businesses and developers on the permit approval and other processes and provide recommended solutions for consideration by the City Manager and/or City Council.	On-Going.

2023 CITY OF RIVERBANK STRATEGIC PLAN UPDATE

Support efforts that promote beautification of the physical environment including public art.	Centennial Mural completed last year. Exploring other locations and partnerships with local non-profits on smaller scale murals.
Support the efforts of Code Enforcement.	On-Going. Will celebrate Code Enforcement Officers week in October.
Enforce compliance by landlords through fines and/or other incentives.	Vacant building ordinance adopted May 2023.
Explore opportunities for façade improvement programs.	Program guidelines adopted April 2023. Currently working with several businesses.
Explore opportunities for lighting and landscaping enhancements.	ARPA project.
Support sustainable programs to promote local businesses and/or improve the downtown area.	On-going.
Coordinate efforts with the Chamber of Commerce, Opportunity Stanislaus, and regional economic interests to identify opportunities for development.	On-going. Opportunity Stanislaus to provide information on trainings for small businesses.
Explore opportunities for incubator businesses.	To explore possible locations.
Support community events produced by local non-profit agencies.	On-going. Recent support provided to the Annual Bike Rodeo.
Consider structural amenities to enhance the downtown experience.	Will explore uplighting as part of a future ARPA project.
Include charging stations for electric vehicles.	Senior Community Center will install infrastructure for 4 charging stations.
Promote connectivity/mobility for multiple modes of transportation including bike and pedestrian access, and ADA compliance.	Recent change in StanRTA Route 60 added stops at the Community Center and downtown.

Goal: Improve Internal and External Communication

Objective	Status
Proactively communicate news about the City to residents, businesses and surrounding communities.	On-going. Social media postings have increased and posted in English & Spanish. Awaiting proposals from firms who work with

2023 CITY OF RIVERBANK STRATEGIC PLAN UPDATE

	local municipalities on their social media presence.
Continue to deliver the City's newsletter to residents.	On-going.
Use new electronic billboard to share information	On-going.
Ensure appropriate linguistic translation of materials to engage the City's Hispanic population.	On-going. Forms and information now being provided in English and Spanish.
Use social media to disseminate positive news, milestones and accomplishments throughout the community.	On-going.
Promote regional interaction and coordination with surrounding communities and service providers including schools, economic development interests, transportation, and non-profit agencies.	On-going. Meeting on a monthly basis with RUSD Superintendent.
Work with youth to develop a Youth Council for the community that includes millennials.	To discuss with new Riverbank Unified School District Superintendent.

Goal: Encourage Employee Development

Objective	Status
Develop and implement organization wide staff succession planning.	On-Going. Succession plans developed.
Develop and implement specialized customer service training across all departments.	To evaluate options.
Support employee training, enrichment and recognition, including team building opportunities.	On-going. Holding quarterly staff meetings amongst other training and events for staff. Recently held an end of summer picnic.
Establish clear performance standards for the workforce and provide annual employee reviews.	On-going.
Conduct a review of the City's management tools, systems and resources including geographic information systems (GIS).	On-going.

2023 CITY OF RIVERBANK STRATEGIC PLAN UPDATE

Consider “shared” administration position(s) to support multiple departments.	On-going.
Review technological tools/software to ensure maximum efficiency.	On-going.
Research feasibility of a new City Hall to accommodate current and future needs.	Currently evaluating proposal from lease agent.

Goal: Promote Sustainable Development	
Objective	Status
Update the City’s General Plan and Zoning Code	RFP to be issued next year for a review/update of the 2005-2025 General Plan.
Work with LAFCO to update the City’s Sphere of Influence.	Will review should the Riverwalk Specific Plan move forward or as part of a boundary change for North County Corridor.
Follow North County Corridor project impacts on Riverbank.	Meetings held with developers and Army regarding Oakdale/Claribel intersection upgrades and Claus Road intersection. Recently held a community meeting for residents.
Housing Element Update <i>Consider exploring dual-use housing for farmworkers during growing season and homeless off-season.</i>	Contract awarded to JB Anderson Land Use Planning on 9/12/23.
Inclusion of an Environmental Justice Element	Civic Spark Fellow provided the groundwork for this item to be considered during the next review/update of the General Plan. Planning Intern continued to work on this item.
Complete/implement High Value Specific Plans including: 1. Eastside Industrial Specific Plan 2. Riverwalk Specific Plan 3. The Cannery Site	To be reviewed with Master Developer. EIR preparation in progress. DA in review.
Develop Regional Storm Water Plan	To be reviewed.
Continue to Develop Regional Waste Resources/Treatment Plant and identify funding for project completion.	In progress. Awaiting response from FEMA BRIC Program for potential funding and

2023 CITY OF RIVERBANK STRATEGIC PLAN UPDATE

	initiating application for potential WIFIA (US EPA) funding.
Incentivize programs for saving electricity, water, and other essential resources.	Turf replacement program initiated in July 2022.

Goal: Support Economic Development that Promotes Job-Housing Balance.

Objective	Status
Complete the Crossroads West Development.	In progress. Groundbreaking for Commercial Center held in July 2023.
Implement permit streamlining to attract businesses to the City.	On-Going. Implementation of IWorQ system in progress to allow for online submittals.
Focus efforts on manufacturing and development businesses.	On-going. Working with Opportunity Stanislaus on expanding businesses.
Cross train building and community development staff to support economic development.	On hold pending filling of current vacancies.
Complete conveyance of Army property to the City.	In progress. Estimated conveyance date of mid-2024.

Goal: Enhance Quality of Life

Objective	Status
Maintain and refresh the parks, trails, and facilities to provide exceptional experiences.	In progress. Castleburg Park basketball courts and trail remodel recently completed. Working on environmental review for the expansion of the Jacob Myers Park Trail.
Seek ways to provide amenities and facilities to underserved/aging neighborhoods.	Property sold to Riverbank Housing Authority for the construction of a Senior Community Center.
Provide public restrooms, benches, and other amenities in City parks.	On-going. Most, if not all, parks have amenities.
Develop recreational facilities such as an aquatic center.	Have attempted to obtain state funding. Will continue to work on other grant opportunities.
Support youth activities.	In progress. Looking to develop a Youth Council.

2023 CITY OF RIVERBANK STRATEGIC PLAN UPDATE

Promote Stanislaus River opportunities and activities	On-going.
Promote Community Partnerships	On-going.
Support Love Riverbank and other volunteer groups.	On-going. Provided staff and supplies/equipment to Love Riverbank 2023.
Support public art opportunities.	On-going.
Support community-driven multi-cultural events.	On-going. Viva Mexico Cultural Event held in June 2023. Dia De los Muertos Celebration to be held on November 3 rd .
Support environmental enhancements.	On-going.
Consider a sound wall on east side of BNSF tracks.	Researching options.
Support efforts to improve air quality.	On-going. Air quality monitoring stations have been installed in city camera locations.
Explore new materials and technology for roadway improvements and lighting.	On-going. Use of micro-slurry process currently in place.
Promote a healthy community.	On-going.
Consider establishing a PAR course or other facilities to promote fitness.	Equipment installed in Castleburg Park & future parks.
Explore opportunities for community gardens.	Location currently available near Crossroads Water Storage Tank
Engage the community and non-profit partners in the development of programs, facilities, transitional housing and/or solutions for homeless services.	In progress. Day Use Facility complete, currently being furnished. Sierra House undergoing rehabilitation. Review of Proposals for the Jackson/Stanislaus property underway.

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.1

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 26, 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:	September 26, 2023
Subject:	Approval of the September 12, 2023 City Council and Local Redevelopment Authority Board Minutes.
From:	Marisela H. Garcia, City Manager
Submitted by:	Gabriela Hernandez, City Clerk/LRA Secretary

RECOMMENDATION

It is recommended that the City Council/ Local Redevelopment Authority Board approve the City Council/LRA Meeting Minutes of September 12, 2023 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 September 12, 2023 City Council and Local Redevelopment Authority Board Minutes.
2. Written Comment - Item 10.2 from Evelyn Halbert
3. Written Comment - Item 10.2 from We the People

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



MINUTES

TUESDAY, SEPTEMBER 12, 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 O'Brien called the meeting to order at 6:00P.M.
- 2. FLAG SALUTE** –Mayor / Chair O'Brien led the pledge of allegiance.
- 3. INVOCATION** – Reverend Randy Richardson provided the invocation.
- 4. ROLL CALL** – Asst. City Manager Alcantor conducted Roll Call.

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

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 District 2 Rachel Hernandez

Mayor / Chair Richard D. O'Brien

5. AGENDA CHANGES

No 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.

Councilmember Barber-Martinez declared a conflict of interest with Item 11.1 due to a potential conflict with her non-profit.

7. PRESENTATIONS (Informational only)

Item 7.1 Presentation from StanCOG (Stanislaus Council of Governments) on the Unmet Transit Needs (UTN)- It is recommended that City council receive a presentation from Jean Foletta, Director of Mobility Programs.

Jean Foletta, Director of Mobility Programs with Stanislaus Council of Governments gave a PowerPoint presentation on the Unmet Transit Needs.

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 6:15 P.M.

Assistant City Manager Tammy Alcantor introduced the new Assistant Finance Director Jennifer Corgiat to the City Council welcoming her to the City.

Rob Christensen, Riverbank Resident spoke in favor of the proposed Riverwalk project.

Pete Demattos, Owner of Kiwi Custom Guns and representative of the downtown businesses, wanted to clarify comments made about his business at the last meeting. The last two years their participation in the Cheese and Wine was coordinated with the coordinators of the event and they were not aware of any issues.

Jamie Aggers, Modesto Resident spoke in opposition to the proposed Riverwalk project.

David Anthony Avila, We the People, Spoke in favor of the proposed Riverwalk project.

There being no further public comments, Mayor O'Brien closed the Public Comment period 6:20 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 City Council and Local Redevelopment Authority Board Minutes for August 22, 2023.

Item 9.3 **Acceptance** of the Castleberg Park Trail Project and Authorization to File a Notice of Completion

Item 9.4 **Acceptance** of the Roselle Avenue Sidewalk Project and Authorization to File a Notice of Completion

Item 9.5 **Resolution 2023-098** to Approve a Subdivision Improvement Agreement for Ward Villas (River Terrace) with McRoy Wilbur Communities, Inc and Authorizing the City Manager to Execute the Agreement.

Item 9.6 **Resolution 2023-099** to approve Final Map 03-2021 Ward Villas – APN: 132-036-003.

Item 9.7 **Resolution 2023-XXX** to Authorize the City Manager to Enter into a Professional Services Agreement for a Housing Element Update to the General Plan with JB Anderson Land Use Planning.

Item 9.8 **Resolution 2023-100** Declaring the Existence of a Local Emergency in Response to the Recent Fire at the Riverbank Public Works Corporation Yard.

Mayor O'Brien asked Item 9.7 be pulled for discussion.

Assistant City Manager Alcantor, a comment was received from Mrs. Annabel Gammon for a clerical correction in item 9.2, those corrections will be made to the minutes.

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

ACTION: *By motion moved and seconded (Jones Cruz / Barber-Martinez 5/0) to approve the **consent calendar** as amended with the exception of item 9.7.*

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 9.7 **Resolution 2023-101** to Authorize the City Manager to Enter into a Professional Services Agreement for a Housing Element Update to the General Plan with JB Anderson Land Use Planning.

Mayor O'Brien asked for some clarification RHNA (Regional Housing Needs Allocation) numbers and our current status from Donna Kenny -Planning & Building Manager.

Building & Planning Manager, clarified there is a 3.4 million house deficit in California, we build to achieve the goals of the state. The City needs approximately 3,600 houses over the next 8 years and we have 1,600 to 1,700 in the pipeline, excluding the proposed River Walk Project. As you can see, even adding Crossroads and all other subdivisions, we are not going to meet our RHNA of housing goal.

ACTION: *By motion moved and seconded (Barber-Martinez / Uribe 5 /0) to approve item 9.7 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 was published on August 30, 2023 in the Riverbank News.

Item 10.1 **Aemetis Conditional Use Permit Appeal-** Review the provided documents, take public comment, and approve the Addendum to the Riverbank Army Ammunition Plant Environmental Impact Report (“RAAP EIR”) and Use Permit 01-2023 for Aemetis Advanced Products Riverbank, Inc. (“Aemetis”), subject to the conditions in the Resolution.

Building and Planning Manager Kenney, presented a comprehensive staff report and Power Point presentation on the Conditional Use Permit Appeal from Aemetis, LLC. The proposed use is a sustainable aviation fuel (“SAF”) and renewable diesel (“RD”) production plant, which will turn oils, fats, and eventually wood waste (phased) into low carbon fuels.

City Council discussed the item with staff.

Mayor O'Brien opened the Public Hearing at 6:37P.M.

Public Comments:

Tyler Powell, Riverbank resident, spoke in support of the Aemetis project, providing construction jobs for local members.

Jeff Smith, spoke in opposition to the project.

Charlotte Eaton, Riverbank property owner spoke in opposition of the project.

David Anthony Avila, with We the People, spoke in opposition to the project.

Manuel Zapata, representative for the Sheet Metal Workers Union spoke in support of the project.

Charles Champions, spoke in opposition to the project.

Steve Stevenson, Business Representative for Local Pipe Fitters, standing in support of the project.

Cory Van Rice, Officer of the Valley Building & Construction Trades Council, spoke in support of the project.

Ralph Garcia, Member and Instructor for the Plumber Pipe Fitters Apprenticeship Program spoke in support of the project.

Bianca Lopez, Riverbank resident spoke in opposition to the project.

Matt Holmes, spoke in opposition to the project.

John X Mataca, community advocate for valley improvement projects spoke in opposition to the project

Jessie, Riverbank resident spoke in opposition to the project.

Evelyn Halbert, Riverbank resident spoke in opposition to the project.

Tom Helm, Riverbank resident spoke in opposition to the project.

Andy Foster, President of Aemetis spoke to in support and clarified some aspects of the project.

Randy Thompson, Business Manager and Secretary for Weathermakers Local 549 spoke in support of the project.

Anthony Viscuseo, Business Agent for the heat and frost insulators, Local 16 Union Rep spoke in support of the project.

Raul Hernandez, Member of the Pipe Fitters and Plumber union spoke in support of the project.

Three (3) Written Public Comments were also received for this item. (Attached)

Mayor O'Brien closed the Public Hearing at 7:23 P.M.

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

Each Council member expressed their opinions, history of the process with Aemetis, support for the project and the appreciation of all of those that came and spoke both in favor and opposition of the project.

ACTION: By motion moved and seconded (Uribe /Jones-Cruz 5 /0) to approve **Resolution 2023-102** approving the Addendum to the Riverbank Army Ammunition Plant Environmental Impact Report ("RAAP EIR") and Conditonal Use Permit 01-2023 for Aemetis Advanced Products Riverbank.

*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*

11. NEW BUSINESS

Councilmember Barber-Martinez recused herself from the dais at 7:36 P.M.

Item 11.1 **Cheese & Wine Festival Discussion-** It is recommended that the City Council receive additional information and provide direction to staff on the

boundary map and other concerns regarding the 2023 Cheese & Wine Festival.

City Manager Garcia, gave a comprehensive staff report and PowerPoint presentation the Cheese & Wine Festival items such as the Marketing Plan, Security Plan, and options for Boundary Map.

City Council discussed the item with staff.

It was discussed that at the end of the event this year the Council should evaluate the future of the event.

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

DIRECTION: Council provided staff direction to proceed with Option 1 Map.

Councilmember Barber-Martinez returned to the dais at 7:50 P.M.

Item 11.2 **American Rescue Plan Act Spending Plan Update-** It is recommended that the City Council receive an update regarding the ARPA Spending Plan Projects and provide direction to staff on possible amendments.

City Manager Garcia, gave a comprehensive staff report and PowerPoint presentation with an update on the American Rescue Plan Act Spending Plan.

City Council discussed the item with staff.

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

DIRECTION: Council provided staff direction to put the JMP Parking Lot and the VOLT grant program on hold at this time until additional funding is identified.

Item 11.3 **Resolution to Approve the McRoy Wilbur Communities Reimbursement of PLHA Grant and Former Redevelopment Low-Moderate Income Housing Funds for the River Terrace Subdivision-** It is recommended that the City Council consider adopting a Resolution approving the reimbursement of PLHA Grant and Former Redevelopment Low-Moderate Income Housing Funds by McRoy-Wilbur Communities for the River Terrace (formerly Ward Villas) subdivision to be collected via escrow at property closing.

City Manager Garcia, gave a comprehensive staff report on the reimbursement of PLHA Grant and Former Development Low Moderate-Income Housing funds by McRoy Wilbur Communities for the River Terrace (formerly Ward Villas) subdivision to be collected via escrow at the property closing.

City Council discussed the item with staff.

Cary Pope, the former developer of Ward Villas, now River Terrace, spoke in regards to keeping the affordability for these homes.

There being no further 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 2023-103** approving the reimbursement of PLHA Grant and Former Redevelopment Low-Moderate Income Housing Funds by McRoy-Wilbur Communities for the River Terrace

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

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 reported on the following:

- Nothing to Report.

Item 12.2 Council/Authority Member

Councilmember Jones Cruz reported on the following:

- Aemetis does have a great space and could be the location for events. Tonight's meeting was tough and appreciate everyone who came out to talk on the Aemetis project both in support and opposition.
- Recently attended a Planning Commission meeting and a recent incident where the public approached the dais is evidence that we should have Public Safety present at all meetings.
- Thank you to the Planning Commission, I know its not easy to take on those kinds of comments, and I appreciate you.

Councilmember Uribe reported on the following:

- American Event Center is having a grand opening tomorrow 10:30am to 1:00pm 9/13 and an open house on 9/14 from 5:00pm to 8:00pm.

Councilmember Barber-Martinez reported on the following:

- Stanislaus Homelessness Alliance (SHA) meeting is tomorrow 9/13 at 1010 10th Street from 5:30 to 7:30pm.

Vice Mayor Hernandez reported on the following:

- Stanislaus Council of Government meeting is tomorrow. All though we don't always agree we still need to be able to have conversations.

Item 12.3 Mayor/Chair

Mayor O'Brien reported on the following:

- Noted the anniversary of 9/11/23 that was an attack on our nation.
- RHNA numbers are out and we need to move forward and have a strong plan.
- Translation services are very important.
- Affordable housing – not all need to own a home we do need to look at other types of housing for affordability.

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– Anticipated Litigation**
Significant Exposure to **Litigation**, (Pursuant to Gov. Code § 54956.9(d))
Number of Potential Cases: **1**

There being no public comments, Mayor O'Brien moved to Closed Session at 8:32 P.M.

Reconvened from Closed Session at 8:40 P.M

14. REPORT FROM CLOSED SESSION

Item 14.1 Report from Closed Session **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**

DIRECTION: Direction was provided to staff.

15. ADJOURNMENT OF THE REGULAR MEETING

There being no further business, Mayor / Chair O'Brien adjourned the regular meeting at 8:41 P.M.to the next regular scheduled City Council / LRA Meeting of September 26, 2023 at 6:00 P.M.

ATTEST: (Adopted 09/26/2023)

APPROVED:

Gabriela Hernandez
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor/ Chair

**ITEM 10.1
ATTACHMENT 2
(WRITTEN COMMENTS)**

September 12, 2023

City Council Meeting

Item 10.1 Condition Use Permit Appeal

These comments are in addition to the previously submitted written comments before the planning commission hearing. of August 15, 2023.

The addendum to the Final EIR attached to this item was not included in the planning commission agenda item-August 15, 2023. The addendum attached to that item was dated 2022 and about 20 pages. The addendum attached to tonight's item is dated May 2023, It is over 100 pages. The planning commission voted on the older one.

Why wasn't the May 2023 addendum made available to the planning commission on the August 15th agenda?. Why wasn't it made available to the public before Friday? Tonight's agenda was posted on Friday---four days from this meeting--this is a noticed public hearing.

Item 10.1 is agendized as "Aemetis Conditinal Use Permit Appeal. ***There is no infrmation regarding the appeal. Where is the appeal document? Were any documents filed to support appeal? Here is any response form the planning commission?***

The lack of access and opportunity for the public to comment on the addendum is not acceptable.

I am still waiting a response to my previous commnets and questions, please add include them in the record. Please respond.

Evelyn Halbert

██████████

City of Riverbank Council meeting- 12 September 2023

Aemetis CUP appeal meeting

Our belief system:

“We can work together to a mutual benefit.”

We the People are tired of paying for public programs, public benefits, poor decisions, using taxation to manipulate our society to appease some utopian idea that has never worked throughout history all under the vail of “progress”. All costing Trillions of dollars with little to no cost benefits.

Examples, Ford motor company has recently stated for every electric vehicle they produced they have lost \$90,000! They pass those costs on by raising prices.

Elon Musk, Tesla has made \$1.2 Billion dollars selling CO2 credits.

I would like to demonstrate what CO2 credits are with a simple demonstration.

I am the government. I decided I don't like businesses that generate CO2.

I create a new government organization.

I decided I don't like this person because he is too big and exhales too much CO2. I will call him Ford & Chevrolet because they produce gas cars.

I decide I will fine him \$1 million dollars.

I keep some for my pay and retirement.

Ok- I like this person because he is small and exhales less CO2. I will call him Tesla because he manufactures electric cars.

To justify my existence, I decide to incentivize my new friend here by allowing him to sell CO2 offsets., so I give him \$1 million dollars for nothing.

Ok, what just happened?

A transfer of wealth, that's what.

Who took the financial hit?

Not Ford and Chevrolet, because they raise the prices of their cars!

Who really pays? As normal, you and I pay when we buy our next car!

But what about the end game? How much reduction of CO2 in this room took place?

NOTHING. And so the world turns.

MY QUESTION TODAY IS "DO YOU COMPREHEND WHAT IS HAPPENING HERE TODAY?"

As critical thinkers, we should ALL ask the question: If Aemetis already owns an ethanol plant in Keyes, California- 13 miles away from here and they shut that plant down because they were losing too much money, why would they want to build another plant in Riverbank?

Aemetis has several business advantages for a Riverbank plant, mainly they apparently own the 450,000 gallons of vegetable oils and animal fats at their facility in India. They just have to get it here to process.

Their primary plan is to haul those gallons from the Port of Oakland here to Riverbank via 328 truck trips per day.

The EIR states on page 23 of the CARBON ZERO 1 PROJECT CEQA document there will be 328 truck per day traversing between the Bay area and Riverbank. On page 53 the EIR states traffic will be significant and unavoidable.

That is a problem for We the People.

All of us know the traffic jams to and from the Bay area.

The EIR is deceptive for it does not evaluate traffic any farther than Oakdale Road.

The impact to Hwy 120, 205, over the pass, Livermore and Pleasanton will be negatively impacted as well with an additional 328 trucks per day.

This project is stated to provide 50 jobs.

Doing the math that is about \$32,000 per day.

There are about 80,000 cars that travel over the Altamont Pass every day.

Just add one minute per day each way and the loss is about \$230,000 per day.

By my standards, that is not even close to a fair trade off for the “economic” benefit of 50 jobs.

We the People are not averse to progress.

We don’t want the traffic.

There is a mitigation measure mentioned with the EIR. Use railroad tankers.

We believe that should be a requirement and not an option.

The road truck traffic is not an option for us.

The Aemetis EIR does not address another problem which is extortion.

The EIR alludes to the sequestration of CO2 in exchange for Carbon Credits.

The Modesto Bee and the Aemetis website makes reference to CO2 sequestration.

We talked about carbon credits earlier and how there is no appreciable results other than taking our money and giving it to the elite among us.

The amount of money taken from your table and children will run in the range of \$100 million a year! That is Billions of dollars over the next several decades.

We the People ask for three things:

One- Place a requirement for rail car transportation and no truck transportation (they may have local suppliers that may need to use trucks to a limited degree.

Eliminate the exploratory sequestration well for We the People will not stand Aemetis’s hidden agenda to ultimately install 2 CO2 sequestration wells, one at Keyes and the other here in Riverbank.

Those wells are nothing more than a world wide scheme to transfer our wealth to the few elites around the world!

It has nothing to do with the environment.

As City Council members you have an obligation to follow the City’s recommendation.

The caveat is all here have taken an oath of office, so you have an obligation to follow the US Constitution which states at Article I, Section 8, "provide for the common Defense and general Welfare of the United States."

Imposing a \$230,000 cost in time and money onto your fellow statesman in exchange for several jobs does not fulfill your obligation.

Donna Kenney states the permit can not be approved for a year "unless on grounds of new evidence or proof of change of project conditions."

How many of you reviewed the appeal documents? (hold up doc)

Another deceptive pack of information- the cover sheet is dated May 9, 2023 but the balance of the document is dated May 2023 which does not meet the smell test to meet the criteria as "new evidence" required to meet the requirements for your review and approval today.

I read the appeal letter and it has a lawful notification: "are not consistent with the City's prior decisions..."

Again, we request you to approve the CUP with condition for rail not trucks and no exploratory sequestration well which is the prelude to extortion.

We the People will mention as a notice the US Constitution, Amendment I, "... And to petition the Government for a redress of grievances."

In this case We the People will declare "Deprivation of Rights under color of authority."

This puts each of you at personal responsibility under United States Code title 42, section 1983 in Federal court.

Please, consider our offer to place conditions

RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.3

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 26, 2023
Subject/ Title:	Resolution to Award Bid for the 7th Street Outfall Project to Dirt Dynasty, Inc., Authorize Execution of Future Change Orders, and Authorizing a Budget Amendment for an Additional \$380,951.00 from American Rescue Plan Act Funds
From:	Marisela H. Garcia, City Manager
Submitted by:	Kathleen Cleek, Dev. Services Administration Manager Laura Graybill, Senior Project Coordinator

RECOMMENDATION

It is recommended that City Council approve three (3) actions by a roll call vote:

1. Adopt a Resolution to Award bid to the lowest responsible bidder, Dirt Dynasty, Inc.; and
2. Authorize the City Manager to execute Change Orders within total project budget; and
3. Authorize a budget amendment for an additional \$376,801.00 from American Rescue Plan Act.

SUMMARY

In 2015 the 7th Street Outfall sustained damage from the existing corrugated metal pipe as it rusted out and started to erode the hillside, rip rap was added but continued to erode. The compromised retaining wall was demolished before it slid into the river. This project consists of removing the corrugated metal pipe, add a manhole, install PVC pipe, repair the hillside by adding I-beam piles and wooden retaining wall and reinstall soil, and add new rip rap for outfall to river.

The bid opening was held on Thursday, August 10, 2023 to consider the bids for the 7th Street Outfall Project. The following bids were received:

Dirt Dynasty, Inc.	\$653,455.00
United Pavement Maintenance, Inc.	\$711,085.35

Work on the project includes but is not limited to, furnishing all labor, materials, equipment, transportation, and incidentals necessary for, removing and installing storm pipeline & manhole, asphalt grinding & paving, earthwork, soldier pile I-beam & wood lagging soil retention wall, and all other work included on the plans for the above mentioned project.

Bids have been reviewed and Dirt Dynasty, Inc. has been identified as the lowest responsible bidder for the project and staff recommends that the project be awarded in the amount of \$653,455.00.

Staff originally budgeted \$400,000.00 from American Rescue Plan Act. To date spending includes preliminary engineering \$43,000.00 and demolish the compromised retaining wall \$4,150.00. The low bid came in at \$653,455.00 but fortunately the City has funds available in American Rescue Plan Act to cover the additional costs plus 10% contingency of \$65,346.00, construction testing \$5,000.00 and construction engineering \$10,000.00. A budget amendment is requested from American Rescue Plan Act in the amount of an additional \$376,801.00 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 American Rescue Plan Act, total budget of \$780,951.00 (\$400,000.00 initially budgeted and an additional \$380,951.00 as a budget amendment being requested).

Original Budget	\$400,000.00
Costs to Date	<u>\$47,150.00</u>
Remaining Budget	<u>\$352,850.00</u>
Dirt Dynasty, Inc.	\$653,455.00
Contingency	\$65,346.00
Construction Testing	\$5,000.00
Construction Engineering	<u>\$10,000.00</u>
Total Construction Costs	<u>\$733,801.00</u>
Additional Funds Required	\$380,951.00
Total Budget	<u>\$780,951.00</u>

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
7th STREET OUTFALL PROJECT
WITH DIRT DYNASTY, INC. IN THE AMOUNT OF \$653,455.00, AND AUTHORIZE
THE CITY MANAGER TO EXECUTE SAID CONTRACT AND APPROVE CHANGE
ORDERS UP TO THE PROJECT CONTINGENCY FUND OF \$65,346.00, AND
AUTHORIZE A BUDGET AMENDMENT OF AN ADDITIONAL \$380,951.00 IN
FUNDING FROM THE AMERICAN RESCUE PLAN ACT FUND**

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

WHEREAS, the 7TH Street Outfall Project includes work for removing and installing storm pipeline & manhole, asphalt grinding & paving, earthwork, soldier pile I-beam & wood lagging soil retention wall; and

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

WHEREAS, on August 10, 2023, the City of Riverbank received two (2) bid and publicly opened and read the bids; and

WHEREAS, the apparent responsive and responsible low bidder is Dirt Dynasty, Inc., in the amount of \$653,455.00; and

WHEREAS, staff also recommends that the City Council approve a project contingency of \$65,346.00 for the Project to fund additional work as needed during renovation and construction; and

WHEREAS, staff is requesting a budget amendment of an additional \$380,951.00 from American Rescue Plan Act to be combined with the original budgeted amount to complete the project; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves a contract with Dirt Dynasty, Inc., in the amount of \$653,455.00; 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 \$65,346.00; and

NOW, THEREFORE BE IT FURTHER RESOLVED that the City Council of the City of Riverbank authorizes a budget amendment of an additional \$380,951.00 from American Rescue Plan Act to be combined with the original budgeted amount to complete the project.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 26th day of September, 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

Site Map

7th Street Outfall Project



RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 9.4

SECTION 9: CONSENT CALENDAR

Meeting Date:	September 26, 2023
Subject:	Resolution Authorizing a Budget Amendment of \$32,693.00 to the American Rescue Plan Act Funds for the Riverbank Museum ADA Path and Ramp Project
From:	Marisela H. Garcia, City Manager
Submitted by:	Kathleen Cleek, Dev. Services Administration Manager Laura Graybill, Senior Project Coordinator

RECOMMENDATION

It is recommended that the City Council consider authorizing a budget amendment of \$32,693.00 to the American Rescue Plan Act Funds for the Riverbank Museum ADA Path and Ramp Project.

SUMMARY:

The City of Riverbank is enclosing the perimeter of the Police Department and City Hall parking lot located at 6727 Third Street and 6707 Third Street. The purpose is to secure the parking area of the Riverbank Police department with wrought iron gates and fencing. Enclosing the perimeter will require an ADA path of travel to the Museum and this project will allow access from the front sidewalk to the rear entrance of the museum. It is recommended that the ADA Path and Ramp Project be completed as soon as possible to avoid any further delays for the installation of the perimeter Gate and Fence Project.

BACKGROUND:

The City of Riverbank requested bids for the Riverbank Museum ADA Path and Ramp Project. Bids have been reviewed and Ross F. Carroll Inc. has been identified as the low bidder for the project.

FINANCIAL IMPACT

The financial impact of this project will be \$32,693.00 from the American Rescue Plan Act Funds.

Ross F. Carroll, Inc.	\$26,863.00
Contingency 15%	\$4,030.00
Construction Testing	<u>\$1,800.00</u>
Total Budget	<u><u>\$32,693.00</u></u>

ATTACHMENTS:

1. Draft Resolution 2023-
2. Site Map

CITY OF RIVERBANK

RESOLUTION 2023-

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF RIVERBANK, CALIFORNIA
AUTHORIZING A BUDGET AMENDMENT OF \$32,693.00 IN THE AMERICAN
RESCUE PLAN ACT FUNDS FOR THE RIVERBANK MUSEUM ADA PATH AND
RAMP PROJECT**

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

WHEREAS, on March 11, 2021 President Joe Biden signed into law the American Rescue Plan Act of 2021; and

WHEREAS, the intent of the legislation was to speed up the recovery of the Country as the United States recovered from the economic effects of the COVID-19 pandemic; and

WHEREAS, the City, as a non-entitlement unit, received \$5,952,064 in American Rescue Plan Act funds which were disbursed by the State of California; and

WHEREAS, on September 13, 2022 the City Council approved a spending plan for a list of projects to be completed with the American Rescue Act Funding; and

WHEREAS, the City Council included in the spending plan an allocation of \$344,923.00 for the Riverbank Police Gate & Fence Project; and

WHEREAS, enclosing the perimeter will require an ADA path of travel to the Museum; and

WHEREAS, this project will allow access from the front sidewalk to the rear entrance of the museum in order to keep an ADA path of travel to the Museum;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank does hereby authorize a budget amendment of the American Rescue Plan Act Spending Plan in the amount not to exceed \$32,693.00 for the Riverbank Museum ADA Path and Ramp Project.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 26th day of September, 2023; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of _____:

AYES:

NAYS:

ABSENT:

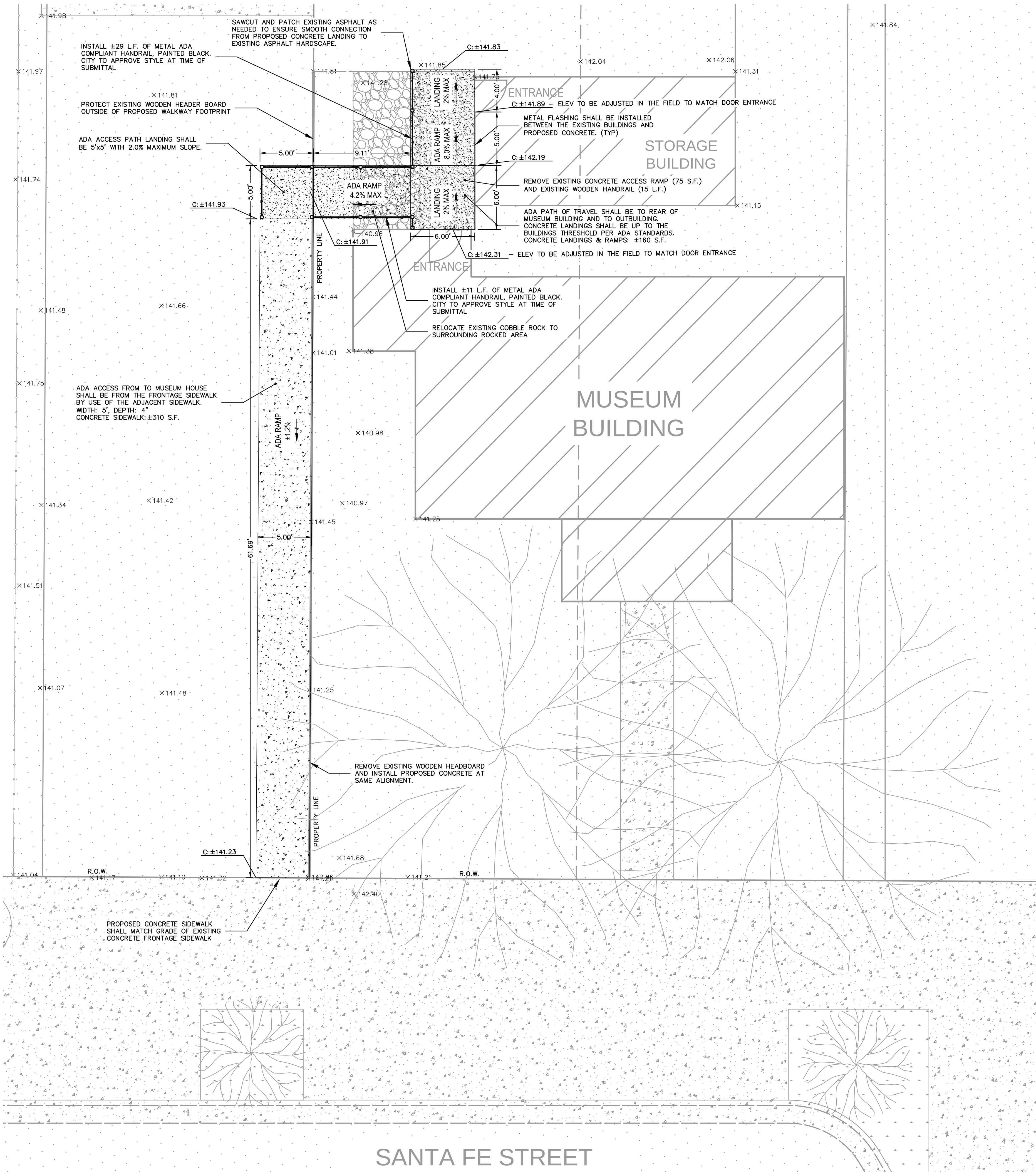
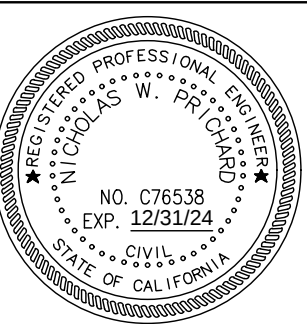
ABSTAIN:

ATTEST:

APPROVED:

Gabriela Hernandez
City Clerk

Richard D. O'Brien
Mayor



RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY

AGENDA ITEM NO. 11.1

SECTION 11: NEW BUSINESS

Meeting Date:	September 26, 2023
Subject:	Permanent Local Housing Allocation (PLHA) Formula Allocation Plan Discussion
From:	Marisela H. Garcia, City Manager
Submitted By:	Marisela H. Garcia, City Manager Tammy Alcantor, Assistant City Manager/Admin. Services Director Leticia Ibanez, Housing Specialist

RECOMMENDATION

It is recommended that the City Council receive a presentation regarding the Permanent Local Housing Allocation (PLHA) Formula Allocation Plan adopted in July 2020, and subsequently amended in December 2021, and provide feedback to staff on possible amendments as a result of the refund of grant funds from the River Terrace (formally Ward Villas) Project.

SUMMARY

At the July 16, 2020 the City Council adopted Resolution 2020-060 which established the original PLHA Allocation Plan. The plan was subsequently amended in December 2021 for the Ward Villas Project. Due to the recent approval of the repayment of PLHA funds by the Ward Villas Project, staff is requesting feedback from the City Council on the use of the repaid funds consistent with the PLHA guidelines.

BACKGROUND

Chapter 364, Statutes of 2017 (SB 2, Atkins) was part of a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. Specifically, it established a permanent source of funding intended to increase the affordable housing stock in California. The revenue from SB 2 varies from year to year, as revenue is dependent on real estate transactions with fluctuating activity. The legislation directs the California Department of Housing and Community Development (HCD) to use 70 percent of the revenue collected, which began in calendar year 2019, to provide financial

assistance to local governments for eligible housing-related projects and programs to assist in addressing the unmet housing needs of their local communities. This program is referred to as the Permanent Local Housing Allocation (PLHA) program.

In October 2019, the Department of Housing and Community Development (HCD) formally adopted the PLHA Final Guidelines which provides guidance on the use of the funds. Cities are entitled to these funds on an annual basis and must apply in order to receive these funds. A requirement of the receipt of the funds was the adoption of a PLHA Allocation Plan which sets forth the City's desired activities that the funds may be used for. The City adopted its plan in July 2020 and subsequently amended the plan in December 2021.

PLHA ALLOCATION PLAN

The City Council adopted plans for 2020 and 2021 were as follows:

<i>Funding Year</i>	2020 Allocation Plan	% Allocation	2021 Allocation Plan	% Allocation
2019	Affordable Rental or Housing Ownership	100%	Affordable Rental or Housing Ownership	100%
2020	Transitional Housing	20%	Affordable Rental or Housing Ownership	100%
	Housing Rehab Program	20%		
	Housing Acquisition & Rehab	20%		
	First-Time Homebuyers	40%		
2021	Transitional Housing	20%	Affordable Rental or Housing Ownership	100%
	Housing Rehab Program	20%		
	Housing Acquisition & Rehab	20%		
	First-Time Homebuyers	40%		
2022	Transitional Housing	20%	Transitional Housing	20%
	Housing Rehab Program	20%	Housing Rehab Program	20%
	Housing Acquisition & Rehab	20%	Housing Acquisition & Rehab	60%
	First-Time Homebuyers	40%		
2023	Transitional Housing	20%	Transitional Housing	20%
	Housing Rehab Program	20%	Housing Rehab Program	20%

Housing Acquisition & Rehab	20%	Housing Acquisition & Rehab	60%
First-Time Homebuyers	40%		

WARD VILLAS (RIVER TERRACE PROJECT)

In May 2020 local real estate broker Cary Pope had approached City staff with a proposal for an affordable housing project at the previously approved Ward Villas site. Mr. Pope was interested in developing the lots as affordable homes for sale. Mr. Pope submitted a formal request to the City asking for financial assistance, in the form of grants, that would allow him to keep the sales price low so that lower income residents could purchase these homes. The funds were to be used to offset the cost of the offsite development costs. In October 2020 the City Council approved the Memorandum of Understanding between the City and Ammo Plant Management Inc. for the allocation of three years of funding from PLHA and the remaining balance of Redevelopment funds from the Low-Moderate Income Housing Fund.

Unfortunately, over the course of the past three years material costs have skyrocketed, lack of housing supply caused increased housing values, and the interest rate is at an all-time high at over 7% for a 30-year mortgage thus continuing to make homes unaffordable to our lower income residents. The initial MOU with Ammo Plant Management required that the homes be sold to residents at or below 80% AMI but due to the increase in housing values residents at that AMI level could not afford to purchase these homes. In February 2023, the City Council authorized the amendment to the MOU that would allow for the homes to be purchased by residents at or below 120% AMI as allowed by the PLHA grant. Despite the increase in allowable income, the developer was not able to make the program work and will be refunding \$541,422.02 back to the City.

ELIGIBLE ACTIVITIES

The pending refund of the grant funds awarded to the River Terrace Project will allow for the City to explore other opportunities to establish affordable housing programs or projects for the benefit of our community. As such, City staff presents the eligible activities allowable under the PLHA Guidelines:

1. The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is Affordable to Extremely low-, Very low-, Low-, or Moderate-income households, including necessary Operating subsidies.
2. The predevelopment, development, acquisition, rehabilitation, and preservation of Affordable rental and ownership housing, including Accessory dwelling units (ADUs), that meets the needs of a growing workforce earning up to 120 percent of AMI, or 150 percent of AMI in high-cost areas. ADUs shall be available for occupancy for a term of no less than 30 days.

3. Matching portions of funds placed into Local or Regional Housing Trust Funds.
4. Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to subdivision (d) of HSC Section 34176.
5. Capitalized Reserves for Services connected to the preservation and creation of new Permanent supportive housing.
6. Assisting persons who are experiencing or At risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.
 - a. This Activity may include subawards to Administrative Entities as defined in HSC Section 50490(a)(1-3) that were awarded CESH program or HEAP funds for rental assistance to continue assistance to these households.
 - b. Applicants must provide rapid rehousing, rental assistance, navigation centers, emergency shelter, and transitional housing activities in a manner consistent with the Housing First practices described in 25 CCR, Section 8409, subdivision (b)(1)-(6) and in compliance with WIC Section 8255(b)(8). An Applicant allocated funds for the new construction, rehabilitation, and preservation of Permanent supportive housing shall incorporate the core components of Housing First, as provided in WIC Section 8255, subdivision (b).
7. Accessibility modifications in Lower-income Owner-occupied housing.
8. Efforts to acquire and rehabilitate foreclosed or vacant homes and apartments.
9. Homeownership opportunities, including, but not limited to, down payment assistance.
10. Fiscal incentives made by a county to a city within the county to incentivize approval of one or more Affordable housing Projects, or matching funds invested by a county in an Affordable housing development Project in a city within the county, provided that the city has made an equal or greater investment in the Project. The county fiscal incentives shall be in the form of a grant or low-interest loan to an Affordable housing Project. Matching funds investments by both the county and the city also shall be a grant or low-interest deferred loan to the Affordable housing Project.

FINANCIAL IMPACT

There is no financial impact associated with this report. Future City Council action will be required to formally allocate the funds for specific projects or programs.

ATTACHMENTS

1. PLHA Final Guidelines

Permanent Local Housing Allocation Final Guidelines



**Gavin Newsom, Governor
State of California**

**Alexis Podesta, Secretary
Business, Consumer Services and Housing Agency**

**Douglas R. McCauley, Acting Director
California Department of Housing and Community Development**

**2020 West El Camino Avenue, Suite 150
Sacramento, CA 95833**

October 2019

The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations ... have the dignity of statutes ... [and]... delegation of legislative authority includes the power to elaborate the meaning of key statutory terms...

Ramirez v. Yosemite Water Co., 20 Cal. 4th 785, 800 (1999)

In consultation with stakeholders, the California Department of Housing and Community Development (Department) may adopt Guidelines to implement this Section, including determining allocation methodologies. Any guideline, rule, policy, or standard of general application employed by the Department in implementing this chapter shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Title 2 Government Code, Part 1 of Division 3).

NOTE: Authority Cited: Health and Safety Code Section 50470, subdivision (d).

The Department reserves the right, at its sole discretion, to suspend or amend the provisions of these Guidelines, including, but not limited to, grant award amounts.

INTRODUCTION

Chapter 364, Statutes of 2017 (SB 2, Atkins) was part of a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. Specifically, it establishes a permanent source of funding intended to increase the affordable housing stock in California. The revenue from SB 2 will vary from year to year, as revenue is dependent on real estate transactions with fluctuating activity. The legislation directs the California Department of Housing and Community Development (Department) to use 70 percent of the revenue collected, beginning in calendar year 2019, to provide financial assistance to local governments for eligible housing-related projects and programs to assist in addressing the unmet housing needs of their local communities. This program is hereafter referred to as the Permanent Local Housing Allocation (PLHA) program.

Guidelines for the PLHA program are organized into five Articles as follows:

Article I. General provisions: This article includes information on the purpose of the Guidelines, program objectives, and definitions used throughout the document.

Article II. Program funding: This article describes allocation formulas and methodologies, and award amounts.

Article III. Formula allocation component: This article describes the requirements for Applicants to apply for funds under the formula allocation of the PLHA program.

Article IV. Competitive allocation component: This article describes requirements and uses for PLHA competitive allocation funds.

Article V. Administration: This article describes administrative functions such as terms, non-performance remedies, and reporting and monitoring requirements.

Permanent Local Housing Allocation (PLHA) Program: 2019 Guidelines

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ARTICLE I. GENERAL PROVISIONS

Section 100. Purpose and Scope

- (a) These Guidelines (hereinafter “Guidelines”) implement, interpret, and make specific Chapter 364, Statutes of 2017 (SB 2, Atkins - hereinafter “SB 2”) as authorized by Health and Safety Code (HSC) Section 50470, which created the Building Homes and Jobs Trust Fund and the PLHA program. The principal goal of this program is to make funding available to eligible local governments in California for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities. Twenty percent of the funding in the Building Homes and Jobs Trust Fund is required to be expended for Affordable Owner-Occupied Workforce Housing, and the program prioritizes investments that increase the supply of housing to households that are at or below 60 percent of the Area Median Income (AMI), adjusted for household size.
- (b) These Guidelines establish terms, conditions, and procedures for local governments to submit applications to the Department for funds from the PLHA program’s three components, as listed below:
 - (1) Entitlement formula component per HSC 50470(b)(2)(B)(i)(I)
 - (2) Non-entitlement formula component per HSC 50470(b)(2)(B)(i)(II)
 - (3) Non-entitlement competitive grant program component per HSC 50470(b)(2)(B)(i)(I) (eligible Applicants are the same as for component 2 above)
- (c) The non-entitlement competitive grant program component prioritizes assistance to persons experiencing or At risk of homelessness.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(A), subdivision (b)(2)(B)(i) and subdivision (b)(2)(B)(ii)(I-V).

Section 101. Definitions

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meanings of terms described in HSC Section 50470.

- (a) “Accessory dwelling unit” (ADU) means a dwelling unit which is attached, detached or located within the living area of the existing dwelling or residential dwelling unit and which provides complete independent living facilities for one or more persons pursuant to Government Code (GC) Section 65852.2 and 65852.22. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling. An Accessory dwelling unit also includes the following: an efficiency unit, as defined in Section 17958.1 of the HSC, or a manufactured home, as

defined in Section 18007 of the HSC.

(b) "Activity" means any single eligible undertaking carried out as part of an Applicant's allocation(s) under the Program.

(c) "Affordable" means a housing unit that satisfies at least one of the following criteria:

1. If the unit is being rented to low-income, Very low-income or Extremely low-income households, it complies with the Multifamily Housing Program guidelines Section 7312 and the Section 7301 definition of "Affordable Rent"; or
2. If the unit is being sold, it is offered at an "Affordable housing cost", as published in the Fannie Mae Selling Guide, Part B, Debt to Income Ratios, as updated annually (<https://www.fanniemae.com/content/guide/selling/b3/6/02.html#DTI.20Ratios>), and it complies with the income limits stated in the definitions of Moderate-Income and Lower-Income in this section; or
3. If the unit is being rented to Moderate-Income households, it is available at a gross rent, including a utility allowance, that does not exceed 30 percent of the applicable income eligibility level, and complies with the definition of Moderate-Income in these guidelines

(d) "Affordable Owner-Occupied Workforce Housing" (AOWH) means owner-occupied housing per HSC Section 50092.1 that is affordable to persons and families of low or moderate income, as that term is defined in HSC Section 50093, except in High-cost areas where Moderate-income shall include households earning up to 150 percent of AMI.

(e) "Annual Progress Report" (APR) means the Housing Element APR required by GC Section 65400 on the prior year's activities and due to the Department April 1 of each year.

(f) "Annual Report" means a form issued by the Department and completed by a Local government awarded PLHA funds on which the Local government documents the uses and expenditures of any allocated funds and outcomes achieved.

(g) "Applicant" means an eligible Local government applying for the program to administer one or more eligible activities. Applicant also means a Local or Regional Housing Trust Fund delegated by an eligible Local government to apply for the program and administer its allocation in accordance with all program rules.

- (h) “Area Median Income” or “AMI” means the most recent applicable county median family income published by the Department, available at the following link:
<http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>
- (i) “At risk of homelessness” means the same as defined in Title 24 Section 578.3 of the Code of Federal Regulations and also includes any household receiving rental assistance funded by the California Emergency Solutions and Housing (CESH) program or the California Homeless Emergency Aid Program (HEAP).
- (j) “Capitalized Reserve for Services” means the reserve funded by the Local government pursuant to Section 301(a)(5) to address project supportive service budget deficits attributable to shortfalls in service funding sources.
- (k) “Comprehensive Housing Affordability Strategy” or “CHAS” means annual data compiled by the United States Census Bureau for the U.S. Department of Housing and Urban Development (HUD) to document the extent of housing problems and housing needs, particularly for low-income households.
- (l) “Community Development Block Grant” or “CDBG” means the program created pursuant to Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended.
- (m) “Department” means the California Department of Housing and Community Development.
- (n) “Extremely Low Income” has the meaning set forth in HSC Section 50106, which is a maximum of 30 percent of AMI. Grantees shall utilize income limits issued by the Department at the following link:
<http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
- (o) “Fund” means the Building Homes and Jobs Trust Fund pursuant to HSC Section 50470.
- (p) “High-cost area” means those counties defined as high cost by the Federal Housing Finance Agency (at: <https://www.fhfa.gov/DataTools/>) and those counties for which HUD adjusted the Very low income and low-income rents due to high costs (at: https://www.huduser.gov/portal/pdrdatas_landing.html), as published by the Department in the annual PLHA Notice of Funding Availability.
- (q) “Local government” means any city, including a charter city, any county, including a charter county, or a city and county, including a charter city and county.

- (r) "Local Housing Trust Fund" or "Regional Housing Trust Fund" means a public, joint public and private fund or charitable nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code, which was established by legislation, ordinance, resolution (including nonprofit articles of incorporation), or a public-private partnership organized to receive specific revenue to address local or regional housing needs.
- (s) "Low or Lower Income" has the meaning set forth in HSC Section 50079.5, which is a maximum of 80 percent of AMI. Grantees shall utilize income limits issued by the Department at the following link:
<http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
- (t) "Moderate-Income" has the meaning set forth in HSC Section 50093, which is a maximum of 120 percent AMI, or in High-cost areas, 150 percent of AMI. Grantees shall utilize income limits issued by the Department at the following link:
<http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
- (u) "Non-entitlement local government" means a Local government in an area which is not a metropolitan city or part of an urban county, a Local government that, as of September 1, 2017, was an incorporated city with a population of less than 50,000 or a county with an unincorporated area population of less than 200,000 persons which had not entered into a three-year Urban County Cooperation Agreement, or a Local government that was not otherwise entitled to receive CDBG funds directly from HUD.
- (v) "Operating subsidies" means payments to owners of affordable housing developments that make the housing more affordable by covering a portion of the ongoing costs of operating the development. Such payments would have the same effect as rental assistance.
- (w) "Owner-occupied" means a dwelling which is occupied by the owner and includes a single family dwelling or a dwelling unit in a stock cooperative, as defined by Business and Professions Code (BPC), Section 11003.2, a community apartment project, as defined by BPC Section 11004, or a condominium project, as defined by subdivision (c) of BPC Section 11004. 5.
- (x) "Plan" means the document submitted by the Applicant to the Department as part of a complete application in which the Applicant proposes to use allocated funds for at least one eligible Activity. The Plan shall have a term of five years. In succeeding years, the Local government is required to obtain the approval of the Department for any amendments made to the Plan, as set forth in Section 302(c)(5).
- (y) "Permanent Local Housing Allocation Program", "Program", or "PLHA" means the program developed to annually allocate 70 percent of the moneys deposited into the Fund pursuant to HSC Section 50470(b)(2)(B)(i).

- (z) “Permanent supportive housing” has the same meaning as in HSC Section 50675.14, that is, housing with no limit on the length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Permanent supportive housing may include associated facilities if used to provide services to housing residents. Permanent supportive housing does not include “health facility” as defined by HSC Section 1250 or any “alcoholism or drug abuse recovery or treatment facility” as defined by HSC Section 11834.02 or “Community care facility” as defined in HSC Section 1502, “Mental health rehabilitation centers” as defined in Section 5675 of the Welfare and Institutions Code (WIC), or other residential treatment programs.
- (aa) “Regional Housing Needs Allocation” or “RHNA” means the share of the regional housing need represented by persons at all income levels within the area significantly affected by the general plan of the city or county allocated to an Applicant Local government pursuant to GC Section 65584(b).
- (bb) “Sponsor” means the legal entity or combination of legal entities with continuing control of a Rental Housing Development. Where the borrowing entity is or will be organized as a limited partnership, Sponsor includes the general partner or general partners who have effective control over the operation of the partnership, or, if the general partner is controlled by another entity, the controlling entity. Sponsor does not include the seller of the property to be developed as the rental housing Project, unless the seller will retain control of the Project for the period necessary to ensure Project feasibility as determined by the Department.
- (cc) “Very Low Income” has the meaning set forth in HSC Section 50105, which is a maximum of 50 percent of AMI. Grantees shall utilize income limits issued by the Department at the following link:
<http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470.5 and 50470, subdivision (b)(2).

ARTICLE II. PROGRAM FUNDING

Section 200. Allocations

- (a) SB 2 created a dedicated revenue source for affordable housing and directed the Department to make available 70 percent of the moneys in the Building Homes and Jobs Trust Fund, collected on and after January 1, 2019, to Local governments through the following allocations:

(1) Ninety percent of the moneys available shall be allocated based on the formula used under Federal law to allocate CDBG funds within California. This is the formula specified in Title 42 United States Code (USC), Section 5306.

(A) The amount of funds awarded to each Local government eligible for the entitlement formula component shall be determined by the 90 percent of PLHA funds available pursuant to this paragraph (1) and the percentage of funds received by the entitlement Local government in the CDBG federal fiscal year 2017 allocation process performed by HUD.

(B) Through the formula specified in paragraph (1), the percentage of funds allocated to Non-entitlement local governments shall be distributed to Non-entitlement local governments through a competitive grant program.

(2) Ten percent of the moneys available shall be allocated equitably among Non-entitlement local governments. The equitable allocation awarded to each Local government eligible for the Non-entitlement formula component shall be based on the sum of: (1) 50 percent of the funding available for the Non-entitlement formula component divided by the number of local governments eligible for the Non-entitlement formula component and (2) 50 percent of the funding allocated in proportion to each Non-entitlement local government's share of the total most severe housing need in California's Non-entitlement local governments, based upon the most recent HUD Comprehensive Housing Affordability Strategy.

(b) After funds are appropriated by the Legislature as part of the budget act, the Department will issue one or more Notices of Funding Availability (NOFA). Local governments shall submit an application under the NOFA pertaining to the specific allocation for which the Local government is eligible.

(c) It is recommended that Local governments that were urban counties in accordance with the distribution of funds pursuant to the formula specified in 42 USC, Section 5306 for the federal fiscal year 2017 provide a proportional share of their allocations to Local governments within their county with which they had a three-year Urban County Cooperation Agreement as of September 1, 2017, provided that these Local governments meet the threshold requirements of the PLHA and expend sub-allocated funds for eligible activities within the deadlines of the Standard Agreement governing the sub-allocation.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B).

Section 201. Award Amounts

(a) The formula allocation amounts derived pursuant to the formulas in Section 200 will be announced in the NOFA.

- (b) The maximum application amount and the minimum application amount for the competitive allocation will be stated in the NOFA.
- (c) An Applicant may apply for its formula allocation from the current and two prior NOFAs for which it did not receive an award, provided that the award meets the requirements of Section 304(a).

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B).

ARTICLE III. FORMULA ALLOCATION COMPONENT

Section 300. Eligible Applicants

- (a) Eligible Applicants for the entitlement formula component described in Section 100(b)(1) are limited to the metropolitan cities and urban counties allocated a grant for the federal fiscal year 2017 pursuant to the federal CDBG formula specified in 42 USC, Section 5306.
- (b) Eligible Applicants for the non-entitlement formula component described in Section 100(b)(2) and the competitive grant program component described in Section 100(b)(3) are limited to the Non-entitlement local governments.
- (c) A Local government may delegate another Local government to submit an application and administer on its behalf its formula allocation of Program funds, provided that the Local governments enter into a legally binding agreement and the funds are expended for eligible Activities and consistent with Program requirements. The delegating Local government shall be identified in the application. The administering Local government shall be responsible for all Program requirements.
- (d) A Local government may delegate a Local or Regional Housing Trust Fund to submit an application and administer on its behalf its formula allocation of Program funds, provided that the Local government enters into a legally binding agreement with the Local or Regional Housing Trust Fund and the funds are expended for eligible Activities and consistent with Program requirements. The delegating Local government shall be identified in the application. The Local or Regional Housing Trust Fund shall be responsible for all Program requirements.
- (e) An Applicant shall not be eligible to receive a new allocation of PLHA funds if it has an uncommitted amount of formula PLHA funds greater than the following:
 - (1) Four times the pending annual allocation if the pending annual allocation is \$125,000 or less;
 - (2) \$500,000 if the pending annual allocation is greater than \$125,000 and less than \$500,000;

- (3) The amount of the pending annual allocation if the pending allocation is \$500,000 or more.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B).

Section 301. Eligible Activities

(a) Eligible Activities are limited to one or more of the following:

- (1) The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is Affordable to Extremely low-, Very low-, Low-, or Moderate-income households, including necessary Operating subsidies.
- (2) The predevelopment, development, acquisition, rehabilitation, and preservation of Affordable rental and ownership housing, including Accessory dwelling units (ADUs), that meets the needs of a growing workforce earning up to 120 percent of AMI, or 150 percent of AMI in high-cost areas. ADUs shall be available for occupancy for a term of no less than 30 days.
- (3) Matching portions of funds placed into Local or Regional Housing Trust Funds.
- (4) Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to subdivision (d) of HSC Section 34176.
- (5) Capitalized Reserves for Services connected to the preservation and creation of new Permanent supportive housing.
- (6) Assisting persons who are experiencing or At risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.
 - (A) This Activity may include subawards to Administrative Entities as defined in HSC Section 50490(a)(1-3) that were awarded CESH program or HEAP funds for rental assistance to continue assistance to these households.
 - (B) Applicants must provide rapid rehousing, rental assistance, navigation centers, emergency shelter, and transitional housing activities in a manner consistent with the Housing First practices described in 25 CCR, Section 8409, subdivision (b)(1)-(6) and in compliance with WIC Section 8255(b)(8). An Applicant allocated funds for the new construction, rehabilitation, and preservation of Permanent supportive housing shall incorporate the core

components of Housing First, as provided in WIC Section 8255, subdivision (b).

- (7) Accessibility modifications in Lower-income Owner-occupied housing.
 - (8) Efforts to acquire and rehabilitate foreclosed or vacant homes and apartments.
 - (9) Homeownership opportunities, including, but not limited to, down payment assistance.
 - (10) Fiscal incentives made by a county to a city within the county to incentivize approval of one or more Affordable housing Projects, or matching funds invested by a county in an Affordable housing development Project in a city within the county, provided that the city has made an equal or greater investment in the Project. The county fiscal incentives shall be in the form of a grant or low-interest loan to an Affordable housing Project. Matching funds investments by both the county and the city also shall be a grant or low-interest deferred loan to the Affordable housing Project.
- (b) A Local government that receives an allocation shall use no more than 5 percent of the allocation for costs related to the administration of the Activity(ies) for which the allocation was made. Staff and overhead costs directly related to carrying out the eligible activities described in Section 301 are “activity costs” and not subject to the cap on “administrative costs.” A Local government may share any funds available for administrative costs with entities that are administering its allocation.
 - (c) Two or more Local governments that receive PLHA allocations may expend those moneys on an eligible jointly funded project as provided for in Section 50470 (b)(2)(B)(ii)(IV). An eligible jointly funded project must be an eligible Activity pursuant to Section 301(a) and be located within the boundaries of one of the Local governments.
 - (d) Entitlement Local governments may use the flow of PLHA funds to incentivize private lender loans and to guarantee payments for some or all public agency bond financings for activities consistent with the uses identified in Section 301 “Eligible Activities”. This loan guarantee Activity must be identified and fully explained in the Applicant’s “Plan”.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivisions (b)(2)(B)(ii)(IV), (b)(2)(D)(i-x), and (b)(3).

Section 302. Threshold Requirements

Applicants must meet all the following threshold requirements for participation in the formula allocation:

- (a) **Housing Element compliance:** The Applicant and any delegating Local government, if applicable, must have a Housing Element that has been adopted by the Local

government's governing body by the application deadline and subsequently determined to be in substantial compliance with state Housing Element Law pursuant to GC Section 65585. A Local government's current Housing Element compliance status can be obtained by referencing the Department's website at <http://www.hcd.ca.gov/community-development/housing-element>.

- (b) **APR on the Housing Element submitted to the Department:** The Applicant and any delegating Local government, if applicable, must submit to the Department the APR required by GC Section 65400 for the current or prior year by the application deadline date.
 - (1) Please be advised that the Department will not accept other reports in lieu of the APR. Housing Authority Financial Reports, Redevelopment Reports, and other similar reports will not be accepted as meeting this requirement. If uncertain of the status of the report submittal for a Local government, please contact the Department for more information.
- (c) Submit, by the deadline specified in the NOFA, on a form made available by the Department, a complete application which shall meet the following minimum requirements:
 - (1) Application requests an allocation pursuant to Section 200 in order to carry out one or more of the eligible activities described in Section 301. Except for a jointly funded project as described in Section 301(c), any activities must be carried out within the jurisdiction of the Applicant Local government.
 - (2) Submission of the application is authorized by the governing boards of the Applicant.
 - (3) Certification in the resolution that, if the Local government proposes allocation of funds for any Activity to another entity, the Local government's selection process shall avoid conflicts of interest and shall be accessible to the public. For the purposes of this paragraph, "entity" means a housing developer or program operator; "entity" does not mean an administering Local government to whom a Local government delegates its PLHA formula allocation, pursuant to Section 300(d).
 - (4) A Plan detailing:
 - (A) The manner in which allocated funds will be used for eligible Activities.
 - (B) A description of the way the Local government will prioritize investments that increase the supply of housing for households with incomes at or below 60 percent of AMI. Programs targeted at households at or below 60 percent of AMI will be deemed to meet this requirement.

- (C) A description of how the Plan is consistent with the programs set forth in the Local government's Housing Element.
- (D) Evidence that the Plan was authorized and adopted by resolution by the Local government and that the public had an adequate opportunity to review and comment on its content.
- (E) The following for each proposed Activity:
 - (i) A description of each proposed Activity, pursuant to Section 301, and the percentage of funding allocated to it. The description shall specifically include the percentage of funds, if any, directed to AOWH.
 - (ii) The projected number of households to be served at each income level and a comparison to the unmet share of the RHNA at each income level.
 - (iii) A description of major steps/actions and a proposed schedule required for the implementation and completion of the Activity.
 - (iv) The period of affordability and level of affordability for each Activity. Rental Projects are required to have affordability periods of at least 55 years.
- (5) The Plan submitted in response to the NOFA shall be for a term of five years. Local governments shall obtain approval of the Department for amendments made to the Plan in each succeeding year of the term of the Plan. Reallocations of more than 10 percent of funds among Activities require amendment of the Plan, with approval granted by the governing body at a publicly noticed public meeting.
- (6) A certification that, if funds are used for the acquisition, construction, or rehabilitation of for-sale housing projects or units within for-sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements if the property is no longer the primary residence of the homeowner due to sale, transfer or lease, unless it is in conflict with the requirements of another public funding source or law:
 - (A) The PLHA loan and any interest thereon shall be repaid to the Local government's PLHA account. The Local government shall reuse the repayments consistent with Section 301; or
 - (B) The initial owner and any subsequent owner shall sell the home at an Affordable housing cost to a qualified Lower-Income or Moderate-Income household; or
 - (C) The homeowner and the Local government shall share the equity in the unit pursuant to an equity-sharing agreement. The grantee shall reuse the proceeds

of the equity-sharing agreement consistent with this section.

- (7) A certification that, if funds are used for the development of an Affordable Rental Housing Development, the Local government shall make the PLHA assistance in the form of a low-interest, deferred loan to the Sponsor of the Project. The loan shall be evidenced through a Promissory Note secured by a Deed of Trust, and a Regulatory Agreement shall restrict occupancy and rents in accordance with the Local government-approved underwriting of the Project for a term of at least 55 years.
- (8) A Program income reuse plan describing how repaid loans will be reused for eligible activities specified in Section 301.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii).

Section 303. Application Review

- (a) Applicants must submit a complete application by the deadline stated in the NOFA in order to be eligible for funding. Application forms provided by the Department will be available upon release of the NOFA and will require Applicants to submit the forms and other documents to demonstrate that the Local government has met threshold requirements.
- (b) The Department may request additional information to complete its review.
- (c) Applications recommended for funding are subject to conditions specified by the Department. Applicants will receive an official letter of award after the Department approves funding recommendations.
- (d) The Department may issue an Over-the-Counter formula allocation NOFA after completing the NOFA process so that Local governments who were not able to submit formula allocation applications by the application deadline will have another opportunity to do so.
- (e) If funding proposed in Local government Plans for AOWH activities is lower than 20 percent of the moneys available in the Fund, the Department may require Local governments to use a specific percentage of their annual formula allocations in some future year for AOWH activities as part of the annual funding process.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(A).

Section 304. Deadlines and Funding Requirements

- (a) The initial PLHA application, including the Plan, must be submitted within 48 months of the budget appropriation (for example, the budget appropriation for 2019 is July 1, 2019, so the application deadline is June 30, 2023).
- (b) Funds allocated to Local governments that do not submit a complete application by the deadline stated in subsection (a) will revert to the Housing Rehabilitation Loan Fund for the Multifamily Housing Program or for Department-administered technical assistance to Local governments.
- (c) A Local government may petition the Department to return any funds allocated to it to be used for the Multifamily Housing Program.
- (d) Except for predevelopment expenses for construction projects funded by PLHA and costs to develop and prepare the Plan and the PLHA application, no costs incurred more than one year prior to commitment by the Local government may be paid from PLHA funds. Reimbursement of expenses to prepare the Plan and the PLHA application are subject to the cap on administrative fees.
- (e) After the Standard Agreement and attachments have been finalized, the Local government will follow provided instructions for signing all required documents. The Local government must submit all supporting materials and a signed Standard Agreement within the timeline provided in the instruction.
- (f) After the Standard Agreement has been executed by the state, the Local government may submit a request for 100 percent of the funds allocated to be used for eligible expenditures for the Activity(ies) that received the award, and subject to the terms and conditions of the Standard Agreement.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(i) and subdivision (b)(2)(B)(ii)(VI).

ARTICLE IV. COMPETITIVE ALLOCATION COMPONENT

Section 400. Eligible Applicants

- (a) Eligible Applicants for the non-entitlement competitive allocation described in Section 100(b)(3) are limited to Non-entitlement local governments. For development of Rental Housing Projects, the Sponsor must be a co-Applicant.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(i)(I).

Section 401. Eligible Activities

- (a) Eligible Activities are limited to the following and must take place within the jurisdiction of the Applicant Local government:
 - (1) Development of new multifamily rental housing that is Affordable to households at or below 60 percent of AMI or substantial rehabilitation of multifamily rental housing that will be Affordable to households at or below 60 percent of AMI, but which is not currently restricted as Affordable housing; or
 - (2) Assistance to persons who are experiencing or At risk of homelessness, including, but not limited to, through rapid rehousing, or rental assistance, supportive services and case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers, or new construction, rehabilitation, or preservation of permanent or transitional rental housing.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(i)(I)(ia), (b)(2)(B)(i)(I)(ib) and subdivision (b)(2)(B)(ii)(V).

Section 402. Threshold Requirements

Applicants must meet all the following threshold requirements for participation in the competitive allocation:

- (a) **Housing Element compliance:** The Applicant must have a Housing Element that has been adopted by the jurisdiction's governing body by the application deadline date and subsequently determined to be in substantial compliance with state Housing Element Law pursuant to GC Section 65585. A Local government's current Housing Element compliance status can be obtained by referencing the Department's website at <http://www.hcd.ca.gov/community-development/housing-element>.
- (b) **APR on the Housing Element submitted to the Department:** The Applicant must submit to the Department the APR required by GC Section 65400 for the current or prior year by the application deadline date.
 - (1) Please be advised that the Department will not accept other reports in lieu of the APR. Housing Authority Financial Reports, Redevelopment Reports, and other similar reports will not be accepted as meeting this requirement. If uncertain of the status of the report submittal for a Local government, please contact the Department for more information.
- (c) Submit by the deadline specified in the NOFA, on a form made available by the Department, a complete application which shall meet the following minimum requirements:
 - (1) Application requests a grant pursuant to Section 100(b)(3) in order to carry out one

or both of the eligible Activities set forth in Section 401.

- (2) Submission of the application is authorized by the governing board of the Applicant and by the developer co-applicant, if any.
- (3) Certification in the resolution that, if the Local government proposes allocation of funds for any Activity to another entity, the selection process shall avoid conflicts of interest, and shall be accessible to the public.
- (4) Demonstration of readiness, including site control for development Projects, land use entitlements, environmental review and commitments of other funding and resources required, as further set forth in the NOFA;
- (5) Underwriting requirements:
 - (A) Uniform Multifamily Regulations Subchapter 19 of Title 25, Division 1, Chapter 7 (commencing with Section 8300), as amended from time to time, and the Multifamily Housing Program Guidelines (commencing with Section 7300), as amended from time to time, are hereby incorporated by reference into this subchapter and shall apply to Rental Housing Developments receiving assistance under the PLHA competitive allocation. In the event of a conflict between the provisions of Subchapter 19 and these Guidelines, the provisions of these Guidelines shall prevail.
 - (i) Section 8312(c) of the Uniform Multifamily Regulations is hereby amended to read:
 - (c) For Projects utilizing 4 percent tax credits, Developer Fee payments shall not exceed the amount that may be included in Project costs pursuant to 4 CCR, Section 10327. In addition, the Developer Fee paid from development funding sources shall not exceed the following:
 - (1) For acquisition and/or rehabilitation Projects, or adaptive reuse Projects, the lesser of the amount of Developer Fee in Project costs or \$2,000,000.
 - (2) For new construction Projects, the base limit shall be the lesser of the amount that may be included in Project costs or \$2,200,000. To arrive at the final limit on Developer Fee paid from development funding sources, the base limit shall then be multiplied by a ratio that is the average of (i) the difference between 2 and the Project's high-cost ratio, as calculated pursuant to 4 CCR, Section 10317(i)(6) or successor language and (ii) 100 percent.
 - (ii) Section 8312(d) of the Uniform Multifamily Regulations shall not apply.
 - (iii) Section 8314(a)(1)(A) of the Uniform Multifamily Regulations is amended to read:
 - (A) Approved deferred Developer Fee, pursuant to Section 8312, provided that the aggregate of the Developer Fee paid from sources and paid as deferred shall not exceed \$3,500,000.

(B) Period of affordability: All assisted rental units shall be restricted for not less than 55 years.

(C) All development Projects shall demonstrate fiscal integrity.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii).

Section 403. Selection Criteria

(a) Applications submitted within a competitive funding round shall be evaluated using the following criteria. Total available points shall equal 100.

1. Priority Points – 25 points

A. Population - 5 points

- (i) If the Applicant is a county that has a population of 200,000 or less within the unincorporated areas of the county, the Applicant shall receive all points.

B. Prior Award – 5 points

- (i) If the Applicant did not receive an award based on the formula specified in 42 USC, Section 5306 in 2016, the Applicant shall receive all points.

And either C (i) or C (ii) or C (iii) below:

C. Activity

- (i) Assistance for Homeless Persons through Program Activities – 15 points

- (a) Applications to assist persons experiencing or At risk of homelessness, including, but not limited to, through programs providing rapid rehousing, or rental assistance, or operating assistance to navigation centers shall receive all points.

Or

- (ii) Assistance to Homeless Persons through Development of Navigation Centers– 15 points

- (a) Applications for construction of navigation centers shall receive all points.

Or

(iii) Assistance for Homeless Persons through Rental Projects – 15 points

- (a) Applications for the new construction, rehabilitation, or preservation of permanent or transitional rental housing in which all or at least 10 percent of the units are restricted to occupancy by tenants who are homeless or At risk of homelessness shall receive all points.

2. Evaluation Criteria – 75 points

Precise scoring for these factors will be set forth in the NOFA.

A. Community Need – 30 points

- (i) Applicants will receive up to a maximum of 30 points based on the rate of households experiencing the most severe housing need according to the most recent HUD CHAS dataset in the Applicant Local government. Applicants will receive points in proportion to this percentage.

B. Applicant Administrative Experience – 15 points

- (i) Applicants with prior experience administering local, state or federal affordable housing or community development programs or who have entered into a contract with an entity with prior experience in the implementation of local, state or federal affordable housing or community development programs will receive up to 15 points.

C. Demonstrated Capacity – 30 points

- (i) Capacity points will be based on:

- (a) Sponsor experience in Affordable Rental Housing Development and ownership (Up to 30 points) or
- (b) Navigation center development experience (for development of these facilities) (Up to 30 points) or
- (c) Program Operator experience (for non-development Activities) (Up to 30 points)

- (b) Where applications requesting funds for more than one eligible Activity pursuant to Section 401 are permitted by the NOFA, each Activity will receive a separate score for each rating factor, and have an individual Activity total. It is possible that one Activity may score highly enough to receive an award, and the other Activity does not.

- (c) In the event of tied point scores and insufficient funding for both applications, the Department shall rank the tied applications as follows:

- (1) If one of the tied applications is for an Affordable Rental Housing Development and the other is for a program Activity or development of a navigation center, the

- Affordable Rental Housing Development application will be selected for funding;
- (2) If one of the tied applications is for a navigation center and the other is for a program Activity, the navigation center will be selected for funding;
 - (3) If both of the tied applications are for Affordable Rental Housing Developments, the Project with the lowest weighted average affordability of Restricted Units will be selected;
 - (4) If both of the tied applications are for navigation centers, the facility that provides overnight shelter to the greatest number of people will be selected;
 - (5) If both of the tied applications are for programs, the Local government with the highest rate of households experiencing the most severe housing need according to the most recent HUD CHAS dataset will be selected.
- (d) In the event there are insufficient funds to fulfill the entire funding request for the next highest scored application (Application A), the Department will determine whether Application A is feasible without the full funding request. If Application A is not feasible without full funding, the Department may offer the remaining funds to the application whose score is immediately below Application A. If the remaining funds are insufficient to fulfill the funding request for that application (Application B), the Department will again determine whether this application is feasible without the full funding request. If Application B is not feasible without the full funding request, the Department will perform the same analysis for the application whose score is immediately below Application B.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(i)(I)(ia) and subdivision (b)(2)(B)(ii)(V).

Section 404. Application Review

- (a) Applicants must submit a complete application by the deadline stated in the NOFA in order to be eligible for funding. Application forms provided by the Department will be available upon release of the NOFA and will require Applicants to submit the forms and other documents to demonstrate that the Local government has met threshold requirements. The application will require submission of documentation adequate to demonstrate that the application has earned the appropriate number of points.
- (b) The Department may request additional information to complete its review, provided that the new information would not affect scoring.
- (c) Applications recommended for funding are subject to conditions specified by the Department. Applicants will receive an official letter of award after the Department approves funding recommendations.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii).

Section 405. Deadlines and Funding Requirements

- (a) Applicants will be required to enter into a state Standard Agreement (Standard Agreement) that will set forth conditions for funding and milestones that are required to be met.
- (b) After the Standard Agreement and attachments have been finalized, the Local government will follow provided instructions for signing all required documents. The Local government must submit all supporting materials and a signed Standard Agreement within the timeline provided in the instructions or risk forfeiting the grant award.
- (c) Except for predevelopment expenses for construction projects funded by PLHA and the costs to develop and prepare the PLHA application, no costs incurred more than one year prior to commitment by the Local government may be paid from PLHA funds. Reimbursement of expenses to prepare the PLHA application is subject to the cap on administrative fees.
- (d) Grant funds shall not be disbursed until:
 - (1) the Department authorizes loan closing, in the case of development projects; or
 - (2) all general and special conditions have been complied with, in the case of other Activities.
- (e) If funds are used for the development of an Affordable Rental Housing Development, the Local government shall make the PLHA assistance in the form of a low-interest, deferred loan to the Sponsor of the project. The loan shall be evidenced through a Promissory Note secured by a Deed of Trust, and a Regulatory Agreement shall restrict occupancy and rents in accordance with the Department-approved underwriting of the project for at least 55 years.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii)(VI).

ARTICLE V. ADMINISTRATION

Section 500. Accounting Records

- (a) The grantee shall establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the approved work plan, budget, and schedule. Separate bank accounts are not required.
- (b) The grantee shall maintain documentation of its financial records for expenditures incurred during the course of the PLHA Activity in accordance with generally accepted accounting principles. Such records shall be kept for at least five years after the close-out report is submitted to the Department.

- (c) The Department or its designated representative shall have the right to review and copy any records and supporting documentation pertaining to the PLHA grant.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii)(III) and subdivision (b)(2)(B)(IV) and subdivision (b)(3).

Section 501. Audits/Monitoring of Project Files

- (a) Grantee shall maintain PLHA files which, at a minimum, should include the following information and reports:
 - 1) Project/Activity description
 - 2) Land/site Information
 - 3) Planning & zoning history (as appropriate)
 - 4) Records of public hearings and public comments
 - 5) Relocation needs (as appropriate)
 - 6) Contracts, loan and grant agreements, Standard Agreement
 - 7) Environmental records & reports/findings (as appropriate)
 - 8) Design/engineering reports & plans (as appropriate)
 - 9) Description of targeted beneficiaries, services to be provided, household incomes, special needs
 - 10) PLHA Activity costs, invoices, purchase orders, sources and uses of funds for PLHA Activities, terms & conditions of financings, draws and all supporting documentation, change orders (as appropriate)
 - 11) Activity schedule and amendments
 - 12) History of Plan amendments
 - 13) Procurement policy used for PLHA Activity(ies)
- (b) The grantee shall maintain such records for possible audit for a minimum of three years after the close-out report is submitted, unless a longer period of records retention is stipulated in the Standard Agreement.
- (c) The grantee shall be responsible for monitoring Rental Housing Developments that received PLHA funds for the term of the loan, including, but not limited to, the Projects' compliance with the occupancy and rent requirements set forth in the Regulatory Agreement, compliance with reserve requirements, and the compliance with habitability standards.
- (d) The grantee shall be responsible for monitoring AOWH loans to assure that the homes remain Owner-occupied.
- (e) If requested by the Department, the grantee shall obtain a report from a qualified,

licensed third party that certifies to the amounts of disbursement and identifies the specific Activities for which the disbursements were made. Such a report is permitted to be a component of the A-133 audit.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii)(IV) and subdivision (b)(3).

Section 502. Cancellation and Termination

- (a) In the event that it is determined, at the sole discretion of the Department, that the grantee is not meeting the terms and conditions of the Standard Agreement, the Department shall issue a notice to stop work. Immediately upon receiving the written notice to stop work, the grantee shall cease all work under the Standard Agreement. The Department has the sole discretion to determine the grantee's compliance with the terms and conditions after issuance of a stop work order, and to deliver a written notice to the grantee to resume work under this Standard Agreement.
- (b) The Department shall terminate the Standard Agreement if the grantee is not in compliance with the Guidelines or the terms and conditions of the Standard Agreement. At least 30 days prior to the effective date of the termination of the Standard Agreement, the Department shall provide written notice to the grantee of its intent to cancel the funding allocation. The notice shall specify the reason for early termination and may permit the grantee or the Department to cure any deficiency(ies) prior to the early termination date. The grantee will submit requested documents to the Department within 30 days of the early termination notice.
- (c) Failure to meet reporting requirements will result in notice to the grantee that it must satisfactorily cure any deficiencies within three months of the notice or it will forfeit the following year's PLHA formula allocation and be ineligible for a competitive award. The Local government will forfeit subsequent PLHA formula allocations and be ineligible for a competitive award until the Department determines that the Local government has met reporting requirements.
- (d) The Department may, as it deems appropriate or necessary, request the repayment of funds from a Local government or offset future years' funds, or pursue any other remedies available to it by law for failure to comply with the Guidelines and/or the terms and conditions of the Standard Agreement.
- (e) Co-Applicants may be adversely impacted by a notice to stop work and/or termination if one grantee is deemed by the Department to not meet the terms and conditions of the Standard Agreement, or fails to meet the reporting requirements outlined in Section 503.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii)(IV) and subdivision (b)(3).

Section 503. Reporting

- (a) The Department shall provide grantees with reporting formats and instructions.
- (b) Annual Reports are required from all grantees pursuant to HSC Section 50470(b)(2)(B)(ii)(III) each year by July 31 for the term of the Standard Agreement. The Annual Report shall document the uses and expenditures of all awarded allocations and outcomes achieved. This report must be signed by both the Local government's PLHA administrator and the Local government's City Manager (or his/her designee), or Chief Executive Officer (or his/her designee) or Chief Financial Officer (or his/her designee). The Annual Report must describe any proposed amendment(s) to the approved Activity and schedule.
- (c) Upon expenditure of all allocated funds and completion of the Activities funded by PLHA, the grantee shall submit a close-out report, which will be part of the Annual Report.
- (d) The Department may request additional information as needed to meet other applicable reporting or audit requirements.

NOTE: Authority cited: HSC Section 50470, subdivision (d). Reference cited: HSC Section 50470, subdivision (b)(2)(B)(ii)(III) and subdivision (b)(2)(B)(ii)(IV).