



CITY OF RIVERBANK
**REGULAR CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY BOARD
MEETINGS**

(The City Council also serves as the LRA Board)
City Hall North • Council Chambers

6707 Third Street • Suite B • Riverbank • CA • 95367

AGENDA

TUESDAY, OCTOBER 9, 2018– 6:00 P.M.

(THE AGENDA PACKET IS POSTED AT THE CITY CLERK’S OFFICE AND AT WWW.RIVERBANK.ORG)

- CALL TO ORDER:** Mayor/Chair Richard D. O’Brien
- FLAG SALUTE:** Mayor/Chair Richard D. O’Brien
- INVOCATION:** Riverbank Ministerial Association
- ROLL CALL:** Mayor/Chair Richard D. O’Brien
Vice Mayor/Chair Darlene Barber-Martinez (CM-D4)
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member Cal Campbell
Council/Authority Member Leanne Jones Cruz
- CHANGES TO THE AGENDA:** Mayor/Chair Richard D. O’Brien

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.

1. PRESENTATIONS

- Item 1.1:** Proclamation – Walk to School Day – October 10, 2018.
- Item 1.2:** Proclamation for Code Enforcement Officer Appreciation Week.

2. 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 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the City Council/LRA Board.

3. 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 3.A: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 3.B: Approval of the September 25, 2018, City Council and Local Redevelopment Authority Minutes.

Item 3.C: Award Bid for the Riverbank Community Center Roof Repair Project to Pacific Valley Roofing Inc.

Recommendation: It is recommended that City Council/LRA Board approve the Consent Calendar items by roll call vote.

4. UNFINISHED BUSINESS There are no items to consider.

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 9/12/2018. A Continuance Notice was posted as required on 09/26/2018.

Item 5.1: **Conduct a Public Hearing for Consideration of a Resolution Approving and Adopting a 5-Year Capital Improvement Plan for Fiscal Years 2018-2013** – It is recommended that the City Council review and adopt the 5–Year Capital Improvement Plan (CIP) for Fiscal Years 2018-2023.

6. NEW BUSINESS

Item 6.1: **Consideration of the Proposed Resolutions and related Agreements:**

- 1) **A Resolution Approving, Authorizing and Directing Execution by the City Manager of an amended and restated Joint Exercise of Powers Agreement Relating to the California Statewide Communities Development Authority; and**
- 2) **A Resolution Approving Associate Membership by the City in the California Enterprise Development Authority; Authorizing and Directing the Execution by the City Manager of an Associated membership Agreement Relating to Associate membership of the City in the Authority: Authorizing the City to Join the Figtree**

Pace Program; Authoring the California Enterprise Development Authority to Conduct Contractual Assessment Proceedings and levy Contractual Assessments within the Territory of the City of Riverbank; Authorizing the Execution of the Indemnification Agreement, and Authorizing Related Actions; and

- 3) A Resolution Consenting to the Inclusion of Properties Within the Territory of the City in the CSCDA Open Pace Programs; Authorizing the California Statewide Communities Development Authority to Accept Applications From Property Owners, Conduct Contractual Assessment Proceedings and Levy Contractual Assessments Within the Territory of the City; and Authorizing Related Actions.**

It is recommended that the City Council consider the approval of the agreements and the adoption of the resolutions for the following Property Assessed Clean Energy (PACE) programs:

- California Statewide Communities Development Authority (CSCDA) Open PACE Program
- Figtree PACE Program

This approval will grant the City Manager the authority to execute the agreements and all necessary steps to carry out the intent of the resolutions.

- Item 6.2: A Resolution Approving the Memorandum of Understanding between Stanislaus County, Department of Environmental Resources and the City of Riverbank Regarding Onsite Wastewater Treatment Systems (OWTS) and Authoring the City Manager to Execute the Agreement**
– It is recommended that the City Council approve the Memorandum of Understanding.

7. 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 during this time.

- Item 7.1:** Staff

- Item 7.2:** Council/Authority Member

- Item 7.3:** Mayor/Chair

8. CLOSED SESSION

The public will have a limit of 5 minutes to comment on Closed Session item(s) as set forth on the agenda prior to the City Council/LRA Board adjourning to Closed Session.

Item 8.1: CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
 Property: 062-031-005, 062-031-006, 062-031-007
 Agency Negotiator: Sean Scully, City Manager
 Property Negotiator: Aemetis, Inc.

Item 8.2: CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6
 Agency representative: Sean Scully, City Manager
 Employee organizations: Mid-Management Bargaining Unit

Item 8.3: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
 Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (2) potential case**9. REPORT FROM CLOSED SESSION****Item 9.1: Report from Closed Session on Item 8.1: CONFERENCE WITH REAL PROPERTY NEGOTIATORS****Item 9.2: Report from Closed Session on Item 8.2: CONFERENCE WITH LABOR NEGOTIATORS – City Manager and Mid-Management Bargaining unit****Item 9.3: Report from Closed Session on Item 8.3: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION: (2) potential case****ADJOURNMENT (The next regular City Council meeting – Tuesday, Oct. 23rd @ 6:pm)****UPCOMING EVENTS:**

October 13-14 Saturday & Sunday	<ul style="list-style-type: none"> • <u>Annual Cheese and Wine Exposition.</u> <ul style="list-style-type: none"> ○ Contract the Parks and Recreation Department at (209) 863-7150.
October 22 Monday	<ul style="list-style-type: none"> • <u>Last day to register to vote.</u> <ul style="list-style-type: none"> ○ Visit www.stanvote.com or www.registertovote.ca.gov
November 6 Tuesday	<ul style="list-style-type: none"> • <u>Election Day</u> – Polls open from 7:00 a.m. to 8:00 p.m.
2018 Canceled Regular City Council Meetings	<ul style="list-style-type: none"> • <u>City Council voted to cancel the following regular meetings:</u> <ul style="list-style-type: none"> ○ Tuesday, July 10, 2018 ○ Tuesday, August 14, 2018 ○ Tuesday, November 27, 2018 ○ Tuesday, December 25, 2018

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours prior to the meeting in accordance to the Brown Act.

Posted this 4th day of October, 2018

/s/ Annabelle H. Aguilar, CMC, City Clerk / LRA Recorder

Notice Regarding Americans with Disabilities Act: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (209) 863-7122 or cityclerk@riverbank.org. Notification of (72) hours before the meeting will enable the City to make reasonable arrangements to ensure any special needs are met. [28 CFR 35.102-35.104 ADA Title II].

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.

Meeting Schedule	<p><u>Regular City Council Meetings:</u> 6:00 p.m. on the 2nd and 4th Tuesday of every month, unless otherwise noticed.</p> <p><u>Local Redevelopment Authority Board:</u> (The City Council also serves as the LRA Board.) Meets on an "as needed" basis. The City Council also serves as the LRA Board.</p>
City Council / LRA Agenda & Reports	<p>The City Council/LRA Board agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted near the entrance of the location where the meeting is to be held and, when available, on the City's website. Additional documents may be provided by the City in its efforts of transparency to keep the public well informed. The agenda packet (agenda plus supporting documents) are posted for public review at the City Clerk's Office, 6707 Third Street, Riverbank, CA and at www.riverbank.org upon distribution to a majority of the City Council/LRA Board. A subscription to receive the agenda can be purchased for a nominal fee through the City Clerk's Office.</p>
Public Hearings	<p>In general, a public hearing is an open consideration within a regular meeting of the City Council/LRA Board, for which special notice has been given. During a specified portion of the hearing, any interested party is invited to present written or oral protests or support for the subject matter under consideration. Written testimony sent or delivered to the City Clerk must be received no later than <u>5:00 p.m. on the day of the meeting</u> to allow for their distribution to the City Council/LRA Board. Preparations for the meeting are conducted between 5:00 p.m. and 6:00 p.m. and therefore the City Clerk is not available during this time.</p>
Televised / Video of Meetings	<ul style="list-style-type: none"> • Charter – Channel 2 • AT&T Uverse – Channel 99 • www.riverbank.org – video icon – under Agendas and Minutes link
City Hall Hours	<p>City Hall is open Monday – Thursday; 7:30 am – 5:30 pm and Fridays: 8:00 am – 5:00 pm; CLOSED alternating Fridays</p>
Questions	<p>Contact the City Clerk at (209) 863-7122 or aaguilar@riverbank.org</p>

Any documents that are not privileged or part of a Closed Session provided to a majority of the City Council/LRA Board after distribution of the agenda packet, regarding any item on this agenda, will be made available for public inspection at North City Hall, 6707 Third Street, Riverbank, CA, during normal business hours. 5

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.1

SECTION 1: PRESENTATIONS

Meeting Date:	October 9, 2018
Subject:	Proclamation – Walk to School Day – October 10, 2018
From:	Sean Scully, City Manager
Submitted by:	Cheryl Stefani, Administrative Assistant

RECOMMENDATION

It is recommended that the City Council read and present a Proclamation for Walk To School Day.

SUMMARY

Walk 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 safety and promoting healthy behavior.

There are many benefits associated with walking to school and it is an enjoyable activity that all ages can partake in. Walking provides exercise at the beginning of the day which may encourage additional healthy habits throughout the day. Walking 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 10, 2018, students in Riverbank will join over 50 countries around the world to recognize the importance in walking to school. By partaking in Walk to School Day, each step taken is one step closer to a cleaner and healthier lifestyle.

FINANCIAL IMPACT

There is no financial impact with the report.

ATTACHMENT

1. Proclamation



**CITY OF RIVERBANK
PROCLAMATION
WALK TO SCHOOL DAY**

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 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 10, 2018 as **Walk 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.

October 9, 2018

**Richard D. O'Brien
Mayor**

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 1.2

SECTION 1: PRESENTATIONS

Meeting Date:	October 9, 2018
Subject:	Proclamation for Code Enforcement Officer Appreciation Week
From:	Sean Scully, City Manager
Submitted by:	Donna M. Kenney, Planning and Building Manager

RECOMMENDATION

No Action – Presentation Only

SUMMARY

The State of California has proclaimed the second week of October as Code Enforcement Officer Appreciation Week. Code Enforcement Officers, or Neighborhood Improvement Officers as they are known in Riverbank, provide for the safety, health, and welfare of citizens through the enforcement of local, state, and federal laws and ordinances dealing with the various issues of building, zoning, housing, animal control, environmental, health, and life safety.

FINANCIAL IMPACT

None



**CITY OF RIVERBANK
PROCLAMATION**

NATIONAL CODE ENFORCEMENT OFFICER APPRECIATION WEEK

WHEREAS, the State of California has proclaimed the 2nd week of October as Code Enforcement Officer Appreciation Week; and

WHEREAS, Code Enforcement Officers have challenging and demanding roles and often do not receive recognition for the work they do in improving the quality of life for residents and businesses of local communities; and

WHEREAS, the role of many Code Enforcement Officers has expanded in recent years with jurisdictions increasingly relying on the expertise and training of Code Enforcement Officers in their communities; and

WHEREAS, Code Enforcement Officers have a highly visible role that requires regular, professional interaction with the public to provide for the safety, health, and welfare of citizens through the enforcement of local, state, and federal laws; and

WHEREAS, Code Enforcement Officers are dedicated, highly qualified, and highly trained professionals who share the goals of preventing neighborhood deterioration, enhancing communities, ensuring safety, and preserving property values through knowledge, and application of housing, zoning, and nuisance laws.

NOW, THEREFORE BE IT RESOLVED that the City Council calls upon Riverbank residents to join in recognizing and expressing their appreciation to the City's Neighborhood Improvement Officers, whom serve as the Code Enforcement Officers, for striving to improve and maintain their quality of life; and

LET IT BE PROCLAIMED by the City Council of the City of Riverbank that the second week of October in 2018, and annually thereafter, be known as "Code Enforcement Officer Appreciation Week" in the City of Riverbank.

October 9, 2018

Richard D. O'Brien
Mayor

RIVERBANK CITY COUNCIL / LRA AGENDA ITEM NO. 3.A

SECTION 3: CONSENT CALENDAR

Meeting Date:	October 9 , 2018
Subject:	Waiver of Readings
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

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

SUMMARY

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

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; 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. 3.B**

SECTION 3: CONSENT CALENDAR

Meeting Date:	October 9, 2018
Subject:	Approval of the September 25, 2018, City Council and Local Redevelopment Authority Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

It is recommended that the City Council / Local Redevelopment Authority Board approve the City Council /LRA Meeting Minutes as presented.

SUMMARY

The Draft Minutes of the September 25, 2018, regular City Council and the Local Redevelopment Authority Board meetings have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. September 25, 2018, City Council and LRA Minutes



**City of Riverbank
REGULAR CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY BOARD**
(The City Council also serves as the LRA Board)

**MINUTES OF
TUESDAY, SEPTEMBER 25, 2018**

Verbatim proceedings of the meetings may be viewed on-line or a copy may be provided for a fee.

CALL TO ORDER:

The City Council and Local Redevelopment Authority Board of the City of Riverbank met at 6:00 p.m. on this date at the Riverbank City Council Chambers, 6707 Third Street, Suite B, Riverbank, California, with Mayor/Chair Richard D. O'Brien presiding.

FLAG SALUTE: Mayor/Chair Richard D. O'Brien

INVOCATION: There was no invocation.

ROLL CALL: Mayor/Chair Richard D. O'Brien
Present Vice Mayor/Chair Darlene Barber-Martinez (CM-D4)
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member Cal Campbell
Council/Authority Member Leanne Jones Cruz

AGENDA CHANGES: Mayor/Chair Richard D. O'Brien – *No changes were made.*

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.

No one declared a conflict.

1. PRESENTATIONS

Item 1.1: Report on Teen Center Activities. – *Gerrick Figueroa, Teen Center Coordinator made the presentation.*

Item 1.2: 2018 Cheese & Wine Festival Update. – *Chris Ricci of Chris Ricci Presents, made the presentation.*

2. 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 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the City Council/LRA Board.

Ramon Bermudez, Riverbank, spoke on the negative impact of marijuana.

Vicky Holt, Riverbank Library Manager, provided an update on library activities.

3. 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 otherwise requested by an individual Council/Authority Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 3.A: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 3.B: Approval of the June 25, 2018, Special City Council Minutes.

Item 3.B-1: Approval of the September 11, 2018, City Council Minutes and Local Redevelopment Authority Board Minutes.

Item 3.B-2: Approval of the September 18, 2018, Special Joint City Council and Planning Commission Minutes.

Item 3.C: A **Resolution [No. 2018-065]** to Adopt the 2018-2019 schedule of Park Amenity Rentals, Recreation Programs, and Facility Rental Fees for the City of Riverbank.

Item 3.D: A **Resolution [No. 2018-066]** Adopting by Reference Fair Political Practices Commission Title 2, Division 6, California Code Sections 18730 and 18730.1; the 2018 Conflict of Interest Code List of Designated City Positions; and the Related Economic Interest Disclosure Categories.

Item 3.E: Award Bid for the Patterson Road Sidewalk Project to Ross F. Carroll, Inc., and Authorize Execution of Future Change Orders.

Recommendation: It is recommended that City Council/LRA Board approve the Consent Calendar items by roll call vote.

ACTION: *By motion moved and seconded (Jones Cruz / Barber-Martinez / passed 5-0) to approve Consent Calendar Items 3.A through 3.E as presented. Motion carried by unanimous City Council and LRA Board roll call vote.*

AYES: Fosi, Campbell, Jones Cruz, Barber-Martinez, and Mayor/Chair O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

4. UNFINISHED BUSINESS

There were no items to consider.

5. PUBLIC HEARINGS

The public hearing notice for Item 5.1 was published in the Riverbank News on 09/12/2018.

Item 5.1: Continuation of the Noticed Public Hearing to Consider a Resolution Approving and Adopting a 5-Year Capital Improvement Plan for Fiscal Years 2018-2023 – It is recommended that the City Council continue this item to allow Staff additional time to gather pertinent budget information by:

1. Opening the Public Hearing; receive comments,
2. Closing the Public Hearing, and
3. By roll call vote, continue the public hearing to the next regular City Council meeting on October 9, 2018.

City Manager Sean Scully presented the staff report.

Mayor O'Brien opened the public hearing at 6:29 p.m.; no one spoke, the hearing was closed.

ACTION: *By motion moved and seconded (Barber-Martinez / Campbell / passed 5-0) to approve the continuance of the Noticed Public Hearing to the next City Council meeting for the Consideration of a Resolution approving and adopting a 5-year Capital Improvement Plan for Fiscal Years 2018-2023. Motion carried by unanimous City Council roll call vote.*

AYES: Fosi, Campbell, Jones Cruz, Barber-Martinez, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

6. NEW BUSINESS

Item 6.1: A Resolution [No. 2018-067] Authorizing the Mayor to Execute and Enter into the New Agreement for the City Manager Services and Authorizing a Budget Amendment for FY 2018-2019 – It is recommended that the Riverbank City Council: (1) approve the new City Manager Employment Agreement between the City of Riverbank and Sean Scully in a form approved by the City Attorney; (2) authorize and direct the Mayor to execute the New Agreement on behalf of the City; and (3) authorize budget amendment for Fiscal Year 2018-2019.

Attorney Kim Horiuchi of Churchwell White, LLP presented the staff report.

Council Members made their comments.

ACTION: *By motion moved and seconded (Jones Cruz / Fosi / passed 5-0) to adopt Resolution No. 2018-067 Authorizing the Mayor to Execute and Enter into the*

New Agreement for the City Manager Services and Authorizing a Budget Amendment for FY 2018-201as presented.

Motion carried by unanimous City Council roll call vote.

AYES: Fosi, Campbell, Jones Cruz, Barber-Martinez, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

Item 6.2: **Workshop / Discussion – Downtown Incentive Program for Business**
– It is recommended that the City Council provide direction and feedback on different possibilities for a downtown business incentive program.

City Manager Sean Scully presented the staff report.

Each Council Member provided their suggestions and ideas of revitalizing the downtown area.

Public comments were made by Mr. Ramon Bermudez, Mr. Ric McGinnis, and Mrs. Evelyn Halbert of Riverbank.

It was agreed to have the City Manager conduct community outreach and return to the City Council with a more detailed proposal of various potential business programs to consider.

7 **COMMENTS/REPORTS**

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

Item 7.1: Staff

- *Parks and Recreation Director Sue Fitzpatrick announced the upcoming City activities, and called for volunteers.*

Item 7.2: Council/Authority Member

- *Council/Authority Member Campbell encouraged members of the public to consider serving on many local nonprofit organizations*
- *Council/Authority Member Jones Cruz commented on the success of the downtown “Sip and Stroll” event.*
- *Vice Mayor/Chair Barber-Martinez reported on her attendance of the Expanding Horizon event, a hands-on learning event of Science, Technology, and Math for young women from 6th to the 12th grade.*

Item 7.3: Mayor/Chair

Mayor/Chair O'Brien commented on agenda Item 3.E and the need to fight for the funding sources that are in jeopardy.

8. CLOSED SESSION

The public will have a limit of 5 minutes to comment on Closed Session item(s) as set forth on the agenda prior to the City Council/LRA Board recessing into Closed Session.

Item 8.1: CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: 062-031-005, 062-031-006, 062-031-007
Agency Negotiator: Sean Scully, City Manager
Property Negotiator: Aemetis, Inc.

Item 8.2: CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6
Agency representative: Sean Scully, City Manager
Employee organizations: Mid-Management Bargaining Unit

Item 8.3: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (2) potential case

MAYOR/CHAIR O'BRIEN ANNOUNCED THE CLOSED SESSION ITEM AND OPENED THE ITEM FOR PUBLIC COMMENT; NO ONE SPOKE. THE MEETINGS WERE RECESSED AND CITY COUNCIL WENT INTO CLOSED SESSION AT 7:28 P.M.

9. REPORT FROM CLOSED SESSION

MAYOR/CHAIR O'BRIEN RECONVENED THE MEETINGS AT 7:49 P.M.

Item 9.1: Report from Closed Session on Item 8.1: CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Mayor O'Brien reported that direction was provided to staff.

Item 9.2: Report from Closed Session on Item 8.2: CONFERENCE WITH LABOR NEGOTIATORS –Mid-Management Bargaining unit

Mayor O'Brien reported that direction was provided to staff.

Item 9.3: Report from Closed Session on Item 8.3: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION: (2) potential case

Mayor O'Brien reported that direction was provided to staff.

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 7:50 p.m.

ATTEST: *(Adopted 10/09/2018)*

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor / Chair

DRAFT

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONSENT CALENDER

Meeting Date:	October 2, 2018
Subject:	Award Bid for the Riverbank Community Center Roof Repair Project to Pacific Valley Roofing Inc.
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council consider approving the award for the Riverbank Community Center Roof Repair to the low bidder, Pacific Valley Roofing Inc.

SUMMARY

The City of Riverbank received three bids for the repair of the roof at the Community Center Building. The low bid was in the amount of \$8,524 from Pacific Valley Roofing INC. Approval to award this bid is requested. The bids were as follows:

Pacific Valley Roofing INC.	\$ 8,524
San Joaquin Roofing Co.	\$10,213
Vernon Roofing	\$17,850

BACKGROUND

The City of Riverbank received a State Grant from the Housing Related Parks Program for \$352,800. This grant will be used to renovate the main hall of the Riverbank Community Center Building. Prior to the renovation of the main hall, roof repairs are needed. Bids were received to repair the roof prior to the award of the contract for the hall renovation. If approved, grant funds will be used to repair the roof in the amount of \$8,524.

FINANCIAL IMPACT:

There is no financial impact as grant funds will be used.

STRATEGIC PLAN

This item is consistent with the Strategic Plan by maintaining and improving the City's infrastructure and service delivery systems.

ATTACHMENTS:

There are no attachments to this report.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	October 9, 2018
Subject/ Title:	Conduct a Public Hearing for Consideration of a Resolution Approving and Adopting a 5-Year Capital Improvement Plan for Fiscal Years 2018-2023
From:	Sean Scully, City Manager
Submitted by:	Kathleen Cleek, Development Services Admin. Manager

RECOMMENDATION:

It is recommended that the City Council review and adopt the 5-Year Capital Improvement Plan (CIP) for Fiscal Years 2018-2023.

STAFF SUMMARY:

The 5-year Capital Improvement Plan (CIP) is being presented to the City Council for the opportunity to review and provide input on the proposed CIP for Fiscal Year 2018-2023. The CIP is a management, planning, and fiscal tool used to insure public improvements are initiated and provides for the orderly development of projects in Riverbank. This program provides the blueprint for identifying the City's improvement needs so that projects can be prioritized, scheduled, and funded.

The City of Riverbank's 5-Year Capital Improvement Plan is reviewed and updated annually to make sure major public improvements are planned and an overall view of the City's needs are presented and reviewed by Council. The CIP is a work in progress and is a document to show transparency in the projects staff is managing, planning, and researching funding sources to complete the projects.

The inclusion of new projects in this CIP list does not automatically mean that Council has authorized the project to proceed. The City Council must approve each project plan concept, funding plan, and schedule.

PLANNING TOOL:

It is important to note that the CIP is not a budget document but rather a planning tool to be utilized in conjunction with the budget document. Inclusion of a new project in the proposed CIP project list does not in and of itself constitute final project approval. Each project, or grouping of projects, such as street projects, require a specific implementation

and financing plan, possible environmental review, and collaboration with other agencies such as Burlington Northern Santa Fe Railroad, and Caltrans. Each capital improvement or equipment purchase requires specific City Council action at each major milestone. A comprehensive review of proposed CIP projects is conducted each year by City departments and the City Manager.

The proposed CIP represents total improvement costs of \$38,267,106 over a five year period. These funds are spread over eight investment categories representing the full range of public services and facilities offered by Riverbank. The CIP proposes over the next 5 years, \$15,446,123 of Street improvements, Storm Drain improvements of \$1,441,321, Sewer System improvements of \$6,549,513, Wastewater Treatment improvements of \$286,230, Water System improvements of \$7,150,000, Motor Pool equipment of \$190,610, Building Facility improvements including ADA of \$692,932, and Parks and Recreation improvements including ADA totaling \$6,510,377. This year's CIP attempts to balance the wide array of City services while realizing budget constraints. Tonight an overview of the Fiscal Year 2018-2019 capital improvement projects will be presented.

FISCAL IMPACT:

For Fiscal Year 2018-2019 the financial impact to the City is as follows. This list indicates funds that will be requested in the Fiscal Year 2018-2019 Budget or at a previous City Council meeting.

Fund 101 - General Fund	\$ 60,000
Local Transportation Funds	\$ 148,628
Regional Surface Transportation Funds	\$ 341,342
Congestion Mitigation Air Quality Funds	\$2,139,193
Measure L – Streets/Roads	\$ 626,000
Measure L – Bicycle/Pedestrian	\$ 65,000
Measure L – Traffic Management	\$ 111,330
SB 1 Funding	\$ 145,433
Park Development Fees/Grants	\$ 445,000
Fund 106 – Wastewater Treatment	\$ 286,230
Fund 108 – Sewer Capital Improvements	\$ 915,000
Fund 205 - SDF – Streets Public Works	\$ 540,000
Landscape & Lighting Districts	\$ 68,925
To Be Determined – Funding Source Unknown	\$ 662,485
TOTAL FUNDS FOR FY 2018-2019	\$6,554,566

ATTACHMENTS:

City of Riverbank 2018-2023 Capital Improvement Plan
Resolution

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA,
APPROVING AND ADOPTING A 5-YEAR CAPITAL IMPROVEMENT PLAN (CIP) FOR
FISCAL YEARS 2018-2023**

WHEREAS, The Riverbank City Council has reviewed the 5-Capital Improvement Plan (CIP) presented by staff for the Fiscal Years 2018-2023; and

WHEREAS, The Capital Improvement Plan (CIP) has been determined by the Planning Commission to conform with the City's General Plan; and

WHEREAS, The City will continue to closely monitor funding and fiscal processes and make adjustments to plan as needed; and

WHEREAS, the Appropriations listed for Fiscal Year 2018-2019 will be requested in the Fiscal Year 2018-2019 budget; and

WHEREAS, the 5-Year Capital Improvement Plan will be used as a planning tool to be used in conjunction with the budget document; and

WHEREAS, each Capital Improvement or Equipment purchase requires specific City Council action at each major milestone; and

WHEREAS, each year a comprehensive review of proposed Capital Improvement Plan projects will be conducted and presented to Council;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby approves the 5-Year Capital Improvement Plan as presented and furthermore encourages prudent expenditures by staff in implementing the 5-Year Capital Improvement Plan for Fiscal Years 2018-2023.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 9th day of October, 2018; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of _____ :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment:



City of Riverbank
Capital Improvement Plan
Fiscal Year 2018-2023

5-YEAR CAPITAL IMPROVEMENT PROGRAM - FUNDING SOURCES

	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Totals
PROJECT FUNDING SOURCES						
Fund 101 - General Fund	\$60,000	\$23,000	\$25,500	\$0	\$0	\$108,500
Local Transportation Fund	\$148,628	\$0	\$0	\$0	\$0	\$148,628
Regional Surface Transportation Funds	\$341,342	\$282,000	\$227,345	\$227,345	\$227,345	\$1,305,377
Congestion Mitigation Air Quality Funds	\$2,139,193	\$1,017,375	\$0	\$0	\$0	\$3,156,568
Measure L - Streets/Roads	\$626,000	\$626,500	\$626,500	\$626,500	\$626,500	\$3,132,000
Measure L - Bicycle/Pedestrian	\$65,000	\$0	\$131,330	\$65,000	\$65,000	\$326,330
Measure L - Traffic Management	\$111,330			\$656,650		\$767,980
SB-1 Funds	\$145,433	\$0	\$0	\$0	\$0	\$145,433
Park Development Fees/Grants	\$445,000	\$3,558,000	\$2,080,000	\$0	\$0	\$6,083,000
Fundraising Efforts	\$0	\$200,000	\$10,000	\$0	\$0	\$210,000
Fund 102 - Gas Tax	\$0	\$0	\$0	\$246,630	\$0	\$246,630
Fund 106 - Wastewater Treatment	\$286,230	\$0	\$0	\$0	\$0	\$286,230
Fund 108 - Sewer Capital Improvements	\$915,000	\$200,000	\$200,000	\$1,475,000	\$3,759,513	\$6,549,513
Fund 114 - Water	\$0	\$0	\$0	\$0		\$0
Fund 116 - Water Capital Improvements	\$0	\$1,568,000	\$1,450,000	\$2,630,000	\$1,502,000	\$7,150,000
Fund 205 - SDF - Streets Public Works	\$540,000	\$243,000	\$311,000	\$311,000	\$311,000	\$1,716,000
Fund 208 - SDF - Storm	\$0	\$0	\$117,200	\$755,200	\$0	\$872,400
Fund 210 - Police & General Government	\$0	\$0	\$0	\$0	\$0	\$0
Landscape & Lighting Districts	\$68,925	\$26,200	\$26,700	\$6,200	\$6,200	\$134,225
To Be Determined - Funding Source Unknown	\$662,485	\$241,781	\$2,965,881	\$429,145	\$1,629,000	\$5,928,292
TOTAL FUNDING SOURCES	\$6,554,566	\$7,985,856	\$8,171,456	\$7,428,670	\$8,126,558	\$38,267,106

CITY OF RIVERBANK 2018-2023 CAPITAL IMPROVEMENT PLAN

Project Name	Project #	Funding	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Total
STREETS								
Measure L - Street/Road Improvements - Various Streets	STR-070	Measure L/ SB-1 Funds	671,433					671,433
Eighth Street Overlay - Patterson to Townsend	STR-060	RSTP/ Measure L	370,572					370,572
Claus Road Overlay - Townsend to Claribel Road	STR-080	Measure L		526,500				526,500
Santa Fe Street Overlay - Fourth Street to Eighth Street	STR-081	Measure L			626,500			626,500
Oakdale Road Overlay - Silver Rock to Crawford Road	STR-082	Measure L				626,500		626,500
Patterson Road Overlay - Terminal Avenue to Central Avenue	STR-083	Measure L					626,500	626,500
Measure L - Bicycle/Pedestrian/Traffic Management - Calender Avenue Improvements	STR-077	Measure L/ TBD	111,330		1,449,707			1,561,037
Measure L - Traffic Management - Claus Road @ California Avenue	STR-079	Measure L Funds				656,650		656,650
Measure L - Bicycle/Pedestrian - To Be Determined	STR-078	Measure L Funds			131,330	65,000	65,000	261,330
Signal Light Patterson @ Roselle/Ped Railroad Crossing/Sidewalk Infill along Roselle & Patterson Roads including BNSF improvements	STR-035	CMAQ/RSTP/ Fund 205/TBD	1,926,753					1,926,753
Alley Improvements - Between Texas & Kansas	STR-031	Fund 102				100,000		100,000
Patterson Road Sidewalk - First to Claus (South Side) - Infill	STR-046	LTF/CMAQ	181,906					181,906
Roselle @ Morrill Intersection Improvements - ROW/Design/Construction	STR-049	Fund 205/CMAQ	433,352					433,352
Roselle Avenue Sidewalks, ROW, Drainage - Patterson to Pocket (East Side)	STR-066	CMAQ/LTF	330,000					330,000
Parsley Lane - Alley Improvements	STR-068	Fund 102				146,630		146,630
Kentucky Avenue Overlay - Eighth to Claus	STR-062	RSTP/ Measure L		382,000				382,000
Reconstruction/Overlay - Road to be Determined	STR-064	RSTP			227,345	227,345	227,345	682,035
Roselle Avenue Bicycle Lane Striping	STR-040	CMAQ	267,050					267,050
First Street @ Patterson Road Intersection Improvements	STR-074	CMAQ	30,000	250,250				280,250
Roselle Avenue Pedestrian Access over MID Canal	STR-075	CMAQ		399,850				399,850
Patterson Road Pedestrian Access - Third Street to Terminal	STR-076	CMAQ	32,000	367,275				399,275

CITY OF RIVERBANK 2018-2023 CAPITAL IMPROVEMENT PLAN

Project Name	Project #	Funding	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Total
RR Xing Improvements Patterson near Terminal	STR-054	Fund 205		243,000				243,000
RR Xing & Intersection Improvements First Street near Patterson	STR-052	Fund 205			311,000			311,000

CITY OF RIVERBANK 2018-2023 CAPITAL IMPROVEMENT PLAN

Project Name	Project #	Funding	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Total
STREETS								
RR Xing Improvements Third Street near Patterson	STR-051	Fund 205				311,000		311,000
RR Xing Improvements Eighth Street near Patterson	STR-053	Fund 205					311,000	311,000
Patterson Road Bioretention/Bike & Pedestrian Path (North Side) - Terminal to Claus	STR-047	TBD			1,200,000			1,200,000
Roselle Avenue Bike/Pedestrian Path - Crawford Road to Sylvan Avenue	STR-056	TBD					1,614,000	1,614,000
STREETS TOTALS			4,354,396	2,168,875	3,945,882	2,133,125	2,843,845	15,446,123
STORM DRAIN SYSTEM								
7th Street Outfall Repair	SD-021	TBD			250,000			250,000
Storm Drain Outfall Improvements - Candlewood	SD-011	TBD		57,960				57,960
Study of Eighth Street Storm Drain System	SD-009	TBD		25,000				25,000
Connect OID Snedigar Pipeline to Storm Drain System	SD-019	Fund 208			42,200			42,200
First Street Basin Reconstruction/Improvements	SD-013	Fund 208			75,000	755,200		830,200
Storm Drain Improvements - Topeka & Santa Fe	SD-005	TBD				235,961		235,961
STORM DRAIN SYSTEM TOTALS			0	82,960	367,200	991,161	0	1,441,321
SEWER SYSTEM								
Cross Connection Reduction	SS-001	Fund 108	200,000	200,000	200,000	200,000		800,000
6" SS, Stanislaus - Sierra Alley from 1st to 3rd	SS-002	Fund 108	75,000					75,000
6" SS, Sierra - Patterson Alley from 1st to 8th	SS-003	Fund 108	275,000					275,000
6" SS, Topeka - Santa Fe Alley 4th to 5th	SS-004	Fund 108	50,000					50,000
6" SS, Topeka - Santa Fe Alley 7th to 8th	SS-005	Fund 108	50,000					50,000
6" SS, Sata Fe - Stanislaus Alley 7th to 8th	SS-006	Fund 108	50,000					50,000
6" SS, Terminal from Kentucky to Castle Park Drive	SS-007	Fund 108	85,000					85,000
6" SS, Texas - Kansas Alley from 8th to Chief Tucker	SS-008	Fund 108	80,000					80,000
8" SS, Galaxy to Jackson Avenue	SS-009	Fund 108	50,000					50,000

CITY OF RIVERBANK 2018-2023 CAPITAL IMPROVEMENT PLAN

Project Name	Project #	Funding	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Total
SEWER SYSTEM								
6" & 8" SS, 7 State Streets from Terminal to 8th	SS-010	Fund 108				1,000,000		1,000,000
8" SS, Oakdale Road from Patterson to Cedarwood	SS-011	Fund 108				150,000		150,000
6" SS in Cedarwood from Oakdale Road to Wood Haven	SS-012	Fund 108				125,000		125,000
6" SS, Orange Avenue from Burneyville to 2nd Street	SS-013	Fund 108					1,000,000	1,000,000
Crawford Lift Station project upgrades and force main	SS-014	Fund 108/SDF					1,459,513	1,459,513
CCTV all sanitary sewer lines city wide	SS-015	Fund 108					250,000	250,000
Upgrade all electrical panes on SS lift stations	SS-016	Fund 108					1,000,000	1,000,000
Survey all lift stations	SS-017	Fund 108					50,000	50,000
SEWER SYSTEM TOTALS			915,000	200,000	200,000	1,475,000	3,759,513	6,549,513
WASTEWATER TREATMENT								
Resurface Entry Road to WWTP	WWTP025	Fund 106	87,190					87,190
Finish Pond 9 at WWTP	WWTP026	Fund 106	199,040					199,040
WASTEWATER TREATMENT TOTALS			286,230	0	0	0	0	286,230
WATER SYSTEM								
Line Replacement Third St. Alley Sierra/Patterson	WTR-001	Fund 116		89,000				89,000
Main Replacement Alley between 3rd and 8th	WTR-002	Fund 116		389,000				389,000
Line Replacement Prospector's to Claribel/Roselle	WTR-003	Fund 116		105,000				105,000
Water Main - Oakdale Road (Morrill to Crawford)	WTR-004	Fund 116		150,000				150,000
Mechanics Shop with Parts & Equipment	WTR-005	Fund 116		500,000				500,000
Novi Drive Well Site - Enclosure	WTR-006	Fund 116			300,000			300,000
Line Installation 2800 Block to Santa Fe	WTR-007	Fund 116		50,000				50,000
Line Installation on 8th from Topeka to SR 108	WTR-008	Fund 116		60,000				60,000
Line Installation on Claus from SR 108 to Cannery Site	WTR-009	Fund 116		75,000				75,000
Novi Well Enclosure for Equipment & Sound Control	WTR-010	Fund 116		75,000				75,000
Line Replacement on Sierra from Patterson to SR-108	WTR-011	Fund 116		75,000				75,000

CITY OF RIVERBANK 2018-2023 CAPITAL IMPROVEMENT PLAN

Project Name	Project #	Funding	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Total
12' Line Installation on Santa Fe from 8th to 4th Street	WTR-012	Fund 116			325,000			325,000
12' Line Installation in Sierra Alley from 3rd to 8th Street	WTR-013	Fund 116			350,000			350,000
WATER SYSTEM								
Line Installation in Alley on Riverside from Corp. Yard to 4th Street	WTR-014	Fund 116			325,000			325,000
Line Installation in Topeka Alley from 1st to Cannery Site	WTR-015	Fund 116			150,000			150,000
Talbot/Kentucky Connection (1,330 LF of 12-in pipe)	WTR-016	Fund 116				515,000		515,000
Line Installation on 7th Street to Dead End	WTR-017	Fund 116				75,000		75,000
Line Installation in Alley on Orange from 2nd to Burneyville	WTR-018	Fund 116				100,000		100,000
Replace all Transite Water Lines	WTR-019	Fund 116				1,250,000		1,250,000
Line Installation on 7th from Nevada to Arizona	WTR-020	Fund 116				40,000		40,000
Loop all Dead End Waterlines in Crossroads	WTR-021	Fund 116				500,000		500,000
Install Pump to Waste on 8th, River Heights & Jackson Wells	WTR-022	Fund 116				150,000		150,000
Install flushing valve on Lane Avenue	WTR-023	Fund 116					2,000	2,000
New chlorine pumps & analyzers at well sites	WTR-024	Fund 116					1,000,000	1,000,000
Install flushing valves or hydrants at all dead end systems	WTR-025	Fund 116					500,000	500,000
WATER SYSTEM TOTALS			0	1,568,000	1,450,000	2,630,000	1,502,000	7,150,000
MOTOR POOL								
Replacement Vehicles	MP-001	CMAQ/Air Board	190,610					190,610
MOTOR POOL TOTALS			190,610	0	0	0	0	190,610
BUILDING FACILITIES								
Sheriff's Building - HVAC	BF-004	General Fund		23,000				23,000
Community Center - HVAC	BF-002	Grant		28,000				28,000
Community Center Renovations - Phase I	BF-010	Grant	400,000					400,000
Community Center Renovations - Phase II	BF-011	Grant		120,000				120,000
Gym Roof - City's Portion	BF-012	General Fund	20,000					20,000
Carnegie Library - HVAC	BF-007	General Fund			5,500			5,500
City Hall South - HVAC	BF-008	General Fund	20,000					20,000
BUILDING FACILITIES TOTALS			440,000	171,000	5,500	0	0	616,500

CITY OF RIVERBANK 2018-2023 CAPITAL IMPROVEMENT PLAN

Project Name	Project #	Funding	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Total
BUILDING FACILITIES - Identified ADA Improvements								
Teen Center - ADA Improvements	ADA-BF003	TBD	2,375					2,375
City Hall North Council Chambers/Parks & Recreation	ADA-BF002	TBD	7,000	7,910				14,910
Sheriff's Building - ADA Improvements	ADA-BF006	TBD	3,138	3,138				6,276
Scout Hall - ADA Improvements	ADA-BF005	TBD	6,892	6,892	6,892			20,676
Corporation Yard Office Trailer - ADA Improvements	ADA-BF007	TBD		7,192	7,193			14,385
Museum - ADA Improvements	ADA-BF008	TBD		8,905	8,905			17,810
BUILDING FACILITIES - ADA IMPROVEMENT TOTALS			19,405	34,037	22,990	0	0	76,432
PARKS AND RECREATION								
Parks Master Plan	PRK-015	TBD	130,000					130,000
Homewood Basin -Benches/Tables/ ADA Improvements	PRK-009	L & L District	40,000					40,000
Dog Park	PRK-007	Fundraising/ Grant		60,000	10,000			70,000
Pool Renovations	PRK-014	Grant		350,000				350,000
Booster Pump for Sports Complex	PRK-008	General Fund			20,000			20,000
Resurface Cardozo Tennis Courts	PRK-013	School Dist/General Fund	20,000					20,000
Resurface Basketball Courts - Castleberg	PRK-016	TBD		20,000				20,000
Re-Design JMP Entry	PRK-020	Grant/ Measure L Match	110,000					110,000
Castleberg Park Ballfield Light Replacement & Upgrade	PRK-021	TBD				150,000		150,000
Jacob Myers Park Development Phase III (Amphitheatre & Parking)	PRK-004	Grants/PDF		3,000,000				3,000,000
Silva Park Phase III (Water Park)	PRK-012	Fundraising		200,000				200,000
Sports Complex Phase II (Soccer Field & BMX Park) (Turn Key Project)	PRK-005	Grants/PDF			2,080,000			2,080,000
PARKS AND RECREATION TOTALS			300,000	3,630,000	2,110,000	150,000	0	6,190,000

CITY OF RIVERBANK 2018-2023 CAPITAL IMPROVEMENT PLAN

Project Name	Project #	Funding	2018-19	2019-20	2020-21	2021-22	2022-23	5 Year Total
PARKS - Identified ADA Improvements								
Rotary Centennial Park - ADA Improvements	ADA-PF007	L & L District	2,725					2,725
Silva Park - ADA Improvements	ADA-PF006	L & L District	6,300	6,300	6,300			18,900
Sorensen Park - ADA Improvements	ADA-PF008	L & L District	7,000	7,000	7,500			21,500
Harless Park - ADA Improvements	ADA-PF009	L & L District	6,700	6,700	6,700			20,100
Zerillo Park - ADA Improvements	ADA-PF011	L & L District	6,200	6,200	6,200	6,200	6,200	31,000
Jacob Myers Park - ADA Improvements	ADA-PF002	TBD	10,000	10,000	10,000	10,000	10,000	50,000
Castleburg Park - ADA Improvements	ADA-PF003	TBD	10,000	10,000	5,000	5,000	5,000	35,000
Community Center Pool - ADA Improvements	ADA-PF001	TBD		62,800				62,800
Staley Park (Skate Park) - ADA Improvements	ADA-PF004	TBD		4,546	4,546	4,546		13,638
Community Center Park - ADA Improvements	ADA-PF005	TBD		7,538	7,538	7,538		22,614
Pioneer Park - ADA Improvements	ADA-PF010	TBD		6,300	6,300	6,300		18,900
Safreno Park - ADA Improvements	ADA-PF013	TBD		2,000	2,000	2,000		6,000
Plaza Del Rio - ADA Improvements	ADA-PF014	TBD		1,600	1,600	1,600		4,800
Whorton Park - ADA Improvements	ADA-PF012	TBD			2,000	2,000		4,000
Sports Complex - ADA Improvements	ADA-PF015	TBD			2,500	2,500		5,000
Hutchenson Park - ADA Improvements	ADA-PF016	TBD			1,700	1,700		3,400
PARKS AND RECREATION - ADA TOTALS			48,925	130,984	69,884	49,384	21,200	320,377
GRAND TOTALS			6,554,566	7,985,856	8,171,456	7,428,670	8,126,558	38,267,106

- CMAQ - Congestion Mitigation Air Quality
- RSTP - Regional Surface Transportation Program
- PDF - Park Development Fees
- Fund 102 - Gas Tax
- Fund 106 - Sewer Fund
- Fund 108 - Sewer Capital Improvements
- Fund 114 - Water Fund
- Fund 116 - Water Capital Improvements
- Fund 119 - Motor Pool
- Fund 205 - System Development Fees Public Works
- Fund 206 - System Development Fees Water
- Fund 208 - System Development Fees Storm Drainage
- TBD - Funding Source Not Determined
- ADA - Americans with Disabilities Act
- LTF - Local Transportation Funds

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date: October 9, 2018

Subject: Consideration of the Proposed Resolutions and related Agreements:

- 1) A **Resolution** Approving, Authorizing and Directing Execution by the City Manager of an amended and restated Joint Exercise of Powers Agreement Relating to the California Statewide Communities Development Authority; and
- 2) A **Resolution** Approving Associate Membership by the City in the California Enterprise Development Authority; Authorizing and Directing the Execution by the City Manager of an Associated membership Agreement Relating to Associate membership of the City in the Authority: Authorizing the City to Join the Figtree Pace Program; Authoring the California Enterprise Development Authority to Conduct Contractual Assessment Proceedings and levy Contractual Assessments within the Territory of the City of Riverbank; Authorizing the Execution of the Indemnification Agreement, and Authorizing Related Actions; and
- 3) A **Resolution** Consenting to the Inclusion of Properties Within the Territory of the City in the CSCDA Open Pace Programs; Authorizing the California Statewide Communities Development Authority to Accept Applications From Property Owners, Conduct Contractual Assessment Proceedings and Levy Contractual Assessments Within the Territory of the City; and Authorizing Related Actions.

From: Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council consider the approval of the agreements and the adoption of the resolutions for the following Property Assessed Clean Energy (PACE) programs:

- California Statewide Communities Development Authority (CSCDA) Open PACE Program
- Figtree PACE Program

This approval will grant the City Manager the authority to execute the agreements and all necessary steps to carry out the intent of the resolutions.

SUMMARY

Property Assessed Clean Energy (PACE) is a mechanism for local residential and commercial property owners to finance renewable energy, energy efficiency, and water conservation projects

to their properties. Property owners borrow funds from a PACE provider sponsored by a Joint Powers authority (JPA) and repay the loan via a special voluntary tax assessment.

Two bills (AB 1284 and SB 242) were signed into law September 2017 to further enhance consumer protection measures and best practices in PACE financing.

In order to promote competition and provide Riverbank property owners and local home improvement companies with more options staff is recommending that the City Council take the actions outlined in the report below to allow several more commercial and residential PACE programs to operate in Riverbank.

BACKGROUND

State law authorizes contact assessment districts in charter and general law cities to provide financing for renewable energy, energy efficiency, and water conservation improvements to free and willing property owners. A property owner voluntarily enters into a contractual agreement with one of the JPA assessment districts in which they reside to access financing by securing a lien on their property and repaid as a special assessment on their property tax bill. This financing mechanism is referred to as Property Assessed Clean Energy (PACE).

In order to promote competition and provide Riverbank property owners with more options the City Council is asked to consider admitting additional PACE providers by adopting resolutions approving additional PACE programs and their associated Joint Powers Agreements to operate in Riverbank.

DISCUSSION

PACE financing can be set up and administered under one of two different pieces of legislation which enable PACE programs in California.

AB 811 (2008) allows renewable energy sources and energy efficiency upgrades to be financed through an assessment district. Additional legislation expanded projects eligible for financing to include water efficiency improvements, electric vehicle charging stations, and seismic improvements.

SB 555 (2011) amended the Mello-Roos Community Facilities Act to allow for the creation of Community Facility Districts (CFDs) for the purpose of financing or refinancing the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy, seismic improvements, and electric vehicle charging infrastructure.

Additional laws expand the original legislation and provide for additional consumer protections:

AB 2693 (2016) enhanced disclosures to homeowners participating in PACE programs and guarantees the right to cancel PACE financing within three business days of execution. AB 2693 also prohibits marketing promises of monetary or percentage representations of increased value to a property owner regarding the effect the financed improvements will have on the market value of the property unless the market value is estimate using one of specified methods.

SB 242 (2017) requires a recorded telephone call to residential consumers to confirm key terms of the agreement in plain language. This call and contractual documents must be available in one of five enumerated non-English languages as necessary. SB 242 also prohibits kick-backs to contractors for steering consumers into a particular program and any mis-representation as to tax deductibility of a PACE assessment contract. Lastly, PACE providers are prevented from

disclosing to contractors the amount of funds the property is eligible for under a PACE assessment under this law.

AB 1284 (2017) establishes state oversight for the California's PACE program and requires PACE administrators that are not local governments to obtain a license under California Financing Law. They are also held accountable for screening, training, and monitoring the contractors and sales reps enrolled in their programs. Lastly, PACE providers have to determine a consumer's ability to repay, including income verification, before entering into a PACE assessment.

As a result of the first priority lien status of residential PACE financing, which means that PACE loans are paid off ahead of traditional mortgages, the Federal Housing Finance Agency (FHFA) announced in 2010 its opposition to PACE financing programs. Fannie Mae and Freddie Mac would not purchase mortgages for homes with PACE obligations, unless the PACE assessment was paid off at the time of the property was refinanced or sold, the same as would happen with any other asset-backed financing. In response, California created the \$10 m PACE Loan Loss Reserve to keep first mortgage lenders whole during a foreclosure or forced sale of a property with a PACE assessment. No claims to use the Loan Loss Reserve have been filed to date.

PACE offers an alternative to traditional means of financing property improvements such as paying cash, taking a home equity line of credit (HELOC), or using credit cards. PACE financing eligibility is primarily based on property equity rather than the credit worthiness of the applicant. PACE loans have fixed long term interest rates with terms generally longer than those of other private loans, but typically equal to the average useful life of the improvement being undertaken. Because a PACE assessment is filed as a lien on the property, it can transfer with the property upon sale, potentially removing a barrier to making long-term investments in one's property. Some other advantages of PACE financing include 100% financing for eligible improvements, and the reliability of pre-approved contractors. As with other forms of private lending, participation in PACE financing is voluntary.

Because the capital for PACE financing is from private sources and the transactions are between program administrators and building owners, the City will incur no cost or risk associated with program activities. The City will provide no administrative support or marketing for the programs, which are conducted by the program administrators. The City is not obliged to repay bonds issued by the JPA or assessments levied on the participating properties.

Expanding Riverbanks' PACE availability by including more providers will likely create a competitive marketplace that provides more financing options with more favorable terms to home and business owners. Doing so would also incentivize more property owners to undertake improvements, resulting in the creation of more renewable energy and local jobs, reduction in energy use, greenhouse gas emissions and water consumption, which serves to implement the City's Climate Action Plan (CAP). The CAP has also identified establishing and promoting financing and financial incentive programs to support energy efficiency and conservation as a goal.

California Statewide Communities Development Authority (CSCDA) Open PACE

CSCDA Open PACE is an umbrella initiative including AllianceNRG, CleanFund Commercial, PACE Funding Group, Renew Financial (CaliforniaFirst), and Petros PACE Finance. Launched in 2015 it operates under AB 811. It is sponsored by the California Statewide Communities Development Authority (CSCDA). CSCDA Open PACE's goal is to create a platform to vet and pre-qualify PACE administrators so that local governments only need to pass a single resolution

to authorize multiple providers including specialist residential or commercial PACE providers. Any additional PACE program providers that become qualified under CSCDA Open PACE after the City of Riverbank adopted the CSCDA Open PACE resolution would be automatically authorized to operate within Riverbank. Local cities that have already approved CSCDA Open PACE include Ceres, Hughson, Newman, Waterford, Manteca, Stockton, Lodi, Tracy, Lathrop, Atwater and Los Banos. A Council resolution would be needed to approve CSCDA Open PACE. CSCDA Open PACE provider's highlights include:

Renew Financial – based in Oakland, provides residential and commercial PACE through its CaliforniaFirst product.

AllianceNRG – established in 2015 serves residential and commercial projects through a collaboration with Leidos Engineering and CounterPointe Energy Solutions.

PACE Funding Group – Based in the South Bay and joined CSCDA Open PACE in September 2015, serves the residential market.

CleanFund Commercial PACE Capital – joined CSCDA Open PACE in 2016 and provides long-term financing to commercial properties.

Petros PACE finance – joined CSCDA Open PACE in 2018 and serves the commercial PACE market.

Figtree PACE Program

The Figtree PACE Program focuses on commercial, industrial and multifamily properties but has recently launched a single-family residential service. Since its launch in 2011 multiple cities in California have adopted the Program including Oakdale, Waterford Turlock and Ceres. Associate membership in the California Enterprise Development Authority (CEDA) is required to join Figtree PACE. Riverbank is currently not a member of CEDA. Council will need to adopt a resolution to join the JPA and to authorize Figtree PACE to operate within Riverbank. CEDA membership is limited to the scope of the Figtree PACE program only.

STRATEGIC PLAN

This item is indirectly related to the City's Strategic Plan, this item does enhance the options available to residents for energy efficiency upgrades and is recommended as a way to enhance the City's customer service.

FINANCIAL IMPACT

Adoption of the resolutions and actions contained herein will not result in any costs to the City. All costs of marketing, financial, and program administration are borne by the program administrators and with private capital.

ATTACHMENT

1. Resolution to approve CSCDA Open PACE
2. CSCDA JPA Agreement
3. Resolution to approve Figtree PACE program and Joint Powers Agreement
4. Associate Membership Agreement

RESOLUTION NO. _____

RESOLUTION APPROVING, AUTHORIZING AND DIRECTING EXECUTION BY THE CITY MANAGER OF AN AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

WHEREAS, the City of Riverbank, California (the “City”), has expressed an interest in participating in the economic development financing programs (the “Programs”) in conjunction with the parties to that certain Amended and Restated Joint Exercise of Powers Agreement Relating to the California Statewide Communities Development Authority, dated as of June 1, 1988 (the “Agreement”); and

WHEREAS, there is now before this City Council the form of the Agreement; and

WHEREAS, the City proposes to participate in the Programs and desires that certain projects to be located within the City be financed pursuant to the Programs and it is in the public interest and for the public benefit that the City do so; and

WHEREAS, the Agreement has been filed with the City, and the members of the City Council of the City, with the assistance of its staff, have reviewed said document;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVERBANK AS FOLLOWS:

Section 1. The Agreement is hereby approved and the Mayor or the City Manager or designee thereof is hereby authorized and directed to execute said document, with such changes, insertions and omissions as may be approved by said Mayor or City Manager, and the City Clerk or such Clerk’s designee is hereby authorized and directed to affix the City’s seal to said document and to attest thereto.

Section 2. The Mayor, the City Manager, the City Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 3. The City Clerk of the City shall forward a certified copy of this Resolution and an originally executed Agreement to:

Kathleen Jacobe
Orrick, Herrington & Sutcliffe LLP
400 Capital Mall, Suite 3000

Sacramento, California 95814

Section 4. This resolution shall take effect immediately upon its passage.

ADOPTED by the City Council of the City of _____ at a regular meeting of said Council held on the ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

City Manager

ATTEST:

City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING ASSOCIATE MEMBERSHIP BY THE CITY IN THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY; AUTHORIZING AND DIRECTING THE EXECUTION BY THE CITY MANAGER OF AN ASSOCIATE MEMBERSHIP AGREEMENT RELATING TO ASSOCIATE MEMBERSHIP OF THE CITY IN THE AUTHORITY; AUTHORIZING THE CITY TO JOIN THE FIGTREE PACE PROGRAM; AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF RIVERBANK; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the City of Riverbank, California (the “City”), a municipal corporation, duly organized and existing under the Constitution and the laws of the State of California; and

WHEREAS, the City, upon authorization of the City Council, may pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, commencing with Section 6500 (the "JPA Law") enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which such contracting parties may jointly exercise any power common to them; and

WHEREAS, the City and other public agencies wish to jointly participate in economic development financing programs for the benefit of businesses and nonprofit entities within their jurisdictions offered by membership in the California Enterprise Development Authority (the "CEDA") pursuant to an associate membership agreement and Joint Exercise of Powers Agreement Relating to the California Enterprise Development Authority (the “Agreement”); and

WHEREAS, under the JPA Law and the Agreement, CEDA is a public entity separate and apart from the parties to the Agreement and the debts, liabilities and obligations of CEDA will not be the debts, liabilities or obligations of the City or the other members of the Authority; and

WHEREAS, the form of Associate Membership Agreement (the “Associate Membership Agreement”) between the City and CEDA is attached; and

WHEREAS, the City is willing to become an Associate Member of CEDA subject to the provisions of the Associate Membership Agreement.

WHEREAS, CEDA has adopted the Figtree Property Assessed Clean Energy (PACE) and Job Creation Program (the “Program” or “Figtree PACE”), to allow the financing of certain renewable energy, energy efficiency, seismic retrofits, electric vehicle charging infrastructure, and water efficiency improvements (the "Improvements") through the levy of contractual assessments

pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29"), and the issuance of improvement bonds or other evidences of indebtedness (the "Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 et seq.) (the "1915 Act") upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property ("Participating Parcel") within its jurisdiction ("Participating Property Owners") to participate in Figtree PACE, and to allow CEDA to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, CEDA will conduct assessment proceedings under Chapter 29 to establish an assessment district (the "District") and issue Bonds under the 1915 Act to finance Improvements; and

WHEREAS, there has been presented to this meeting a proposed form of Resolution of Intention to be adopted by CEDA in connection with such assessment proceedings (the "ROI"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, said ROI sets forth the territory within which assessments may be levied for Figtree PACE which territory shall be coterminous with the City's official boundaries of record at the time of adoption of the ROI (the "Boundaries"); and

WHEREAS, pursuant to Chapter 29, the City authorizes CEDA to conduct assessment proceedings, levy assessments, pursue remedies in the event of delinquencies, and issue bonds or other forms of indebtedness to finance the Improvements in connection with Figtree PACE; and

WHEREAS, to protect the City in connection with operation of the Figtree PACE program, Dividend Finance, LLC, the program administrator, has agreed to defend and indemnify the City; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies, the issuance, sale or administration of the bonds or other indebtedness issued in connection with Figtree PACE.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Riverbank, hereby finds, determines and declares as follows:

Section 1. The City Council hereby specifically finds and declares that the actions authorized hereby constitute public affairs of the City. The City Council further finds that the statements, findings and determinations of the City set forth in the preambles above are true and correct.

Section 2. The Associate Membership Agreement presented to this meeting and on file with the City Clerk is hereby approved. The Mayor of the City, the City Manager, the City Clerk and other officials of the City are each hereby authorized and directed, for and on behalf of the City, to execute and deliver the Associate Membership Agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The officers and officials of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this resolution and the Associate Membership Agreement. All such actions heretofore taken by such officers and officials are hereby confirmed, ratified and approved.

Section 4. Good Standing. The City is a municipal corporation and in good standing.

Section 5. Public Benefits. On the date hereof, the City Council hereby finds and determines that the Program and issuance of Bonds by CEDA in connection with Figtree PACE will provide significant public benefits, including without limitation, savings in effective interest rates, bond preparation, bond underwriting and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the City.

Section 6. Appointment of CEDA. The City hereby appoints CEDA as its representative to (i) record the assessment against the Participating Parcels, (ii) administer the District in accordance with the Improvement Act of 1915 (Chapter 29 Part 1 of Division 10 of the California Streets and Highways Code (commencing with Section 8500 et seq.) (the “Law”), (iii) prepare program guidelines for the operations of the Program and (iv) proceed with any claims, proceedings or legal actions as shall be necessary to collect past due assessments on the properties within the District in accordance with the Law and Section 6509.6 of the California Government Code. The City is not and will not be deemed to be an agent of Dividend or CEDA as a result of this Resolution.

Section 7. Assessment Proceedings. In connection with Dividend PACE, the City hereby consents to the special assessment proceedings by CEDA pursuant to Chapter 29 on any property within the Boundaries and the issuance of Bonds under the 1915 Act, provided that:

- (1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI;
- (2) The Participating Property Owners, who shall be the legal owners of such property, voluntarily execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and

- (3) The City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies in such assessment payments, or the issuance, sale or administration of the Bonds in connection with Dividend PACE.

Section 8. Program Report. The City Council hereby acknowledges that pursuant to the requirements of Chapter 29, CEDA has prepared and will update from time to time the "Program Report" for Dividend PACE (the "Program Report") and associated documents, and CEDA will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

Section 9. Foreclosure. The City Council hereby acknowledges that the Law permits foreclosure in the event that there is a default in the payment of assessments due on a property. The City Council hereby designates CEDA as its representative to proceed with collection and foreclosure of the liens on the defaulting properties within the District, including accelerated foreclosure pursuant to the Program Report.

Section 10. Indemnification. The City Council acknowledges that Dividend has provided the City with an indemnification agreement, as shown in Exhibit B, for negligence or malfeasance of any type as a result of the acts or omissions of Dividend, its officers, employees, subcontractors and agents. The City Council hereby authorizes the appropriate officials and staff of the City to execute and deliver the Indemnification Agreement to Dividend.

Section 11. City Contact Designation. The appropriate officials and staff of the City are hereby authorized and directed to make applications for Dividend PACE available to all property owners who wish to finance Improvements. The following staff persons, together with any other staff designated by the City Manager from time to time, are hereby designated as the contact persons for CEDA in connection with Dividend PACE: [CONTACT NAME, TITLE, PHONE NUMBER, EMAIL ADDRESS].

Section 12. CEQA. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act ("CEQA"), because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4)).

Section 13. Effective Date. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to Dividend Finance, LLC .

Section 14. Costs. Services related to the formation and administration of the assessment district will be provided by CEDA at no cost to the City.

PASSED AND ADOPTED this _____ day of _____, 201_ by the following vote, to

wit:

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSENT: Councilmembers _____

ABSTAIN: Councilmembers _____

AYES: Councilmember,

NOES: Councilmember,

ABSENT: Councilmember,

ABSTAIN: Councilmember,

_____, Mayor
City Council

ATTEST:

_____, Clerk of the
City Council

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CEDA Resolution of Intention

RESOLUTION OF THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY DECLARING INTENTION TO FINANCE INSTALLATION OF DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, ENERGY EFFICIENCY, SEISMIC RETROFITS, ELECTRIC VEHICLE CHARGING INFRASTRUCTURE, AND WATER EFFICIENCY IMPROVEMENTS IN THE CITY OF RIVERBANK

WHEREAS, the California Enterprise Development Authority (“CEDA”) is a joint powers authority authorized and existing pursuant to Joint Powers Act (Government Code Section 6500 et seq.) and that certain Joint Exercise of Powers Agreement (the “Agreement”) dated as of June 1, 2006, by and among the cities of Eureka, Lancaster and Selma; and

WHEREAS, CEDA is authorized under the Agreement and Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California and in accordance with Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California (“Chapter 29”) to authorize assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, seismic retrofits, electric vehicle charging infrastructure, and water efficiency improvements that are permanently fixed to real property (“Authorized Improvements”); and

WHEREAS, CEDA has obtained authorization from the County _____ (the “City”) to enter into contractual assessments for the financing of the installation of Authorized Improvements in the City; and

WHEREAS, CEDA desires to declare its intention to establish a Dividend PACE program (“Dividend PACE”) in the City, pursuant to which CEDA, subject to certain conditions set forth herein, would enter into contractual assessments to finance the installation of Authorized Improvements in the City.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY, AS FOLLOWS:

Section 1. Findings. The Board of Directors hereby finds and determines the following:

- (a) The above recitals are true and correct and are incorporated herein by this reference.
- (b) Energy and water conservation efforts, including the promotion of Authorized Improvements to residential, commercial, industrial, or other real property, are necessary to address the issue of global climate change and the reduction of greenhouse gas emissions in the City.
- (c) The upfront cost of making residential, commercial, industrial, or other real property more energy and water efficient, along with the fact that most commercial

loans for that purpose are due on the sale of the property, prevents many property owners from installing Authorized Improvements.

- (d) A public purpose will be served by establishing a contractual assessment program, to be known as Dividend PACE, pursuant to which CEDA will finance the installation of Authorized Improvements to residential, commercial, industrial, or other real property in the City.

Section 2. Determination of Public Interest. The Board of Directors hereby determines that (a) it would be convenient, advantageous, and in the public interest to designate an area, which shall encompass the entire geographic territory within the boundaries of the City, within which CEDA and property owners within the City may enter into contractual assessments to finance the installation of Authorized Improvements pursuant to Chapter 29 and (b) it is in the public interest for CEDA to finance the installation of Authorized Improvements in the County pursuant to Chapter 29.

Section 3. Identification of Authorized Improvements. CEDA hereby declares its intention to make contractual assessment financing available to property owners to finance installation of Authorized Improvements, including but not limited to those improvements detailed in the Report described in Section 8 hereof (the "Report"), as that Report may be amended from time to time.

Section 4. Identification of Boundaries. Contractual assessments may be entered into by property owners located within the entire geographic territory of the City including unincorporated territory within City Boundaries. A property owner located within a City within the City may enter into contractual assessments with CEDA only after such City has adopted a resolution to authorize participation in the PACE Program.

Section 5. Proposed Financing Arrangements. Under Chapter 29, CEDA may issue bonds, notes or other forms of indebtedness (the "Bonds") pursuant to Chapter 29 that are payable by contractual assessments. Division 10 (commencing with Section 8500) of the Streets & Highways Code of the State (the "Improvement Bond Act of 1915") shall apply to any indebtedness issued pursuant to Chapter 29, insofar as the Improvement Bond Act of 1915 is not in conflict with Chapter 29. The creditworthiness of a property owner to participate in the financing of Authorized Improvements will be based on the criteria developed by Dividend Finance, LLC (the "Program Administrator") upon consultation with Dividend PACE Program underwriters or other financial representatives, CEDA general counsel and bond counsel, and as shall be approved by the Board of Directors of CEDA. In connection with indebtedness issued under the Improvement Bond Act of 1915 that are payable from contractual assessments, serial and/or term improvement bonds or other indebtedness shall be issued in such series and shall mature in such principal amounts and at such times (not to exceed 20 years from the second day of September next following their date) and at such rate or rates of interest (not to exceed the maximum rate permitted by applicable law) as shall be determined by the Board of Directors at the time of the issuance and sale of the indebtedness. The provisions of Part 11.1 of the Improvement Bond Act of 1915 shall apply to the calling of the bonds. It is the intention of the

Board of Directors to create a special reserve fund for the bonds under Part 16 of the Improvement Bond Act of 1915. Neither CEDA, nor any of its members participating in the Dividend PACE Program, shall advance available surplus funds from its treasury to cure any deficiency in the redemption fund to be created with respect to the indebtedness; provided, however, that this determination shall not prevent CEDA or any of its members from, in their sole discretion, so advancing funds. The Bonds may be refunded under Division 11.5 of the California Streets and Highways Code or other applicable laws permitting refunding, upon the conditions specified by and upon determination of CEDA.

CEDA hereby authorizes the Program Administrator, upon consultation with CEDA general counsel, bond counsel and the Dividend PACE underwriter, to commence preparation of documents and take necessary steps to prepare for the issuance of bonds, notes or other forms of indebtedness as authorized by Chapter 29.

In connection with the issuance of bonds payable from contractual assessments, CEDA expects to obligate itself, through a covenant with the owners of the bonds, to exercise its foreclosure rights with respect to delinquent contractual assessment installments under specified circumstances.

Section 6. Public Hearing. Pursuant to the Act, CEDA hereby orders that a public hearing be held before CEDA Board (the "Board"), at 550 Bercut Drive, Suite G, Sacramento, CA 95811, on _____, _____, at _____ A., for the purposes of allowing interested persons to object to, or inquire about, the proposed Dividend PACE Program. The public hearing may be continued from time to time as determined by the Board for a time not exceeding a total of 180 days.

At the time of the hearing, the Report described in Section 8 hereof shall be summarized, and the Board shall afford all persons who are present an opportunity to comment upon, object to, or present evidence with regard to the proposed Dividend PACE Program, the extent of the area proposed to be included within the boundaries of the assessment district, the terms and conditions of the draft assessment contract described in Section 8 hereof (the "Contract"), or the proposed financing provisions. Following the public hearing, CEDA may adopt a resolution confirming the Report (the "Resolution Confirming Report") or may direct the Report's modification in any respect, or may abandon the proceedings.

The Board hereby orders the publication of a notice of public hearing once a week for two successive weeks. Two publications in a newspaper published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates are sufficient. The period of notice will commence upon the first day of publication and terminate at the end of the fourteenth day. The first publication shall occur not later than 20 days before the date of the public hearing.

Section 7. Notice to Water and Electric Providers. Pursuant to Section 5898.24 of the Streets & Highways Code, written notice of the proposed contractual assessment program within the City to all water and electric providers within the boundaries of the City has been provided.

Section 8. Report. The Board hereby directs the Program Administrator to prepare the Report and file said Report with the Board at or before the time of the public hearing described in Section 6 hereof containing all of the following:

- (a) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered, as set forth in Section 4 hereof.
- (b) A draft contractual assessment contract (the “Contract”) specifying the terms and conditions of the agreement between CEDA and a property owner.
- (c) A statement of CEDA’s policies concerning contractual assessments including all of the following:
 - (1) Identification of types of Authorized Improvements that may be financed through the use of contractual assessments.
 - (2) Identification of the CEDA official authorized to enter into contractual assessments on behalf of CEDA.
 - (3) A maximum aggregate dollar amount of contractual assessments.
 - (4) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.
- (d) A plan for raising a capital amount required to pay for work performed in connection with contractual assessments. The plan may include the sale of a bond or bonds or other financing relationship pursuant to Section 5898.28 of Chapter 29. The plan (i) shall include a statement of, or method for determining, the interest rate and time period during which contracting property owners would pay any assessment, (ii) shall provide for any reserve fund or funds, and (iii) shall provide for the apportionment of all or any portion of the costs incidental to financing, administration and collection of the contractual assessment program among the consenting property owners and CEDA.

A report on the results of the discussions with the County Auditor-Controller described in Section 10 hereof, concerning the additional fees, if any, that will be charged to CEDA for inclusion of the proposed contractual assessments on the general property tax roll of the City, and a plan for financing the payment of those fees.

Section 9. Nature of Assessments. Assessments levied pursuant to Chapter 29, and the interest and any penalties thereon, will constitute a lien against the lots and parcels of land on which they are made, until they are paid. Unless otherwise directed by CEDA, the assessments shall be collected in the same manner and at the same time as the general taxes of the City on real property are payable, and subject to the same penalties and remedies and lien priorities in the event of delinquency and default.

Section 10. Consultations with County Auditor-Controller. CEDA hereby directs the Program Administrator to enter into discussions with the County Auditor-Controller in order to reach agreement on what additional fees, if any, will be charged to CEDA for incorporating the proposed contractual assessments into the assessments of the general taxes of the County on real property.

Section 11. Preparation of Current Roll of Assessment. Pursuant to Section 5898.24(c), CEDA hereby designates the Program Administrator as the responsible party for annually preparing the current roll of assessment obligations by assessor's parcel number on property subject to a voluntary contractual assessment.

Section 12. Procedures for Responding to Inquiries. The Program Administrator shall establish procedures to promptly respond to inquiries concerning current and future estimated liability for a voluntary contractual assessment.

Section 13. Effective Date. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 201_.

CALIFORNIA ENTERPRISE
DEVELOPMENT AUTHORITY

By: _____
Gurbax Sahota, Chair

ATTEST:

Helen Schaubmayer, Assistant Secretary

EXHIBIT B
Indemnification Agreement

INDEMNIFICATION AGREEMENT

BY AND BETWEEN

THE CITY OF RIVERBANK AND

DIVIDEND FINANCE, LLC

This Indemnification Agreement (the “Agreement”) is entered into by and between the City of Riverbank, a municipal corporation or political subdivision, duly organized and existing under the laws of the State of California (the “City”) and Dividend Finance, LLC, a California corporation, the administrator of the Dividend Property Assessed Clean Energy and Job Creation Program (the “Administrator”), which is a program of the California Enterprise Development Authority, a California joint exercise of powers authority (the “Authority”).

RECITALS

WHEREAS, the Authority is a joint exercise of powers authority whose members include the City in addition to other cities and counties in the State of California; and

WHEREAS, the Authority established the Dividend Property Assessed Clean Energy and Job Creation Program (the “Dividend PACE Program”) to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by the participating property owners pursuant to Chapter 29 of Division 7 of the Streets and Highways Code (“Chapter 29”) and the issuance of improvement bonds, or other forms of indebtedness, under the Improvement Bond Act of 1915 upon the security of the unpaid assessments; and

WHEREAS, the Authority has conducted or will conduct proceedings required by Chapter 29 with respect to the territory within the boundaries of the City; and

WHEREAS, the legislative body of the City adopted or will adopt a resolution authorizing the City to join the Dividend PACE Program; and

WHEREAS, the City will not be responsible for the formation, operation and administration of the Dividend PACE Program as well as the sale and issuance of any bonds or other forms of indebtedness in connection therewith, including the conducting of assessment proceedings, the levy and collection of assessments and any remedial action in the case of such assessment payments, and the offer, sale and administration of any bonds issued by the Authority on behalf of the Dividend PACE Program; and

WHEREAS, the Administrator is the administrator of the Dividend PACE Program and agrees to indemnify the City in connection with the operations of the Dividend PACE Program as set forth herein;

NOW, THEREFORE, in consideration of the above premises and of the City's agreement to join the Dividend PACE Program, the parties agree as follows:

1. Indemnification. Dividend has provided the CEDA with an indemnification for negligence or malfeasance of any type as a result of the acts or omissions of Dividend, its officers, employees, subcontractors and agents, arising from or related to the Dividend PACE Program, the assessments, the assessment districts, the improvements or the financing and marketing thereof. Dividend agrees to defend, indemnify and hold harmless the City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys' fees, for injury or damage due to negligence or malfeasance of any type claims as a result of the acts or omissions of Dividend, except for such loss or damage which was caused by the sole negligence or willful misconduct of the City. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Dividend.

2. Amendment/Interpretation of this Agreement. This Agreement represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. This Agreement shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

3. Section Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

4. Waiver. No waiver of any of the provisions of this Agreement shall be binding unless in the form of writing signed by the party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

5. Severability and Governing Law. If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

6. Notices. All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed as follows:

If to the Administrator

Dividend Finance, LLC
9330 Scranton Road, Suite 600
San Diego, California 92121
Attn: Chief Executive Officer

If to the City:

7. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

8. **Effective Date.** This Agreement will be effective as of the date of the signature of City's representative as indicated below in the signature block.

IN WITNESS HEREOF, the parties hereto duly executed this Agreement as of the date below.

APPROVED AS TO FORM:

City Attorney

City of Riverbank

By _____

Name:

Title:

Date: _____

Dividend Finance, LLC, a California corp.

By _____

Name: Peter Grabell

Title: Senior Vice President

Date: _____

ASSOCIATE MEMBERSHIP AGREEMENT

by and between the

CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY

and the

CITY OF RIVERBANK, CALIFORNIA

THIS ASSOCIATE MEMBERSHIP AGREEMENT (this “Associate Membership Agreement”), dated as of _____ by and between CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY (the “Authority”) and the CITY OF RIVERBANK, CALIFORNIA, a municipal corporation, duly organized and existing under the laws of the State of California (the “City”);

WITNESSETH:

WHEREAS, the Cities of Selma, Lancaster and Eureka (individually, a “Member” and collectively, the “Members”), have entered into a Joint Powers Agreement, dated as of June 1, 2006 (the “Agreement”), establishing the Authority and prescribing its purposes and powers; and

WHEREAS, the Agreement designates the Executive Committee of the Board of Directors and the President of the California Association for Local Economic Development as the initial Board of Directors of the Authority; and

WHEREAS, the Authority has been formed for the purpose, among others, to assist for profit and nonprofit corporations and other entities to obtain financing for projects and purposes serving the public interest; and

WHEREAS, the Agreement permits any other local agency in the State of California to join the Authority as an associate member (an “Associate Member”); and

WHEREAS, the City desires to become an Associate Member of the Authority;

WHEREAS, City Council of the City has adopted a resolution approving the Associate Membership Agreement and the execution and delivery thereof;

WHEREAS, the Board of Directors of the Authority has determined that the City should become an Associate Member of the Authority;

NOW, THEREFORE, in consideration of the above premises and of the mutual promises herein contained, the Authority and the City do hereby agree as follows:

Section 1. Associate Member Status. The City is hereby made an Associate Member of the Authority for all purposes of the Agreement and the Bylaws of the Authority, the provisions of which are hereby incorporated herein by reference. From and after the date of execution and delivery of this Associate Membership Agreement by the City and the Authority, the City shall be and remain an Associate Member of the Authority.

Section 2. Restrictions and Rights of Associate Members. The City shall not have the right, as an Associate Member of the Authority, to vote on any action taken by the Board of Directors or by the Voting Members of the Authority. In addition, no officer, employee or representative of the City shall have any right to become an officer or director of the Authority by virtue of the City being an Associate Member of the Authority.

Section 3. Effect of Prior Authority Actions. The City hereby agrees to be subject to and bound by all actions previously taken by the Members and the Board of Directors of the Authority to the same extent as the Members of the Authority are subject to and bound by such actions.

Section 4. No Obligations of Associate Members. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the City.

Section 5. Execution of the Agreement. Execution of this Associate Membership Agreement and the Agreement shall satisfy the requirements of the Agreement and Article XII of the Bylaws of the Authority for participation by the City in all programs and other undertakings of the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Associate Membership Agreement to be executed and attested by their proper officers thereunto duly authorized, on the day and year first set forth above.

**CALIFORNIA ENTERPRISE
DEVELOPMENT AUTHORITY**

By: _____
Gurbax Sahota, Chair
Board of Directors

Attest:

Helen Schaubmayer, Asst. Secretary

CITY OF RIVERBANK, CALIFORNIA

By: _____
_____, Mayor
City Council

Attest:

City Clerk

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY
OF THE CITY IN THE CSCDA OPEN PACE PROGRAMS; AUTHORIZING THE
CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO
ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT
CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL
ASSESSMENTS WITHIN THE TERRITORY OF THE CITY; AND AUTHORIZING
RELATED ACTIONS**

WHEREAS, the California Statewide Communities Development Authority (the “Authority”) is a joint exercise of powers authority, the members of which include numerous cities and counties in the State of California, including the City of Riverbank (the City”); and

WHEREAS, the Authority is implementing Property Assessed Clean Energy (PACE) programs, which it has designated CSCDA Open PACE, consisting of CSCDA Open PACE programs each administered by a separate program administrator (collectively with any successors, assigns, replacements or additions, the “Programs”), to allow the financing or refinancing of renewable energy, energy efficiency, water efficiency and seismic strengthening improvements, electric vehicle charging infrastructure and such other improvements, infrastructure or other work as may be authorized by law from time to time (collectively, the “Improvements”) through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code (“Chapter 29”) within counties and cities throughout the State of California that consent to the inclusion of properties within their respective territories in the Programs and the issuance of bonds from time to time; and

WHEREAS, the program administrators currently active in administering Programs are the AllianceNRG Program (CounterPointe Energy Solutions (CA) LLC), PACE Funding Group LLC, CaliforniaFirst (Renew Financial Group LLC), CleanFund Commercial PACE Capital and Petros PACE Finance and the Authority will notify the City in advance of any additions or changes; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner or owners of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property (“Participating Property Owners”) within its territory to participate in the Programs and to allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and to issue bonds to finance or refinance Improvements; and

WHEREAS, the territory within which assessments may be levied for the Programs shall include all of the territory within the City’s official boundaries; and

WHEREAS, the Authority will conduct all assessment proceedings under Chapter 29 for the Programs and issue any bonds issued in connection with the Programs; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Riverbank as follows:

Section 1. This City Council hereby finds and declares that properties in the territory of the City will benefit from the availability of the Programs within the territory of the City and, pursuant thereto, the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 and the issuance of bonds to finance or refinance Improvements.

Section 2. In connection with the Programs, the City hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the territory of the City and the issuance of bonds to finance or refinance Improvements; provided, that

(1) The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and

(2) The City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs.

Section 3. The appropriate officials and staff of the City are hereby authorized and directed to make applications for the Programs available to all property owners who wish to finance or refinance Improvements; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense. The following staff persons, together with any other staff persons chosen by the City Manager of the City from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: City Manager.

Section 4. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the Programs.

Section 5. The City Council hereby finds that adoption of this Resolution is not a “project” under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant

physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

Section 6. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the Authority at: Secretary of the Board, California Statewide Communities Development Authority, 1400 K Street, Sacramento, CA 95814.

PASSED AND ADOPTED this _____ day of _____, 20__ by the following vote, to wit:

AYES: Council Members _____

NOES: Council Members _____

ABSENT: Council Members _____

ABSTAIN: Council Members _____

PROPOSED

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	October 9, 2018
Subject:	A Resolution Approving the Memorandum of Understanding between Stanislaus County, Department of Environmental Resources and the City of Riverbank regarding Onsite Wastewater Treatment Systems and Authorizing the City Manager to Execute the Agreement
From:	Sean Scully, City Manager
Submitted by:	Michael Riddell, Public Works Director

RECOMMENDATION

It is recommended that the City Council approve the Memorandum of Understanding (MOU).

SUMMARY

By having the MOU with Stanislaus County for the OWTS the City will not have to go through the lengthy and costly process of developing and getting Central Valley Regional Water Quality Control Board (CVRWQCB) approval of a Local Agency Management Plan (LAMP).

City responsibilities will be to provide information to the County on properties within the city that have OWTS, locations of all city wells, information concerning the installation of a new well or abandonment of an existing well, and the city will notify the county of any new building with a OWTS when we issue a certificate of occupancy.

Stanislaus County will be responsible for all regulatory oversight, reporting, permitting, inspections, and approvals of installation or destruction of the OWTS.

The City may terminate this MOU, with or without cause, upon ninety (90) days written notice.

BACKGROUND

The State Water Resources Control Board (SWRCB) protects water quality by setting statewide policy, coordinates and supports the nine (9) Regional Water Quality Control Boards (Regional Board) efforts, and reviews petitions that contest Regional Board

actions. Stanislaus County as well as the City of Riverbank falls within the jurisdiction of the Central Valley Regional Water Quality Control Board (CVRWQCB).

On September 27, 2000, Governor Gray Davis signed into law Assembly Bill 885 that required the SWRCB to adopt regulations for the permitting and operation of Onsite Wastewater Treatment Systems (OWTS) by January 1, 2004. The Bill was originally written to address coastal onsite treatment systems, but was later amended to address all OWTS throughout California.

On June 19, 2012, and after multiple delays, the SWRCB adopted regulations entitled "Water Quality Control Policy for the Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems" (Policy). On November 13, 2012 the Office of Administrative Law approved the Policy, which established an effective date of May 13, 2013. By May 13, 2014 local jurisdictions intending to prepare a Local Agency Management Plan (LAMP) were required to submit a Letter of Commitment (LOC) to their respective Regional Board.

Stanislaus County LAMP was approved by the CVRWQCB and Stanislaus County Board of Supervisors on March 14, 2017

STRATEGIC PLAN

The recommended action supports the City of Riverbank Strategic Plan Initiatives: Maintain and Improve the City's Infrastructure and Service Delivery System

FINANCIAL IMPACT

None at this time.

ATTACHMENT

1. Memorandum of Understanding (MOU).
2. Resolution

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF STANISLAUS, DEPARTMENT OF ENVIROMENTAL RESOURCES AND THE CITY OF RIVERBANK REGARDING ONSITE WASTEWATER TREATMENT SYSTEMS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the State of California adopted Assembly Bill 885 in September 2000, which requires the State Water Resources Control Board to adopt specific regulations or standards for the permitting and operation of onsite wastewater treatment systems (OWTS); and

WHEREAS, on June 19, 2012, the State Water Resources Control Board adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), and it became effective on May 13, 2013; and

WHEREAS, the OWTS Policy establishes a waiver of Waste Discharge Requirement permits for OWTS systems meeting the criteria of the OWTS Policy; and

WHEREAS, the County of Stanislaus, Department of Environmental Resources (DER) operates a program for the approval of the siting, design, operation, and maintenance of OWTS for individual residence within its Environmental Health Division and has adequate staffing and technical knowledge to meet the requirements of the OWTS Policy; and

WHEREAS, by May 13, 2014, local jurisdictions intending to prepare a Local Agency Management Plan (LAMP) were required to submit a Letter of Commitment to their respective Regional Board; and

WHEREAS, the County of Stanislaus submitted a LAMP to the Central Valley Regional Water Quality Control Board which was approved and adopted on March 14, 2017 by the County Board of Supervisors; and

WHEREAS, the City of Riverbank has existing OWTS and areas without access to a public sewer system; and

WHEREAS, both the City of Riverbank and the County of Stanislaus are desirous of protecting the public's health and the quality of groundwater within the City, and therefore will partner on the requirements of the OWTS and the LAMP through a Memorandum of Understanding executed by both the City and County.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank approves the Memorandum of Understanding for the Onsite Wastewater Treatment Systems (OWTS) and the Local Agency Management Plan (LAMP).

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 9th day of October, 2018; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following City Council vote of _____ :

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment: Copy of MOU for OWTS and LAMP

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF STANISLAUS, DEPARTMENT OF ENVIRONMENTAL RESOURCES
AND
THE CITY OF RIVERBANK**

REGARDING ONSITE WASTEWATER TREATMENT SYSTEMS

EFFECTIVE DATE: October xx, 2018

I. RECITALS

WHEREAS, the State of California adopted Assembly Bill 885 in September 2000, which requires the State Water Resources Control Board to adopt specific regulations or standards for the permitting and operation of onsite wastewater treatment systems (OWTS).

WHEREAS, on June 19, 2012, the State Water Resources Control Board adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), and it became effective on May 13, 2013.

WHEREAS, the OWTS Policy establishes a waiver of Waste Discharge Requirement permits for OWTS systems meeting the criteria of the OWTS Policy.

WHEREAS, the OWTS Policy establishes low-risk siting and design requirements for OWTS subject to the OWTS Policy and authorizes local agencies to submit a Local Agency Management Program (LAMP) to the Regional Water Quality Control Board for approval of alternate methods of siting and design to achieve the same purpose.

WHEREAS, the County of Stanislaus, Department of Environmental Resources (DER) operates a program for the approval of the siting, design, operation, and maintenance of OWTS for individual residence within its Environmental Health Division and has adequate staffing and technical knowledge to meet the requirements of the OWTS Policy.

WHEREAS, the County of Stanislaus (County) submitted a LAMP to the Central Valley Regional Water Quality Control Board for approval.

WHEREAS, the OWTS Policy Section 4.3 states that the Regional Water Quality Control Board designated in Attachment 3 shall review, and if appropriate, approve a Local Agency Management Program submitted by the local agency pursuant to Tier 2 in this Policy.

WHEREAS, OWTS Policy Attachment 3 identifies Central Valley Regional Water Quality Control Board (Region 5) as the designated Regional Water Quality Control Board for the County of Stanislaus for purposes of reviewing and, if appropriate, approving new Local Agency Management Plans.

WHEREAS, the Central Valley Regional Water Quality Control Board reviewed the County's LAMP, determined that it meets the requirements of the OWTS Policy.

WHEREAS, on June 9, 2017, the Central Valley Regional Water Quality Control Board approved the County's LAMP, for those areas within the Central Valley Regional Water Quality Control Board, and as a result granted a conditional waiver of waste discharge requirements for all OWTS complying with the LAMP (for the most current version of the LAMP, contact DER).

WHEREAS, on March 14, 2017, the Stanislaus County Board of Supervisors approved amendments of Stanislaus County Code Sections 16.10.030 and 20.56.170 to implement the requirements of the LAMP.

WHEREAS, the Stanislaus County Board of Supervisors delegated authority to the Director of DER to enter into agreements with local jurisdictions to provide services under the LAMP.

WHEREAS, the City of Riverbank (City) has existing OWTS and areas without access to a public sewer system.

WHEREAS, both the County of Stanislaus and the City of Riverbank are desirous of protecting the public's health and the quality of groundwater within the City.

NOW THEREFORE THE COUNTY OF STANISLAUS AND THE CITY OF RIVERBANK
HEREBY AGREE AS FOLLOWS:

II. DESIGNATION AND AGREEMENT

1. The City designates the County as the Permitting and Inspecting Agency, and the County accepts the designation for the implementation of the County's approved LAMP for the siting, design, operation, and maintenance of certain OWTS, as set forth and defined herein, within the City's incorporated area.
2. The County and City agree that the requirements of the LAMP, the County's LAMP enforcement ordinance and the County's Plumbing Code will govern the applicable siting, design, operation, and maintenance of OWTS within the City.
3. Modification. Any modifications of this MOU shall be done in writing and signed by both parties.
4. Effective Date. This MOU is effective on **October xx, 2018** and shall remain in effect indefinitely until either of the partners terminates this MOU in writing.

III. APPLICABILITY

1. The OWTS subject to this agreement shall consist of those OWTS that generate 10,000 gallons per day or less of domestic wastewater (as that term is defined in the OWTS Policy, Section 2 - Permit Requirement), that dispose of wastewater below the ground surface, that is generated from single family residences, multi-family residences, commercial buildings where the wastewater is from domestic sources (i.e., toilets, urinals, bathtubs, showers, dishwashing facilities, laundry washing, and garbage disposals), buildings which are a combination of commercial and residential, and commercial food service buildings with a wastewater with a

Biological Oxygen Demand (BOD) of 900 mg/L or less and a properly functioning grease interceptor.

2. The County shall not be responsible for any fines, fees, or taxes imposed upon the City by the State, Federal and Special District Agencies related to any activities associated with this MOU.
3. This MOU shall not apply to any other OWTS within the incorporated area of the City, including those but not limited to that OWTS that:
 - a) Generate more than 10,000 gallons per day,
 - b) Discharge high strength wastewater, other than commercial food service buildings meeting the above requirements,
 - c) Are commercial food service buildings that don't meet the above requirements,
 - d) Generate industrial wastewater,
 - e) Accept wastewater from Recreational Vehicles,
 - f) Utilize methods to dispose of wastewater above ground,
 - g) Treat and reuse wastewater onsite for non-potable uses.
4. Nothing in this MOU shall diminish or affect the ability of the City to exercise its lawful authority to regulate the type, siting, design, and installation, for those OWTS within the incorporated area of the City that are exempt from this MOU. Issuance of a Waste Discharge Requirement or other permits by a Regional Water Quality Control Board shall not constitute authorization for any person or entity to construct, install, or operate any OWTS without such City approval.

IV. GENERAL PROVISIONS

COUNTY RESPONSIBILITIES

1. The County will notify the appropriate Regional Water Quality Control Board that the City has entered an agreement to be regulated under the County's LAMP.
2. The County will review all permit applications and issue permits for new, replacement, repair, or demolition of non-exempt OWTS in the City for siting and design as required by the LAMP.
3. The County will conduct inspections on all OWTS permit work to ensure the approved designs are completed as outlined in the OWTS permit.
4. The County shall provide the owner of the property or his/her representative with an approval of the application, a detailed list of corrections needed to proceed with the application or a detailed reason why the project is unable to be approved. Projects that the County determines may impact ground or surface water may be directed to file a Report of Waste Discharge with the Regional Water Quality Control.
5. The County will maintain an inventory of all OWTS permitted within the City's incorporated area including OWTS Policy Tier, setback information, and if a non-conventional onsite wastewater treatment system was required.

6. The County will respond to any complaint alleging a non-exempt OWTS failure and referred the complaint to the City for enforcement action.
7. The County will conduct an inspection of all non-exempt OWTS which are determined to be exhibiting signs of failing. The County will issue directives to owners of OWTS when the County determines the system is in need of replacement or repair.
8. The County will inspect and permit all Sewage Pumper Trucks that service OWTS within the City's jurisdiction annually; however, such inspections and permits shall not be construed to prohibit or limit City's business licensing activity.
9. The County will complete and submit reports with the data outlined in the Stanislaus County's LAMP enforcement ordinance, Appendix 1 Section 3 according to the frequency outlined in the same section.
10. The County will refer to the City for any enforcement of any violation of the City's ordinance or the LAMP including but not limited to instances when the property owner has failed to comply with the written directives of the Health Officer or his/her authorized deputy.

CITY RESPONSIBILITIES

1. The City will provide the County with a list of all reasonably known domestic OWTS and other non-exempt OWTS within the City's jurisdiction within 60 days of the effective date of this agreement.
2. The City will annually provide the County with a list of properties where an existing OWTS was connected to the public sewer.
3. The City shall provide the County with its current sewer availability map and update the County with its sewer availability map annually.
4. The City will provide the County with a list of locations of all existing wells and surface water intakes and any future wells connected to the City's public water system.
5. The City shall notify the County whenever a well is newly connected to, or newly disconnected from the City's public water system.
6. The City will coordinate with the County to review all applications for building permits where an OWTS is present on the property to evaluate whether the proposed construction will impact the OWTS by:
 - Potentially increasing wastewater flows,
 - Changing the strength of the wastewater,
 - Impinging upon required setbacks of the OWTS, any of its components, or the required 100% future expansion area.

7. The City shall refer and seek approval from the County for any building permit application for a new building, remodel of an existing building, repair of an existing OWTS, or construction of any building or permanent structure which may impinge upon an OWTS or its future expansion area. The City shall not issue a building permit for a project referred to the County unless plans are first approved by the County.
8. The City shall notify the County whenever a new building with a non-exempt New Onsite Wastewater System has issued a Certificate of Occupancy.
9. The City shall require a property owner to submit a Report of Waste Discharge (RWD) for the issuance of Waste Discharge Requirements (WDR) by the appropriate Regional Water Quality Control Board for any OWTS project that does not meet the requirements identified in Section III, paragraph 1 of this MOU.
10. The City shall investigate any complaint alleging construction of an OWTS or modification of an existing OWTS without obtaining the appropriate permits.
11. The City shall conduct all enforcement activities for any violation of the City's ordinance or the LAMP including but not limited to instances when the property owner has failed to comply with the written directives of the Health Officer or his/her authorized deputy.
12. The City, upon its cancellation of this MOU, shall comply with the Tier 1 requirements in the State OWTS Policy until the Regional Water Quality Control Board has approved a LAMP authorizing the City to use alternative requirements. If as a result of the termination of this MOU the Regional Water Quality Control Board determines that a WDR is required for existing NOWTS, the City shall be responsible for issuing a notice to the owner of each property where a NOWTS is installed within their jurisdiction directing the owner to obtain a WDR.
13. The City shall provide the County by December 31st of each year with surface or groundwater quality monitoring data for nitrates and pathogens that may be useful in the County's annual Water Quality Assessment Program. The data may be collected by the City as part of its National Pollutant Discharge Elimination System (NPDES) Permit requirements, a City-operated water utility, or other monitoring programs.

V. TERMINATION

1. The City may terminate this MOU, with or without cause, upon ninety (90) days written notice.
2. The County may terminate this MOU, with or without cause, upon ninety (90) days written notice from the Director of Environmental Resources to the City.
3. Upon the effective date of the termination, the City shall become responsible for enforcement of the State OWTS Policy within its jurisdiction.
4. In addition to the above, in the event that the State Water Board adopts new regulations regarding OWTS, the County may, at its discretion terminate this MOU upon the effective

date of the new regulations. The City and the County, at their mutual agreement, may negotiate and adopt an amendment to this MOU to include the new regulations.

VI. MUTUAL INDEMNIFICATION

1. County will indemnify, defend and hold harmless City, its elected and appointed officers, and employees from and against any and all liability, including but not limited to demands, claims, actions fees, costs, and expenses arising from or connected with County's negligent acts and/or omissions, arising from this MOU and/or relating to this MOU. County will not be obligated to indemnify, defend and hold harmless City from City's negligent acts and/or omissions relating to this agreement.
2. City will indemnify, defend and hold harmless County, its elected and appointed officers, and employees from and against any and all liability, including but not limited to demands, claims, actions fees, costs, and expenses arising from or connected with City's negligent acts and/or omissions, arising from this MOU and/or relating to this MOU. City will not be obligated to indemnify, defend and hold harmless County from County's negligent acts and/or omissions relating to this agreement.

VII. STANDARD PROVISIONS

1. This is an integrated agreement and therefore contains all of the terms, considerations, understandings, and promises between the parties related to this MOU. This MOU may be modified, changed or rescinded only by written agreement, executed by the parties.
2. All exhibits referred to herein are incorporated into this MOU. Failure to comply with the provisions or requirements of any exhibit shall constitute grounds for breach of this MOU by either party.
3. This MOU shall be governed and construed in accordance with the laws of the State of California.
4. Any action arising out of this MOU shall be brought in Stanislaus County, California, regardless of where venue may lie.
5. Any notice or communication required hereunder between the Parties must be in writing and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS, or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices of communications shall be given to the Parties at their addresses set forth below:

If to City: City of Riverbank
 ATTN: City Clerk
 6707 Third Street
 Riverbank, CA 95637

With copies to: Churchwell White, LLP
ATTN: Thomas P. Hallinan
1414 K Street, 3rd Floor
Sacramento, CA 95814

If to County: _____

Attn: _____

6. This MOU may be executed in one or more counterparts and all so executed shall be binding upon the parties, notwithstanding that the signatures of all parties and parties' designated representatives do not appear on the same page.

[SIGNATURE PAGE TO FOLLOW]

PROPOSED

The parties hereto, pursuant to the resolution of their respective governing bodies, have caused this MOU regarding Onsite Wastewater Treatment Systems to be executed this _____ day of _____, 2018.

CITY OF RIVERBANK, a municipal corporation
of the State of California

By: _____
Sean Scully, City Manager

Date Signed: _____

By: _____
Annabelle H Aguilar, CMC, City Clerk

Date Signed: _____

Approved as to Form and Content:

By: _____
Thomas P. Hallinan, City Attorney

PROPOSED