



CITY OF RIVERBANK
**REGULAR CITY COUNCIL AND THE
 LOCAL REDEVELOPMENT AUTHORITY 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, MARCH 22, 2016 – 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 Jeanine Tucker
 Council/Authority Member Darlene Barber-Martinez
 Council/Authority Member Cal Campbell
 Council/Authority Member Leanne Jones Cruz
- AGENDA CHANGES:** 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: Strategic Plan Update.

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 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 March 8, 2016, City Council and Local Redevelopment Authority Minutes.

Item 3.C: A **Resolution** of the City Council of the City of Riverbank, California, Authorizing the Execution of a Performance Agreement with Chris Ricci Presets Inc. for the Planning, Organizing and Implementation of the Cheese and Wine Festival and Appropriating \$15,000 from the General Fund for Those Services.

Item 3.D: A **Resolution** of the City Council of the City of Riverbank, California, Authorizing the Mayor to Execute a Lease with Chris Ricci Presents, Inc. for the Riverbank Cheese and Wine Festival.

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 Hearing Notices for the following public hearing items 5.1 and 5.2 were published in the local newspaper of general circulation on June 9, 2016.

Item 5.1: A **Resolution of the City Council of the City Of Riverbank, California, Recommending That Stanislaus Local Agency Formation Commission (LAFCo) Approve the Municipal Service Review (MSR) Update And Sphere Of Influence Plan Dated February 2016, Including the Proposed Sphere Of Influence Expansion And Establishment of An Area of Concern** – After consideration of public testimony, motion to adopt the proposed Resolution to authorize City staff to forward the MSR Update and Sphere of Influence Expansion dated February 2016 to Stanislaus LAFCo which will support an expanded SOI and the establishment of an “Area of Concern” that extends to the limits of the Riverbank General Plan boundaries.

Item 5.2: A **Resolution of the City Council of the City of Riverbank, California, Recommending Approval of the Riverbank Sustainable Agricultural Strategy Dated February 2016** – After consideration of public testimony, motion to approve a Resolution adopting, as a policy document, the Riverbank Sustainable Agricultural Strategy dated February 2016.

6. NEW BUSINESS

Item 6.1: **Report on Options for Surveillance Camera System for City and Private Business Use** – It is recommended that Riverbank City Council receive this report on two programs that would use surveillance video camera systems to help enhance public safety throughout the City and provide direction to the staff.

Item 6.2: **Outdoor Water Use Plan** – It is recommended that the City Council receive the proposed outdoor water use plan and provide direction as deemed necessary for the implementation of an outdoor water use policy to establish the enforcement and restrictions of water use in accordance with water provisions in Chapter 52 of the Riverbank Municipal Code.

LRA Item 6.3: **A Resolution of the Local Redevelopment Authority of the City Of Riverbank Awarding the Riverbank Army Ammunition Plant Facility Manager Contract to San Joaquin Engineering Solutions LLC** – It is recommended that the Local Redevelopment Authority Board of Directors adopt resolution approving a Riverbank Army Ammunition Plant facility management services contract.

Item 6.4: **Informational Presentation on the Feasibility of a Citywide Storm Water Utility District** – It is recommended that the City Council receive this informational presentation on the feasibility of establishing the formation of a Citywide Storm Water Utility District.

7. COMMENTS (Information only – No action)

Item 7.1: Staff Comments

Item 7.2: Council/Authority Member Comments

Item 7.3: Mayor/Chair Comments

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 LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: 1 potential case

Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code § 54956.9(a)
Name of Case: Barham Construction, Inc. v. City of Riverbank
Court of Appeals of California, Fifth District
Case No. F058692 and Case No. F059499

Recommendation: It is recommended that City Council /LRA Board provide direction to Staff on the Closed Session item(s).

9. REPORT FROM CLOSED SESSION

Item 9.1: Report on Closed Session Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Item 9.2: Report on Closed Session Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

ADJOURNMENT (The next regular City Council meeting –Tuesday, April 12 @ 6:pm)

UPCOMING EVENTS:

April 30	<ul style="list-style-type: none"> ▪ <u>Color Run</u> – Early bird registration ends March 31st. Begins at 8:30 am, Jacob Myers Park ▪ <u>River Fest</u> – 9:00 am to 3:00 pm at Jacob Myers Park
City Hall Friday Office Hours	<ul style="list-style-type: none"> ▪ <u>City Offices are Closed Alternating Fridays</u> <ul style="list-style-type: none"> ○ Friday: March 25 and April 8 – CLOSED ○ Friday: March 18 and April 1: Hours 8:am – 5:pm
Registration Now Open	<ul style="list-style-type: none"> ▪ <u>Swim Lessons and Summer Camps</u> – register online at riverbankrecreation.com
Available Now	<ul style="list-style-type: none"> ▪ <u>Spring and Summer Riverbank Recreation Activity Guide</u>

AFFIDAVIT OF POSTING

I, Annabelle Aguilar, do 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 17th day of March, 2016

/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 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.

GENERAL INFORMATION

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> 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 technologically able, 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 or a meeting of the LRA, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.</p>
Televised / Video of Meetings	<ul style="list-style-type: none"> • Charter – Channel 2 • AT&T Uverse – Channel 99 <p>Visit www.riverbank.org to connect to meeting videos. (Note: Technical difficulty occurs on occasion preventing the televising or recording of the meeting.)</p>
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 cityclerk@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: PRESENTATION

Meeting Date:	March 22, 2016
Subject:	Strategic Plan Update
From:	Jill Anderson, City Manager

RECOMMENDATION

It is recommended that the City Council consider a presentation on the City's Strategic Plan and provide comment as it deems appropriate.

SUMMARY

On October 15, 2015 City Council met with the management team to update the City's Strategic Plan as part of the ongoing commitment to focus resources toward the accomplishment of the City's key goals. The session included a review of the City's vision, mission, and values, as well as the City's three year goals.

Mission Statement

The City of Riverbank is committed to providing exceptional municipal services in a fiscally sound and professionally responsible manner for our community.

Core Values

<i>Professionalism</i>	<i>Transparency</i>
<i>Teamwork</i>	<i>Respectful Behavior</i>
<i>Fiscal Responsibility</i>	<i>Integrity and Ethical Behavior</i>

Three-Year Goals (2013-2016)

***Enhance Public Safety
Improve and maintain infrastructure and facilities
Enhance professionalism and customer service
Achieve and maintain financial stability and sustainability
Retain and attract businesses***

For each goal, specific, measurable objectives have been established for the six-month planning period. This presentation has been scheduled to report on the progress being made toward accomplishing those goals. The reports provide the City Council and staff an opportunity to monitor progress, as well as revise objectives and timelines as conditions warrant. The City's next strategic planning session is scheduled for Tuesday, April 5, 2016.

FINANCIAL IMPACT

There is no financial impact associated with the presentation of the Strategic Plan.

ATTACHMENTS

There are no attachments to this report.

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

SECTION 3: CONSENT CALENDAR

Meeting Date:	March 22, 2016
Subject:	Waiver of Readings
From:	Jill Anderson, 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 Ordinances and Resolutions, except by title.

SUMMARY

The approval of the waiver of readings will allow Ordinances and Resolutions to be introduced by title only and acted upon without the need to read the entire text of the item into the public record. The documents related to proposed Ordinances and Resolutions are available for review by the public on the City's website and in the City Clerk's office at City Hall (North).

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:	March 22, 2016
Subject:	Approval of the March 8, 2016, City Council and Local Redevelopment Authority Minutes
From:	Jill Anderson, 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 March 8, 2016, 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. March 8, 2016, City Council and LRA Minutes



City of Riverbank
**REGULAR CITY COUNCIL AND LOCAL REDEVELOPMENT AUTHORITY
MEETINGS**

(The City Council also serves as the LRA Board)

MINUTES

TUESDAY, MARCH 8, 2016



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: Reverend Charles Neal

ROLL CALL: Mayor/Chair Richard D. O'Brien
Vice Mayor/Chair Jeanine Tucker
Council/Authority Member Darlene Barber-Martinez
Council/Authority Member Cal Campbell
Council/Authority Member Leanne Jones Cruz

AGENDA CHANGES: Mayor/Chair Richard D. O'Brien

There were no changes to the agenda.

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 There **were** no presentations.

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.

Richard Holmer, Riverbank, announced the grand opening of the IMAX Theatre and the Riverbank Historical Society's fundraising event at the theatre.

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 February 23, 2016, City Council and Local Redevelopment Authority Minutes.

Item 3.C: **Resolution [No. 2016-017]** of the City Council of the City of Riverbank, California, to Approve the Reappointment of Michelle Guzman to Stanislaus Consolidated Fire Protection District Board of Directors as the Riverbank Representative.

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

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

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

NAYS: None, ABSENT: None, ABSTAINED: None

4. UNFINISHED BUSINESS

Item 4.1: **Second Reading by Title Only and Adoption of Proposed Ordinance [No. 2016-004] of the City Council of the City of Riverbank, California, Amending Sections 52.01, 52.32, 52.34, and 52.61 of Chapter 52: Water, of Title V: Public Works, of the City of Riverbank Code of Ordinances** – It is recommended that the City Council conduct the second reading by title only of proposed Ordinance No. 2016-004 and consider its adoption by roll call vote.

City Manager Jill Anderson presented the staff report.

Public comment: *Mr. Scott McRitchie spoke in opposition of the 9:00 am to 9:00 p.m. no watering schedule for the winter months; he was pleased with locating the agenda on the new website, and requested an explanation for the City's 50% overage of its water use mentioned in the newspaper. Mayor O'Brien responded.*

ACTION: *By motion moved and seconded (Barber-Martin / Jones Cruz / passed 5-0) to approve the Second Reading and Adoption of Ordinance No. 2016-004 as presented. Motion carried by unanimous City Council roll call vote.*

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

NAYS: None, ABSENT: None, ABSTAINED: None

5. PUBLIC HEARINGS

The Public Hearing Notice for the item 5.1 was published in the local newspaper of general circulation on 02/24/16.

Item 5.1: A Resolution [No. 2016-018] of the City Council of the City of Riverbank, California, Approving Variance No. 01-2016 for Galaxy-Cinemas Riverbank 2525 Patterson Road, Riverbank (APN 075-008-029) – The Planning Commission recommends, by Resolution No. 2016-008, that the City Council finds the Project is categorically exempt under Section 15311, Class 11 Accessory Structures and approves a variance for a proposed 530 square foot IMAX sign at 47 feet in height where a 260 square foot sign at 40 feet in height is permitted.

Planning and Building Manager, Donna Kenney, presented the staff report.

Mayor O'Brien opened the public hearing at 6:28 p.m.

- *Mr. Richard Holmer, Riverbank, spoke in favor of approving the variance.*
- *Mr. Scott McRitchie, Riverbank, spoke in opposition of approving the variance.*

Mayor O'Brien closed the public hearing at 6:40 p.m.

City Council and Staff discussed the item.

ACTION: *By motion moved and seconded (Jones Cruz / Tucker / passed 5-0) to adopt Resolution No. 2016-018 as presented, approving Variance No. 01-2016 for Galaxy-Cinemas Riverbank 2525 Patterson Road, Riverbank (APN 075-008-029) for a proposed 530 square foot IMAX sign at 47 feet in height where a 260 square foot sign at 40 feet in height is permitted, as recommended by the adoption of Planning Commission Resolution No. 2016-008. Motion carried by unanimous City Council roll call vote.*

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

NAYS: None, ABSENT: None, ABSTAINED: None

6. NEW BUSINESS

Item 6.1: **Museum Annex Concept Plans** – It is recommended that the City Council review and approve the museum annex concept plan and direct that a project working group, involving representatives from the Historical Society and City staff, be formed to ensure that the project proceeds in alignment with the goals of both parties.

Planning and Building Manager, Donna Kenney, presented the staff report.

Mr. Richard Holmer, Historical Society Representative, spoke in favor of moving forward with the plans, and introduced Mr. Norm Wilson, a Modesto Architect, who created and explained the concept plans.

ACTION: *By motion moved and seconded (Barber-Martinez / Campbell / passed 5-0) to approve the museum annex concept plans as presented. Motion carried by unanimous City Council roll call vote.*

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

NAYS: None, ABSENT: None, ABSTAINED: None

LRA Item 6.2: **Options for Future Organization and Oversight of the Local Redevelopment Authority and Riverbank Army Ammunition Plant** – It is recommended that Riverbank Local Redevelopment Authority (“LRA”) Board of Directors (“BOD”) receive a report from the LRA’s Base Closure and Realignment (“BRAC”) special counsel and consider the options for future oversight and ownership of the Riverbank Army Ammunition Plant (“RAAP”).

City Manager Jill Anderson introduced the item of discussion and introduced Attorney George Schlossberg for the LRA, who presented the options. LRA Executive Director Debbie Olson was also present.

City Council and Attorney Schlossberg discussed the options.

Public Comment: *Mr. Scott McRitchie was interested in know who would have the responsibilities of making the best economic or liability decisions for the City when it comes to choosing part or all of the options presented. Mayor O'Brien responded that a strategic plan would be made and this matter would be discussed at the April 5th Strategic Planning Meeting.*

7. COMMENTS (Information only – No action)

Item 7.1: Staff Comments

Planning and Building Manager Donna Kenney reported on her attendance of the Planning Commission Academy.

City Manager Jill Anderson reported on the sale of the Del Rio Theatre property sale.

Item 7.2: Council/Authority Member Comments

Council/Authority Member Campbell encouraged everyone to support the many nonprofit fundraising events.

Council/Authority Member Barber-Martinez announced the availability of sand bags at the City's Corporation Yard in case of flooding, announced International Women's day, and welcomed the new businesses in Riverbank.

Council/Authority Member Tucker also welcomed the new businesses and the positive changes with the Riverbank museum and the sale of the Del Rio Theatre.

Item 7.3: Mayor/Chair Comments

Mayor O'Brien commended Ms. Norma Manriquez and everyone for their support in developing and attending the State of the City Address event.

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.

Mayor/Chair O'Brien announced the Closed Session item and called for public comment; no one spoke. The meetings were recessed and the City Council/LRA Board went into Closed Session at 7:35 p.m.

LRA Item 8.1: **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Government Code Section 54956.8
Property: APN #062-031-007; 062-031-006; 062-008-009
Agency Negotiator: Jill Anderson, City Manager, and Debbie Olson, LRA Executive Director
Property Negotiator: U.S. Army
Under Negotiation: Price, terms of payment, or both

9. REPORT FROM CLOSED SESSION

Mayor/Chair O'Brien reconvened the meetings at 7:54 p.m.

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

Mayor/Chair O'Brien reported that direction was given to staff.

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 7:54 p.m.

ATTEST: (Adopted 03/22/16)

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor / Chair

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.C

SECTION 3: CONSENT CALENDAR

Meeting Date:	March 22, 2016
Subject:	A Resolution of the City Council of the City of Riverbank, California, Authorizing the Execution of a Performance Agreement with Chris Ricci Presets Inc. for the Planning, Organizing and Implementation of the Cheese and Wine Festival and Appropriating \$15,000 from the General Fund for Those Services
From:	Jill Anderson, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

Motion to adopt proposed Resolution authorizing the City Manager to enter into a Performance Agreement with Chris Ricci Presents, Inc. for the Coordination of the Riverbank Cheese and Wine Festival held October 8, 2016 and October 9, 2016.

SUMMARY

The City of Riverbank ("City") plans to hold the 40th annual Cheese and Wine Festival ("Festival") on October 8th and 9th, 2016. For the past two years, the City has entered into an agreement with Chris Ricci Presents, Inc. ("Chris Ricci Presents") to provide event coordination services for the Festival. On January 26, 2016 the City Council approved the City's continued operation of the Cheese & Wine Festival, contracting with Chris Ricci Presents, Inc.

The resolution, if adopted, will authorize the City Manager to sign the Performance Agreement with Chris Ricci Presents, Inc.

BACKGROUND

The City has organized the Festival for a number of years and has previously worked with Chris Ricci Presents to coordinate and manage the Festival. The Festival continues to grow in size and popularity, which requires the City to again secure event coordination services. The key services to be performed by Chris Ricci Presents, Inc. are: Event coordination meetings; booking of the talent; marketing; ticketing; event

production, such as security, technical arrangements, and communications; sponsor development; as well as vendor development and coordination. Additional details of the services to be performed are provided in the attached contract.

The first agreement was signed in 2014 and renewed in 2015. A new Resolution is required for the 2016 year of operation.

FINANCIAL IMPACT

The Performance Agreement for Chris Ricci Presents, Inc. is in the amount of \$15,000, which is paid from funds generated by the event.

ATTACHMENT

1. Proposed Resolution
2. Performance Agreement

CITY OF RIVERBANK

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AUTHORIZING THE EXECUTION OF A PERFORMANCE AGREEMENT WITH CHRIS RICCI PRESETS INC. FOR THE PLANNING, ORGANIZING AND IMPLEMENTATION OF THE CHEESE AND WINE FESTIVAL AND APPROPRIATING \$15,000 FROM THE GENERAL FUND FOR THOSE SERVICES

WHEREAS, the Cheese and Wine Festival (“Festival”) has been a tradition in the City of Riverbank (“City”) for several years and from 2006 – 2013, the Riverbank Rotary Club administered the Festival, establishing it as a safe and enjoyable event; and

WHEREAS, in 2014 the Rotary Club informed the City that it was unable to continue to manage the event and requested that the City take over the Festival; and

WHEREAS, the City took over the Festival as requested in 2014 and wishes to continue holding the Festival in 2016; and

WHEREAS, on January 26, 2016, the City Council approved City staff moving forward with the Festival for 2016; and

WHEREAS, to move forward with the Festival, the City requires event coordination services from an outside contractor; and

WHEREAS, the City worked with Chris Ricci Presents, Inc. to coordinate the Festival in 2014 and 2015, and it wishes to continue working with Chris Ricci Presents, Inc. for this year’s Festival; and

WHEREAS, the Performance Agreement engages Chris Ricci Presents, Inc., to provide event coordination services and establishes that the costs for those services is \$15,000 to be paid in three payments. The first payment of \$5,000 is due in June 2016, the second \$5,000 installment is due in July 2016, and the final \$5,000 payment is due in October 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the City Manager to execute the Performance Agreement between Chris Ricci Presents, Inc. and the City of Riverbank, attached hereto as Exhibit A, and authorizes the appropriation of \$15,000 from the General Fund as specified in the Performance Agreement.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22nd day of March, 2016; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:
NAYS:
ABSENT:
ABSTAIN:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

Attachments:

Exhibit A – Performance Agreement

PROPOSED

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT (the “Agreement”) is made and entered into this 22nd day of March, 2016 (the “Effective Date”), by and between the City of Riverbank, a municipal corporation of the State of California (“City”) and Chris Ricci Presents, Inc., a California Corporation (“Consultant”). City and Consultant may each be referred to hereinafter separately as “Party” and collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

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

A. City has obtained the rights to own and operate the annual Riverbank Cheese and Wine Festival, a longstanding local tradition consisting of arts and crafts and food booths featuring award-winning cheese and wine which is normally held the second weekend of October (“Festival”).

B. On January 27, 2014, the Riverbank City Council (“City Council”) directed City staff to hire an event coordinator to assist in carrying out the Festival.

C. Subsequently, City staff advertised a “Request for Proposal/Qualifications” for interested parties to submit proposals to the City for the coordination of the 2014 Festival (the “RFP”). A true and correct copy of the RFP is attached and incorporated herein as **Exhibit A**.

D. On February 18, 2014, City closed the RFP and was in receipt of proposals from three companies, including a proposal from Consultant. A true and correct copy of Consultant’s RFP proposal is attached and incorporated herein as **Exhibit B**.

E. After reviewing the proposals, City elected to contract with Consultant based on its qualifications.

F. On January 26, 2016, the City Council approved the City’s continued operation of the Cheese and Wine Festival for 2016.

G. On March 22, 2016, the City Council authorized the City Manager to enter into this Agreement.

H. Consultant desires to perform the services included in its proposal and requested by City regarding the Festival on the terms and conditions set forth below.

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

AGREEMENT

Section 1. Description of Work.

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

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

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

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

b. City agrees that the Services require a Modification; and

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

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

Section 2. Compensation and Payment Schedule. The total cost of the Services described in Section 1 of this Agreement shall not exceed Fifteen Thousand Dollars (\$15,000.00). City shall pay Consultant in accordance with the following payment schedule as set forth in Exhibit C:

- a. Five Thousand Dollars (\$5,000.00) due on or before June 29, 2016.
- b. \$5,000.00 due on or before July 29, 2016.
- c. \$5,000.00 due on or before October 20, 2016.

Consultant shall submit invoices to City for all commissions and reimbursable expenses within sixty (60) days of incurring such expenses. City will pay Consultant the amounts contained in the invoices within thirty (30) days of its receipt, provided the invoices comply with the Services and scope of work set forth herein. Should City dispute any portion of any invoice, City shall pay the undisputed portion within the time stated above, and at the same time advise Consultant in writing of the disputed portion.

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

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

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

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

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

outside consultant engaged by Consultant for any purpose not listed herein unless prior written approval is obtained from City.

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

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

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

9.2. General Liability. City and Consultant shall obtain and keep in full force and effect general liability insurance including provisions for contractual liability, personal injury, independent consultants and broad form property damage coverage's. This insurance shall be on a comprehensive occurrence basis form with a standard cross liability clause or endorsement. The limit for this insurance shall be no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage and Two Million Dollars (\$2,000,000.00) in the aggregate.

Such insurance shall also:

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

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

c. Contain standard separation of insured provisions.

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

9.4. Certificates of Insurance. Promptly upon execution of this Agreement and prior to commencement of any work, Consultant shall provide City with certificates of insurance evidencing that all insurance or endorsements required by this Agreement have been obtained and are in full force and effect. Approval of the insurance by City shall not relieve or decrease

any liability of Consultant. In addition, in the event any change is made in the insurance carrier, policies or nature of coverage required under this Agreement, Consultant shall notify City in writing prior to making such changes. The failure to notify City of the cancellation of any insurance policy required herein shall be considered a material breach of this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If to City:

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

With courtesy copies to:

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

And to:

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

If to Consultant:

Chris Ricci Presents, Inc.
2501 Vienna Court
Modesto, California 95355
Attention: Chris Ricci, President

Section 19. General Terms and Conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Signature page to follow]

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

By: _____
Jillian Anderson, City Manager

Date Signed: _____

Approved as to Form:

By: _____
Tom Hallinan, City Attorney

Attest:
By: _____
Annabelle Aguilar, City Clerk

Consultant:
Chris Ricci Presents, Inc., a California
corporation

By: _____
Chris Ricci, President

Date Signed: _____

PROPOSED

EXHIBIT A

REQUEST FOR PROPOSALS/QUALIFICATIONS

PROPOSED

EXHIBIT B

CHRIS RICCI PRESENTS, INC. PROPOSAL

PROPOSED

EXHIBIT C

SCOPE OF WORK

PROPOSED

EXHIBIT D

ADDITIONAL SCOPE OF SERVICES

PROPOSED

PROPOSED

EXHIBIT A

REQUEST FOR PROPOSALS/QUALIFICATIONS

COPY

REQUEST FOR PROPOSAL/QUALIFICATIONS
Riverbank Cheese & Wine Festival Event Coordinator

Proposal Due Date: Tuesday, February 18, 2014, by 5:00 p.m., PST
Submit Proposal to: Sue Fitzpatrick
Parks and Recreation Director
City of Riverbank
6707 3rd Street
Riverbank, CA 95367

Introduction and Purpose:

The City of Riverbank is seeking proposals for the coordination of the 2014 Riverbank Cheese & Wine Festival. Proposals will be accepted from firms or individuals with a minimum of three years experience organizing large community events or festivals. The contract amount and contract terms are negotiable.

Background

The Riverbank Cheese & Wine Festival has been held the second weekend in October for over 37 years. The Riverbank Chamber of Commerce coordinated the event for many years. The Riverbank Rotary administered the event for the past 8 years. The City of Riverbank will oversee the event this year but requires the services of an experienced Event Coordinator or firm that specializes in large events.

Services to be Performed

Under the direction of the City of Riverbank plan, organize and implement the Cheese & Wine Festival or Festival of a similar type.

Assist the City with the transition of the Cheese & Wine Festival administered by a local nonprofit to being administered by the City. This may involve recreating the event or making positive changes to the event.

Work effectively with City staff, Sheriff's Department, vendors, residents, businesses, and the general community to create a financially stable, safe and enjoyable event for our City.

Work will include, but not be limited to, preparing advertising, reports, evaluation, and securing sponsorships.

Involve and work closely with our local nonprofit groups to give them the opportunity for fundraising and assisting with components of the event.

Format and Timing of Submittals and Award

The proposal should be typed and in letterform. A resume may be attached. The proposal should list qualifications and experience in operating the logistics, finances, public relations and overall outcome of large community events.

The Request for Proposal is due by Tuesday February 18, 2014, by 5:00 P.M.

Proposals will be reviewed by City staff and the most qualified will be contacted for the next steps in the process.

All firms meeting the requirements of this RFP are invited to respond. Three (3) copies of the proposal must be submitted:

**Sue Fitzpatrick
Parks and Recreation Director
City of Riverbank
6707 3rd Street
Riverbank, CA 95367**

Responses to this RFP must be received by the City of Riverbank, Attn: Sue Fitzpatrick, PRIOR to 5:00 p.m., PST, Tuesday, February 18, 2014. Any response received after this time shall not be considered and will not be opened. Facsimile and email responses are NOT acceptable when in response to this Request for Proposals.

If you have any questions, please contact Sue Fitzpatrick at 209-863-7140

EXHIBIT B

CHRIS RICCI PRESENTS, INC. PROPOSAL

COPY

Exhibit B



2501 Vienna Court, Modesto, CA 95355 P-209-312-3463 F-209-524-1929

Riverbank Cheese and Wine Festival RFP

Introduction:

The festival business in the valley is going through a difficult period. Between declining attendance and receding sponsorship revenues, festival producers are being forced to reorganize operations to reflect the current economic and social realities.

Although the economy is beginning to show some signs of recovery, our valley communities are adjusting to a new normal. They no longer go out to dinner as frequently or attend every event they have interest in. People focus on those one or two big events that they look forward to every month. Anything that doesn't reach that pinnacle gets cut.

The mindset of the festival goer has also undergone a massive change. While local law enforcement has been cut to the bone, state law enforcement has seen hardly any changes in funding. This has resulted in massive state DUI enforcement that has moved from freeways to state highways to city streets. Festivals have become one of the targets for this enforcement. The fear created by DUI enforcement has had a massive impact on the festival going psyche.

The Riverbank Cheese and Wine festival will need to create a new and innovative approach if it is to survive this fundamental shift in the valley's economic and social consciousness. Expenses will need to be ruthlessly examined and cuts will need to be made. Fresh ideas will need to be developed to create interest and draw at the event. Sponsorship income will need to be developed from new sources. Marketing will need to reflect advertising's massive evolution with a focus on both traditional media, but giving equal effort to social media. Finally transportation will need to be made available to create a safe non-DUI environment.

Background:

Chris Ricci Presents, Inc. has been producing concerts in the central valley since 1999. Events that have been produced by Chris Ricci Presents in the Modesto Area include the Stockton Miracle Market, B93.1's Summerfest, The Modesto Art and Wine Festival, Lucky Fest, X Fest, and management of the Fat Cat Music House and Lounge. Outside of Modesto Chris Ricci Presents, Inc. produced the Shoreline Jam in Long Beach at the Queen Mary, Moody Gardens Concert Series in Galveston, and X Fest Las Vegas under its former subsidiary the Producing Group, LLC.. Chris Ricci Presents utilizes a low overhead common sense approach to events. We maximize value for customers, while keeping expenses at reasonable levels. We value long term relationships over short term profit.

Services to be Performed:

Chris Ricci Presents, Inc. will plan, organize, and execute the Riverbank Cheese & Wine Festival. This will include meetings with the City of Riverbank to outline a plan to insure the long term success and revitalization of the event.

Chris Ricci Presents, Inc. will execute the following:

Weekly event meetings: Discuss budgeting, event execution, sponsorship development, concept exploration, and community inclusion

Talent Booking: Book all talent that is to perform at the event

Marketing: Develop a marketing budget and plan to increase attendance and sponsor value

Ticketing: Implementation of a ticketing system that includes on-line, local outlet sales, and community consignments.

Event Production: Full event coordination including all facets of production. When working on event production these bullet points will also consist of bidding, budgeting, and execution at the event. Key elements of event production include:

- Security coordination
- Law Enforcement coordination
- Sound / Lights / Staging
- Stagehands / Production Crew
- Garbage / Cleanup
- Equipment Rental
- Electrical coordination / Distribution
- Event Medical Coordination
- Street Closure
- Tent Bids
- Vendor Coordination
- Communications
- Alcohol Management

Sponsor Development: Chris Ricci Presents will provide consultation and expertise in the area of sponsorship development. This will include sponsorship package creation and assistance in contracting a sales team to preserve current sponsorship revenues and explore new opportunities.

Vendor Development: Chris Ricci Presents will provide vendor development to preserve current vendors and increase overall participation.

Transportation Plan: Chris Ricci Presents will create a plan to increase DUI Awareness, responsible alcohol consumption, and safe rides.

Cost: Chris Ricci Presents, Inc. will be compensated \$15,000 for the above services.



2501 Vienna Court, Modesto, CA 95355 Phone: 209-312-3463 Fax: 209-524-1929

CHRIS RICCI – EVENT PRODUCER / TALENT BUYER / PROMOTER –February 2014 Resume

Principle responsibilities: book talent, create profitable events, club and festival management, concert promotion / production, management of security, marketing

Experience-

20 years as a Producer / Talent Buyer in Northern and Southern California
Over 1,000 concerts booked and produced
Former Chairman and current Board Member City of Modesto Entertainment Commission (2009-Current)
Board Member Stanislaus County Education Foundation
Board Member Boys and Girls Club of Stanislaus County
President Modesto Downtown Entertainment District Task Force
Member Modesto Rotary Club

Current Clients / Projects-

Owner – Chris Ricci Presents, Inc. (See CRP Projects below) (1999-Current)
Owner – Lucky Fest Modesto – 5000 in attendance – (2011-current)
Owner – The Summoning Halloween Party – 4000 in attendance (2014-current)
Owner – Xclamation Festival Modesto – 20,000 in attendance – (1999-current)
General Manager - Fat Cat Music House and Lounge – 500 capacity venue (2001-current)
Producer - Tresetti's Fat Tuesday – 2500 in attendance –(2000-current)
Owner - Modesto Area Music Awards (Mama Awards) – 500 in attendance – (2000-current)

Past Clients-

Partner – The Producing Group, LLC – (2005-2013)
Producer - Shoreline Jam (TPG) – Queen Mary, Long Beach, 5500 in attendance – (2011)
Producer - Modesto Art and Wine Festival – 10,000 in attendance – 2005-2010
Producer - Moody Gardens Concert Series (TPG) Moody Gardens Galveston, Texas – 2008-2009
Producer - X Fest Las Vegas Festival (TPG) – 6,000 in attendance –2008
Producer - Rock 96.7 Rockstock / Modesto – 8000 capacity Heavy Rock Festival 2002
Producer - B93.1 SummerFest / Modesto – 8000 capacity Pop Music Festival – 1998-2002, 2004-2005
Producer - B93.1 Extreme Halloween / Modesto –2500 capacity Halloween Party / Concert – 1998-2002
Producer - Mega 96.7 Mega Jam / Modesto –8000 capacity Jamming Oldies Concert 1999-2000
Talent Buyer - Fahn and Company Presents / Sacramento – Clubs and Festivals 1997-1998
Talent Buyer - 4th and B / San Diego –1500 - capacity venue – 1996-1997
Marketing - The Coach House / San Juan Capistrano – 500 capacity venue – 1995-1996
Marketing - Galaxy Theatre / Santa Ana – 750 capacity venue – 1995-1996
Marketing - Ventura Theatre – 1200 capacity venue – 1995-1996
Producer – University of San Diego Concert Series – 1994-1995

Education-

University of San Diego 1991-1995
BA History / Business Minor

Residence-

Modesto, California for 14 years

Hometown- Los Altos, California

EXHIBIT C

SCOPE OF WORK

Exhibit B



2501 Vienna Court, Modesto, CA 95355 P-209-312-3463 F-209-524-1929

Riverbank Cheese and Wine Festival RFP

Introduction:

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Cost: Chris Ricci Presents, Inc. will be compensated \$15,000 for the above services.



2501 Vienna Court, Modesto, CA 95355 Phone: 209-312-3463 Fax: 209-524-1929

CHRIS RICCI – EVENT PRODUCER / TALENT BUYER / PROMOTER –February 2014 Resume

Principle responsibilities: book talent, create profitable events, club and festival management, concert promotion / production, management of security, marketing

Experience-

20 years as a Producer / Talent Buyer in Northern and Southern California
Over 1,000 concerts booked and produced
Former Chairman and current Board Member City of Modesto Entertainment Commission (2009-Current)
Board Member Stanislaus County Education Foundation
Board Member Boys and Girls Club of Stanislaus County
President Modesto Downtown Entertainment District Task Force
Member Modesto Rotary Club

Current Clients / Projects-

Owner – Chris Ricci Presents, Inc. (See CRP Projects below) (1999-Current)
Owner – Lucky Fest Modesto – 5000 in attendance – (2011-current)
Owner – The Summoning Halloween Party – 4000 in attendance (2014-current)
Owner – Xclamation Festival Modesto – 20,000 in attendance – (1999-current)
General Manager - Fat Cat Music House and Lounge – 500 capacity venue (2001-current)
Producer - Tresetti's Fat Tuesday – 2500 in attendance –(2000-current)
Owner - Modesto Area Music Awards (Mama Awards) – 500 in attendance – (2000-current)

Past Clients-

Partner – The Producing Group, LLC – (2005-2013)
Producer - Shoreline Jam (TPG) – Queen Mary, Long Beach, 5500 in attendance – (2011)
Producer - Modesto Art and Wine Festival – 10,000 in attendance – 2005-2010
Producer - Moody Gardens Concert Series (TPG) Moody Gardens Galveston, Texas – 2008-2009
Producer - X Fest Las Vegas Festival (TPG) – 6,000 in attendance –2008
Producer - Rock 96.7 Rockstock / Modesto – 8000 capacity Heavy Rock Festival 2002
Producer - B93.1 SummerFest / Modesto – 8000 capacity Pop Music Festival – 1998-2002, 2004-2005
Producer - B93.1 Extreme Halloween / Modesto –2500 capacity Halloween Party / Concert – 1998-2002
Producer - Mega 96.7 Mega Jam / Modesto –8000 capacity Jamming Oldies Concert 1999-2000
Talent Buyer - Fahn and Company Presents / Sacramento – Clubs and Festivals 1997-1998
Talent Buyer - 4th and B / San Diego –1500 - capacity venue – 1996-1997
Marketing - The Coach House / San Juan Capistrano – 500 capacity venue – 1995-1996
Marketing - Galaxy Theatre / Santa Ana – 750 capacity venue – 1995-1996
Marketing - Ventura Theatre – 1200 capacity venue – 1995-1996
Producer – University of San Diego Concert Series – 1994-1995

Education-

University of San Diego 1991-1995
BA History / Business Minor

Residence-

Modesto, California for 14 years

Hometown- Los Altos, California

EXHIBIT D

ADDITIONAL SCOPE OF SERVICES

Exhibit D
City of Riverbank
Performance Agreement Specifics
2015 Cheese & Wine Festival

Specific Scope of Services added to this agreement are as follows for the 2015 Cheese & Wine Festival:

Increased Vendor Communication & Direction

- Vendor sub-contractor should be able to be contacted easily by phone or email and be able to return calls or email in a timely manner.
- Vendors should be notified when application is received and a timeline of what they can expect to occur next.
- Vendors should be supplied with a map with booth location and festival layout.
- Vendors should be clearly informed of set up time and where to go for assistance. An information booth should be set up for vendors to check in upon arrival.

Map

- A google earth type map should be set up that could be progressive and updated monthly as locations are confirmed for the festival layout. The map should be clear with a legend that can be easy for City Staff, the Fire Department and Sheriff Department to evaluate and approve as we progress. The first map should be complete no later than June 1, 2015. A large map can be displayed in the Recreation Department for use during planning meetings and smaller copies should be available as well.

ABC License:

- The ABC License should be submitted 6 weeks prior to the Festival and supplies to the City of Riverbank.

Permits:

- Any permits such as Tent permits should be obtained by the consultant in cooperation with the City of Riverbank approximately one month prior to the Festival. Clear communication to the Fire Chief on any tents used, booth layouts etc. shall be done in a timely manner.

Money Handling:

- A plan will be developed in association with the Riverbank Police Services for a safe and efficient money transfer policy during the event.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 3.D

SECTION 3: CONSENT CALENDAR

Meeting Date:	March 22, 2016
Subject/ Title:	A Resolution of the City Council of the City of Riverbank, California, Authorizing the Mayor to Execute a Lease with Chris Ricci Presents, Inc. for the Riverbank Cheese and Wine Festival
From:	Jill Anderson, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation

RECOMMENDATION

It is recommended that the City Council adopt the proposed resolution authorizing the Mayor to enter into a lease agreement with Chris Ricci Presents, Inc. for the area associated with the Cheese and Wine Festival held October 8, 2016 and October 9, 2016.

SUMMARY

The City of Riverbank ("City") plans to hold the 40th annual Cheese and Wine Festival ("Festival") on October 8th and 9th, 2016. The City has entered into an agreement with Chris Ricci Presents, Inc. ("Chris Ricci Presents") to provide event coordination for the Festival. In furtherance of the agreement with Chris Ricci Presents, City staff proposes that the City enter into a lease agreement with Chris Ricci Presents to temporarily lease the property upon which the Festival will be held on October 8, 2016 and October 9, 2016.

The resolution, if adopted, will authorize the Mayor to execute a lease agreement with Chris Ricci Presents.

BACKGROUND

The City has organized the Festival for a number of years and has previously worked with Chris Ricci Presents to coordinate and manage the Festival. The Festival continues to grow in size and popularity. The increased interest requires that Chris Ricci Presents and the City have more flexibility in managing the area and streets where the Festival will be held. The lease agreement does not charge rent to Chris Ricci Presents for the two-day lease but instead provides the City and Chris Ricci Presents

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

FINANCIAL IMPACT

There is no direct cost to the City in entering into the lease agreement. The City has already entered into a separate agreement with Chris Ricci Presents for their services.

ATTACHMENT

1. Proposed Resolution
2. Temporary Lease Agreement

CITY OF RIVERBANK

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE A LEASE WITH CHRIS
RICCI PRESENTS, INC. FOR THE RIVERBANK CHEESE AND WINE FESTIVAL**

WHEREAS, the City has previously entered into a contract with Chris Ricci Presents to provide event coordination for the annual Cheese and Wine Festival; and

WHEREAS, on March 22, 2016, an agreement with Chris Ricci Presents to provide such services was executed; and

WHEREAS, in furtherance of the partnership between the City of Riverbank and Chris Ricci Presents, Inc. the City desires to temporarily lease City-controlled property to Chris Ricci Presents for the Cheese and Wine Festival time period of October 8, 2016 through October 9, 2016; and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby authorizes the Mayor of the City to execute an agreement with Chris Ricci Presents to lease the property upon which the Cheese and Wine Festival for the time period of October 8, 2016 through October 9, 2016.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22nd day of March 2016, 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 Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

TEMPORARY LEASE AGREEMENT

THIS TEMPORARY LEASE AGREEMENT (the "Lease") is made and entered into on this 22nd day of March, 2016, by the City of Riverbank, a California municipal corporation (the "City"), and Chris Ricci Presents, Inc., a California corporation (the "Lessee"). City and Lessee shall be referred to herein individually as "Party" and collectively as the "Parties". There are no other parties to this Lease.

RECITALS

A. City desires to lease to Lessee certain real property, including any and all improvements, in the City of Riverbank, County of Stanislaus, State of California that will be used in conjunction with the services Lessee has agreed to provide for the Riverbank Cheese and Wine Festival, the scope of which is described in the Performance Agreement the City and Lessee entered into on March 22nd, 2016 and is attached hereto as **Exhibit A** (the "Property"); and

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

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

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

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

AGREEMENT

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

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

Section 3. Term of Lease. The term of this Lease shall be for a period of two (2) days ("Term") commencing on 6:00 a.m. October 8, 2016 and expiring 11:59 p.m. October 9, 2016 ("Expiration Date"). Either Party may terminate this Lease prior to the Expiration Date by providing the other Party written notice of the intent to terminate at least thirty (30) calendar days in advance of any early termination date.

Section 4. Condition of the Property. Lessee acknowledges and agrees that the Property is to be leased to Lessee in an “as is” condition with all faults. City does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property, its suitability for Lessee’s Intended Use (as defined below) or use of the Property or any such related matters. Lessee agrees with and represents to City, that the Property has been inspected by it and that the Lessee has been assured by means independent of City or City’s agents of the truth of all facts material to this Lease and that the Property is being leased by Lessee as a result of its inspection and investigation and not of a result of any representations made by City and City’s agents.

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

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

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

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

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

Any assignment or sublease without the prior written consent of City shall be void. City shall have the right to assign or transfer all or any part of this Lease or any rights to it at any time without Lessee's consent.

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

Such insurance shall also:

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

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

C. Contain standard separation of insured provisions.

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

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

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

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

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

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

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

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

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

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

If to Lessee: Chris Ricci Presents, Inc.
2501 Vienna Court
Modesto, California 95355
Attention: Chris Ricci

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

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

Section 20. General Provisions.

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

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

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

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

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

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

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

H. Waiver. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any

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

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

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

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

CITY:

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

By: _____
Richard O'Brien, Mayor

Approved as to Form:

By: _____
Tom Hallinan, City Attorney

Attest:

By: _____
Annabelle Aguilar, City Clerk

LESSEE:

Chris Ricci Presents, Inc., a California corporation

By: _____
Chris Ricci, President

Date: _____

EXHIBIT A
PERFORMANCE AGREEMENT

PROPOSED

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	March 22, 2016
Subject:	A Resolution of the City Council of the City Of Riverbank, California, Recommending That Stanislaus Local Agency Formation Commission (Lafco) Approve the Municipal Service Review (Msr) Update And Sphere Of Influence Plan Dated February 2016, Including the Proposed Sphere Of Influence Expansion And Establishment of An Area of Concern
From:	Jill Anderson, City Manager
Submitted by:	John B. Anderson, Consulting Planner

RECOMMENDATION

After consideration of public testimony, motion to adopt the proposed Resolution to authorize City staff to forward the MSR Update and Sphere of Influence Expansion dated February 2016 to Stanislaus LAFCo which will support an expanded SOI and the establishment of an "Area of Concern" that extends to the limits of the Riverbank General Plan boundaries.

SUMMARY

The City Council, during its Strategic Planning session held March 31, 2015, suggested that, under the three-year Goal of "Achieve and Maintain Financial Stability and Sustainability", the City would pursue an expanded SOI to include properties to the east as well as the west. This summary report is a follow-up to the Goals set by the City Council earlier this year.

The City's General Plan and General Plan EIR covers a large geographic area in and around Riverbank, encompassing some 6,010 acres. The public service demands of the General Plan area have been studied by Nolte Engineering with water, sewer and storm drainage infrastructure Master Plans being updated at the same time the General Plan of 2009 was adopted. The General Plan EIR fully analyzed the environmental impacts associated with an expanded City, and Staff will rely on these adopted documents to prepare all necessary applications with LAFCO.

The Riverbank City Council on September 22, 2015, adopted Resolution No. 2015-081, which directed staff to proceed with the preparation of the MSR Update and Sphere of

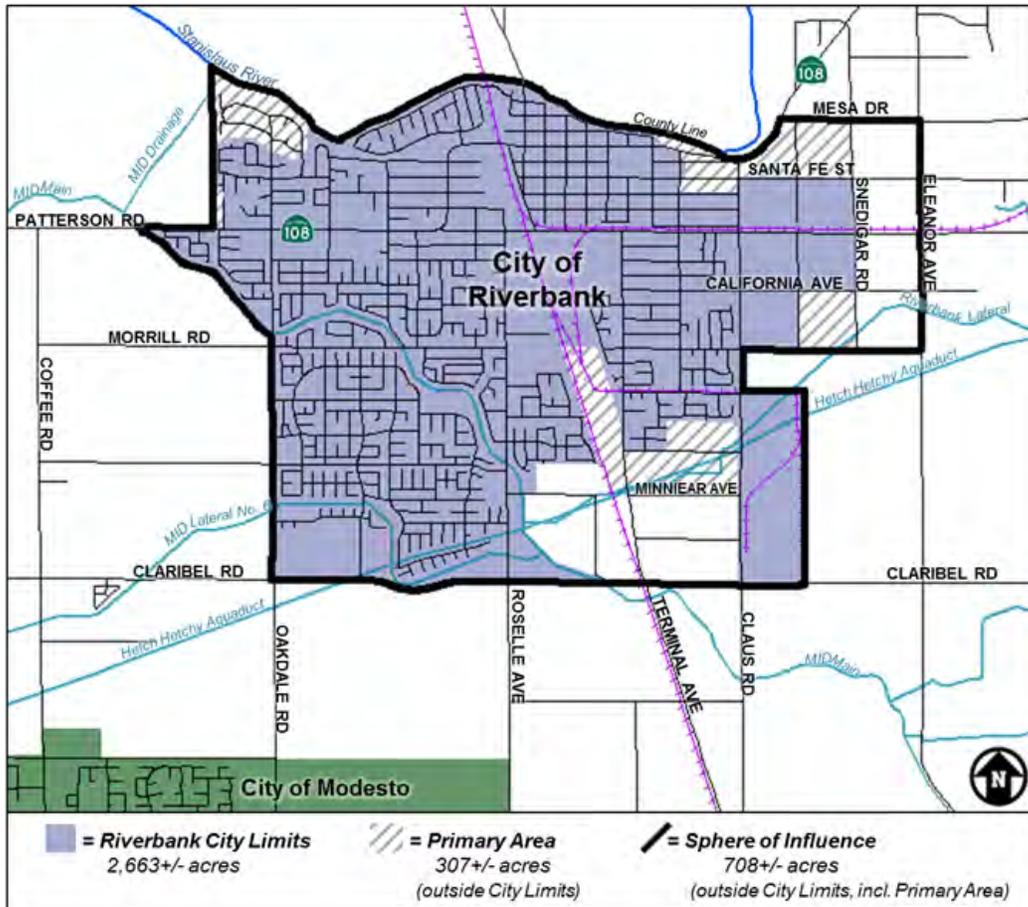
Influence Plan, and make the necessary applications to Stanislaus LAFCo to support the proposed SOI expansion. City Staff on January 22, 2016 filed its administrative Draft MSR Update and Sphere of Influence Plan with Stanislaus LAFCo. On February 22, 2016 a formal application along with the Final MSR Update and Sphere of Influence Plan dated February 2016 was presented to Stanislaus LAFCo for consideration. This final draft MSR Update has been made available to the public since February 22, 2016 at both North and South City Hall as well as being posted on the City's web-site under the Development Services – Planning Division link.

BACKGROUND

Stanislaus County LAFCO last approved a Municipal Service Review (MSR) for the City of Riverbank on June 26, 2013. The adopted MSR considered the City's existing SOI boundaries which were adopted by LAFCO on May 28, 1997. The existing SOI is comprised of 3,371 acres and includes all lands in the City limits. This existing SOI area is represented by 307 acres in the Primary SOI, and approximately 401 acres in the future growth area known as the 10 to 30 year growth area. The acreage calculations presented by Stanislaus County LAFCO as part of the adopted MSR exhibits presented in this staff report below are gross acres and include road rights of way, and lands controlled by BNSF Railroad. The actual documented land use acreages per the assessor's records includes approximately 708 acres and is comprised of a number of General Plan designations as illustrated in the Table A:

General Plan Designation	Average Density	Gross Acres	Net Buildable Acres	Dwelling Units	Population (3.42 per HH)	Building Sq. Ft.
Clustered Rural Residential (RR)	0.2 units per acre	0.00	0.00	0.00	0.00	N/A
Lower-Density Residential (LDR)	5 units per acre	246.85	172.79	863.97	2954.79	N/A
Medium-Density Residential (MDR)	10 units per acre	131.24	91.87	918.70	3141.97	N/A
Higher-Density Residential (HDR)	18 units per acre	26.27	18.39	331.00	1132.03	N/A
Mixed-Use (MU)	18 units per acre	4.95	3.47	62.41	213.43	29,054.30
Parks (P)	N/A	5.00	N/A	N/A	N/A	N/A
Buffer/Greenway/Open Space (B/G/OS)	N/A	12.05	N/A	N/A	N/A	N/A
Civic	N/A	10.39	N/A	N/A	N/A	N/A
Multi-Use Recreation/Resource Management (MUR/R)	N/A	4.02	N/A	N/A	N/A	N/A
Community Commercial (CC)	0.25 FAR	0.00	0.00	N/A	N/A	0.00
Industrial / Business Park (I/BP)	0.25 FAR	109.33	76.53	N/A	N/A	809,584.42
BNSF and ROW	N/A	98.10	N/A	N/A	N/A	N/A
River Heights (Developed)	N/A	52.37	N/A	N/A	N/A	
East Riverbank Parcels (Developed)	N/A	7.13	N/A	N/A	N/A	N/A
Total		707.70	363.05	2,176	7,442	838,639

The existing SOI for Riverbank is illustrated below:



Source: Stanislaus LAFCO, May 2013

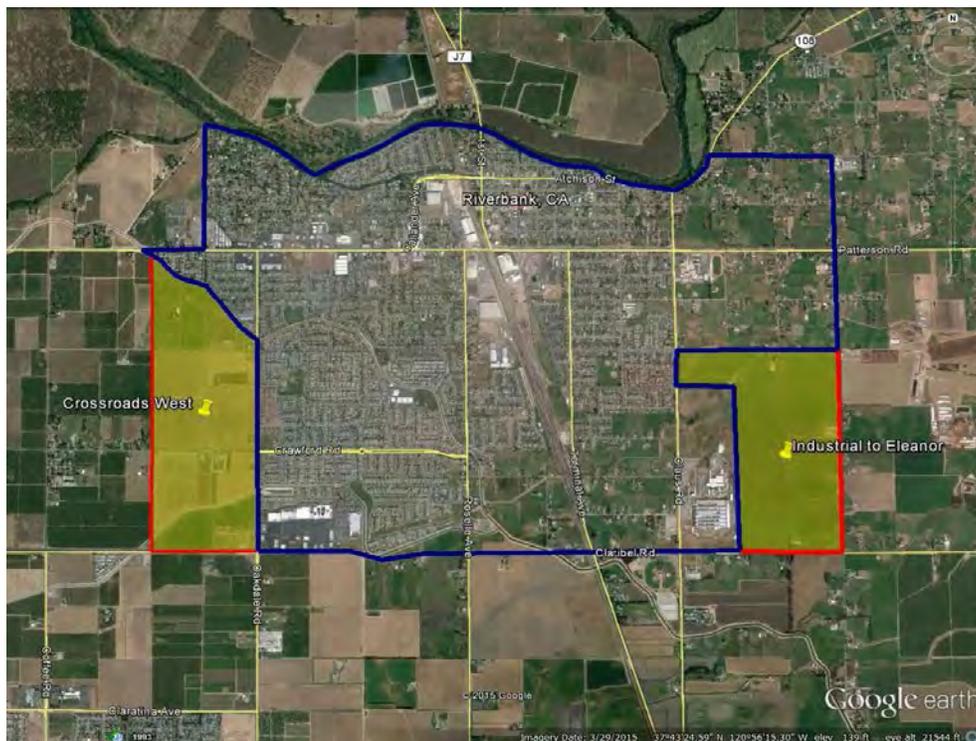
Historically the City of Riverbank has taken a conservative approach with the adoption of its SOI boundaries. The City Council in 2009 chose not to pursue an expanded SOI boundary with the Riverbank General Plan and instead suggested that any new growth areas would be handled on a case by case basis. This approach is contrary to the strategies being employed by other cities in Stanislaus County, but is not unusual.

During the City Council’s deliberations on this matter in September 2015, the Council selected Option 1 – to pursue possible expansion of the SOI to accommodate specific projects like the proposed Specific Plan for a 404 acre area (currently known as Crossroads West) and additional lands of about 237 acres to the east of the Riverbank Industrial Complex, to accommodate additional industrial development. Table B describes the Land Use statistics for the area in question as well as General Plan details of the expanded SOI. This is in addition to the existing SOI described in Table A above and represents net acreage available to be developed.

Option 1: Primary Area of Influence - Total						
General Plan Designation	Average Density	Gross Acres	Net Buildable Acres	Dwelling Units	Population (3.42 per HH)	Commercial Sq. Ft.
Clustered Rural Residential (RR)	0.2 units per acre	0.00	0.00	0.00	0.00	N/A
Lower-Density Residential (LDR)	5 units per acre	203.18	142.23	711.13	2432.06	N/A
Medium-Density Residential (MDR)	10 units per acre	209.26	146.48	1464.83	5009.71	N/A
Higher-Density Residential (HDR)	18 units per acre	18.92	13.24	238.39	815.30	N/A
Mixed-Use (MU)	18 units per acre	5.08	3.56	64.03	218.98	29,809.40
Parks (P)	N/A	48.67	N/A	N/A	N/A	N/A
Buffer/Greenway/Open Space (B/G/OS)	N/A	8.57	N/A	N/A	N/A	N/A
Civic	N/A	34.89	N/A	N/A	N/A	N/A
Multi-Use Recreation/Resource Management (MUR/R)	N/A	13.80	N/A	N/A	N/A	N/A
Community Commercial (CC)	0.25 FAR	87.31	61.12	N/A	N/A	658,673.00
Industrial / Business Park (I/BP)	0.25 FAR	98.76	69.13	N/A	N/A	731,347.43
Right-of-Way	N/A	29.22	N/A	N/A	N/A	N/A
Total		757.66	435.76	2478.38	8,476	1,419,830

The area to the east of Riverbank is of special interest in light of discussions with Stanislaus County representatives concerning the North County Corridor (NCC) and what alternative circulation opportunities might result if the NCC were to be built in the future. City Staff has expressed concerns that the NCC would restrict the free flow of traffic circulation on the East side of town as direct access to the NCC would be prohibited. In fact, access would be restricted to urban interchanges with the closet one being planned at the Claus/Claribel intersection. These circumstances support the acceptance of SOI Option 1 presented above.

Option 1 – Expanded SOI west and east.

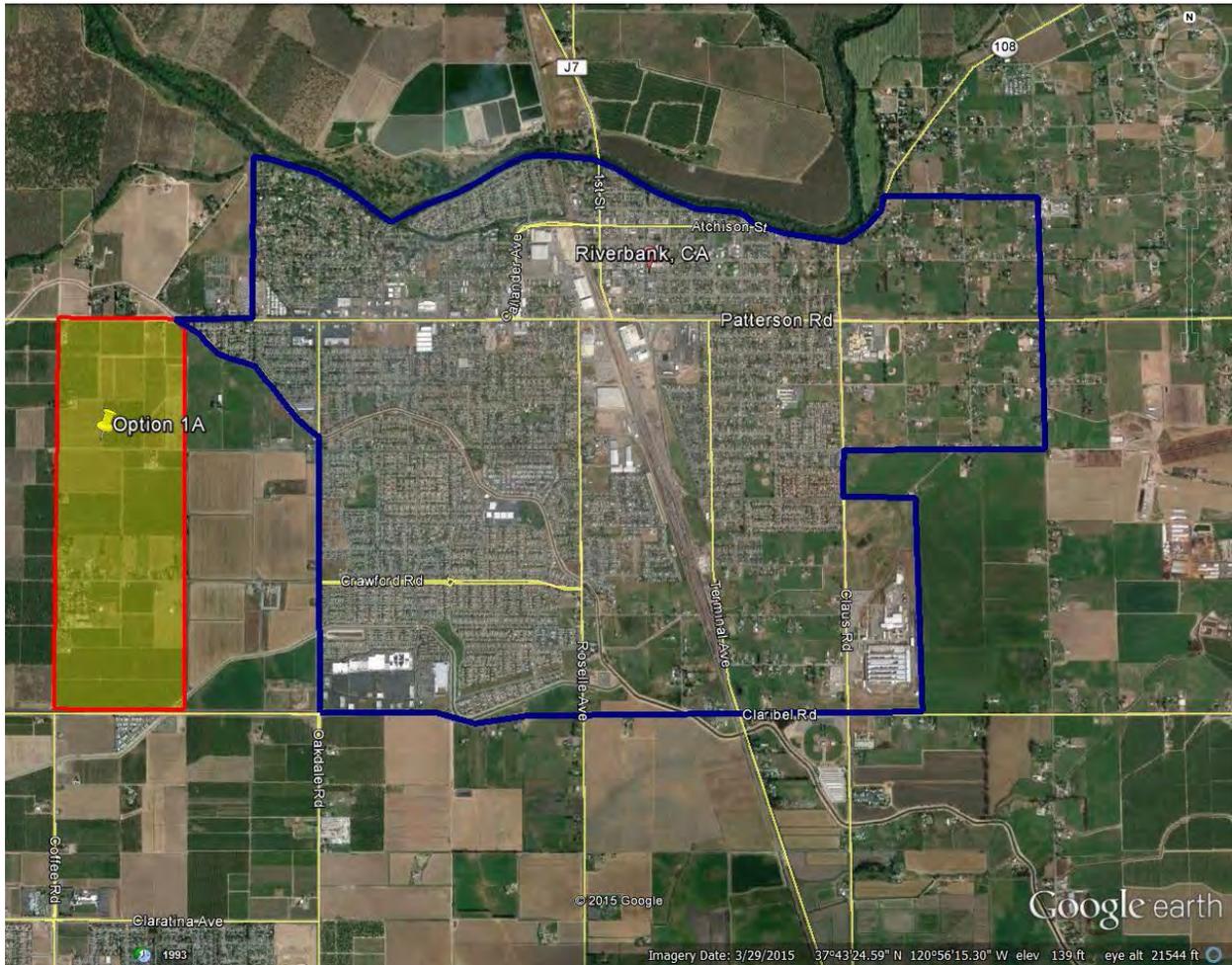


Option 1A – During the City Council workshop on the SOI expansion conducted on August 11, 2015, the City Council directed staff to study two possible additional areas to be added to the SOI expansion effort. For the purposes of this staff report, I will reference these as Options 1A and 1B. Option 1A would suggest adding about 485 acres to Option 1 and would add territory to the west of the proposed Crossroads West Specific Plan to Coffee Road. Table C describes the Land Use statistics for the area in question as well as General Plan details of the expanded SOI. These land use figures would need to be added to the land use statics explained under Option 1 above.

Table C						
Option 1A: East to Coffee Road						
General Plan Designation	Average Density	Gross Acres	Net Buildable Acres	Dwelling Units	Population (3.42 per HH)	Commercial Sq.
Clustered Rural Residential (RR)	0.2 units per acre	0.00	0.00	0.00	0.00	N/A
Lower-Density Residential (LDR)	5 units per acre	300.10	210.07	1050.36	3592.25	N/A
Medium-Density Residential (MDR)	10 units per acre	109.06	76.34	763.39	2610.80	N/A
Higher-Density Residential (HDR)	18 units per acre	4.58	3.21	57.70	197.32	N/A
Mixed-Use (MU)	18 units per acre	0.00	0.00	0.00	0.00	0.00
Parks (P)	N/A	8.78	N/A	N/A	N/A	N/A
Buffer/Greenway/Open Space (B/G/OS)	N/A	5.34	N/A	N/A	N/A	N/A
Civic	N/A	24.37	N/A	N/A	N/A	N/A
Multi-Use Recreation/Resource Management (MUR/R)	N/A	0.00	N/A	N/A	N/A	N/A
Community Commercial (CC)	0.25 FAR	0.69	0.48	N/A	N/A	5,205.29
Industrial / Business Park (I/BP)	0.25 FAR	0.00	0.00	N/A	N/A	0.00
Right-of-Way	N/A	32.67	N/A	N/A	N/A	N/A
Total		485.59	290.10	1,871	6,400	5,205

The City Council in September of 2015 added Option 1A above to the proposed SOI, but designating this area in the 10 to 30 year growth horizon and not a primary growth area meaning 0 to 10 year growth horizon.

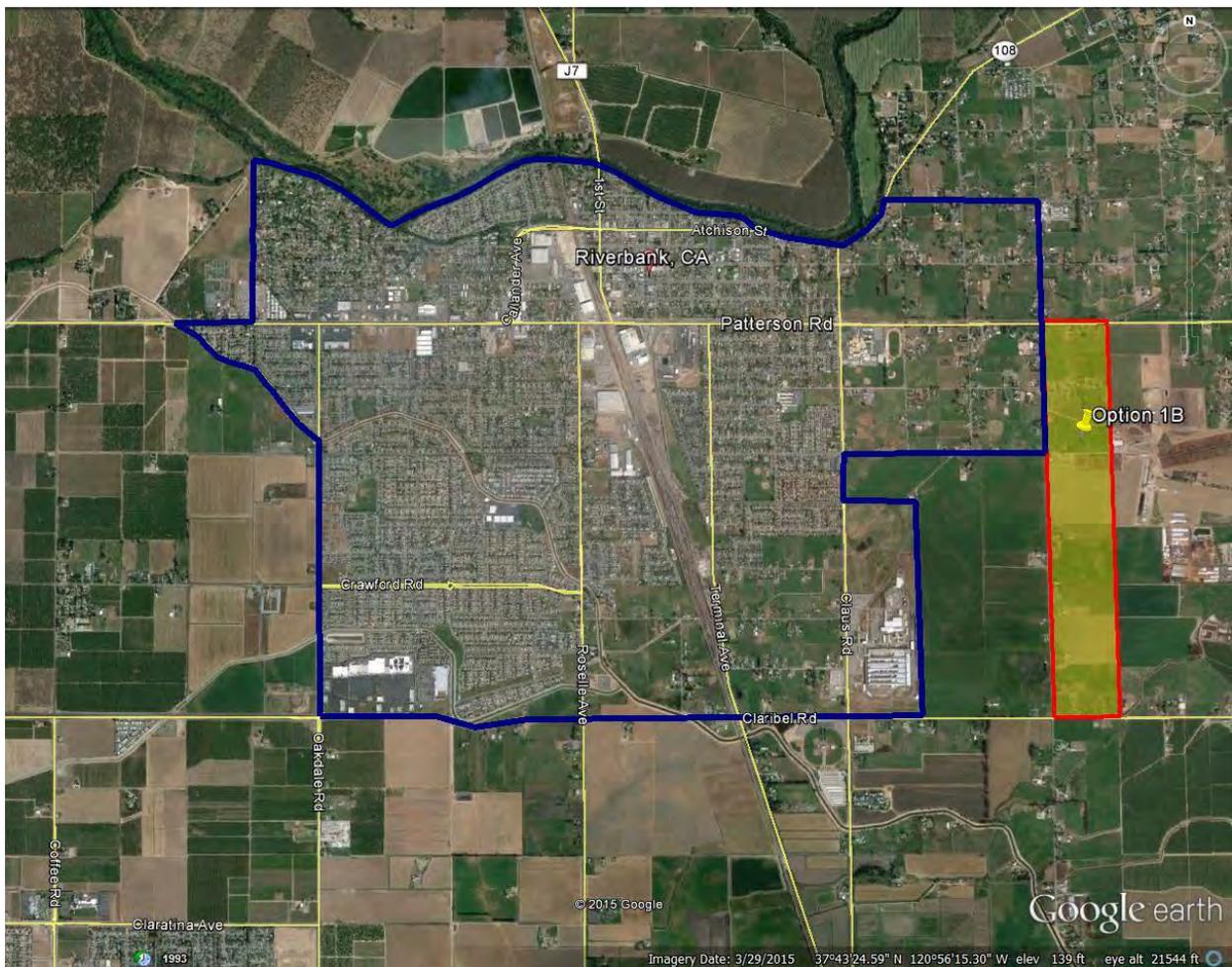
Option 1A – Lands westerly of Option 1 towards Coffee Road.



Option 1B – Option 1B would suggest adding about 237 acres to Option 1, and would add territory to the east of Eleanor from Patterson Road south to Claribel. Table D describes the Land Use statistics for the area in question as well as General Plan details of the expanded SOI. These land use figures would need to be added to the land use statics explained under Option 1 above. The City Council in September of 2015 added Option 1B above to the SOI, but designating this area in the 10 to 30 year growth horizon and not a primary growth area meaning 0 to 10 year growth horizon.

Table D						
Option 1B: East past Eleanor						
General Plan Designation	Average Density	Gross Acres	Net Buildable Acres	Dwelling Units	Population (3.42 per HH)	Commercial Sq.
Clustered Rural Residential (RR)	0.2 units per acre	200.17	200.17	40.03	136.92	N/A
Lower-Density Residential (LDR)	5 units per acre	0.00	0.00	0.00	0.00	N/A
Medium-Density Residential (MDR)	10 units per acre	0.00	0.00	0.00	0.00	N/A
Higher-Density Residential (HDR)	18 units per acre	0.00	0.00	0.00	0.00	N/A
Mixed-Use (MU)	18 units per acre	0.00	0.00	0.00	0.00	0.00
Parks (P)	N/A	0.00	N/A	N/A	N/A	N/A
Buffer/Greenway/Open Space (B/G/OS)	N/A	3.46	N/A	N/A	N/A	N/A
Civic	N/A	0.00	N/A	N/A	N/A	N/A
Multi-Use Recreation/Resource Management (MUR/R)	N/A	0.00	N/A	N/A	N/A	N/A
Community Commercial (CC)	0.25 FAR	0.00	0.00	N/A	N/A	0.00
Industrial / Business Park (I/BP)	0.25 FAR	30.04	21.03	N/A	N/A	222,455.21
Right-of-Way	N/A	3.40	N/A	N/A	N/A	N/A
Total		237.07	221.20	40	137	222,455

Option 1B – Lands easterly of Eleanor



ANALYSIS

The City of Riverbank has not amended its SOI since 1997, which contains roughly 707 acres. The action suggested herein is an effort to update the City's growth opportunities according to the adopted Riverbank General Plan 2005-2025.

The City of Riverbank proposes to update the MSR and increase its SOI (and Primary Area of Influence) by approximately 1,390 acres. Specific changes to the SOI include the following:

- Extend the existing Primary Area of Influence boundary west to Coffee Road to include the entirety of the proposed Crossroads West Specific Plan (404± acres) and east to Eleanor Avenue (353 acres) – 758± acres.
- Extend the existing SOI boundary west to Coffee Road and east past Eleanor Avenue – 722 acres.
- Total proposed increase to the SOI – 1,479± acres.
- Total SOI would result in 2,187 acres, including the City's existing SOI of 708± acres.
- The City's SOI would contain a total of 4,850 acres (or 2,187± acres beyond the current City limits).

Summary of Proposed Sphere of Influence

	Including Lands In City Limits	Excluding Lands In City Limits
Current SOI Acreage	3,371 acres	708 acres
Proposed SOI Acreage	4,850 acres	2,187 acres
Overall SOI Acreage Increase	1,479 acres	1,479 acres

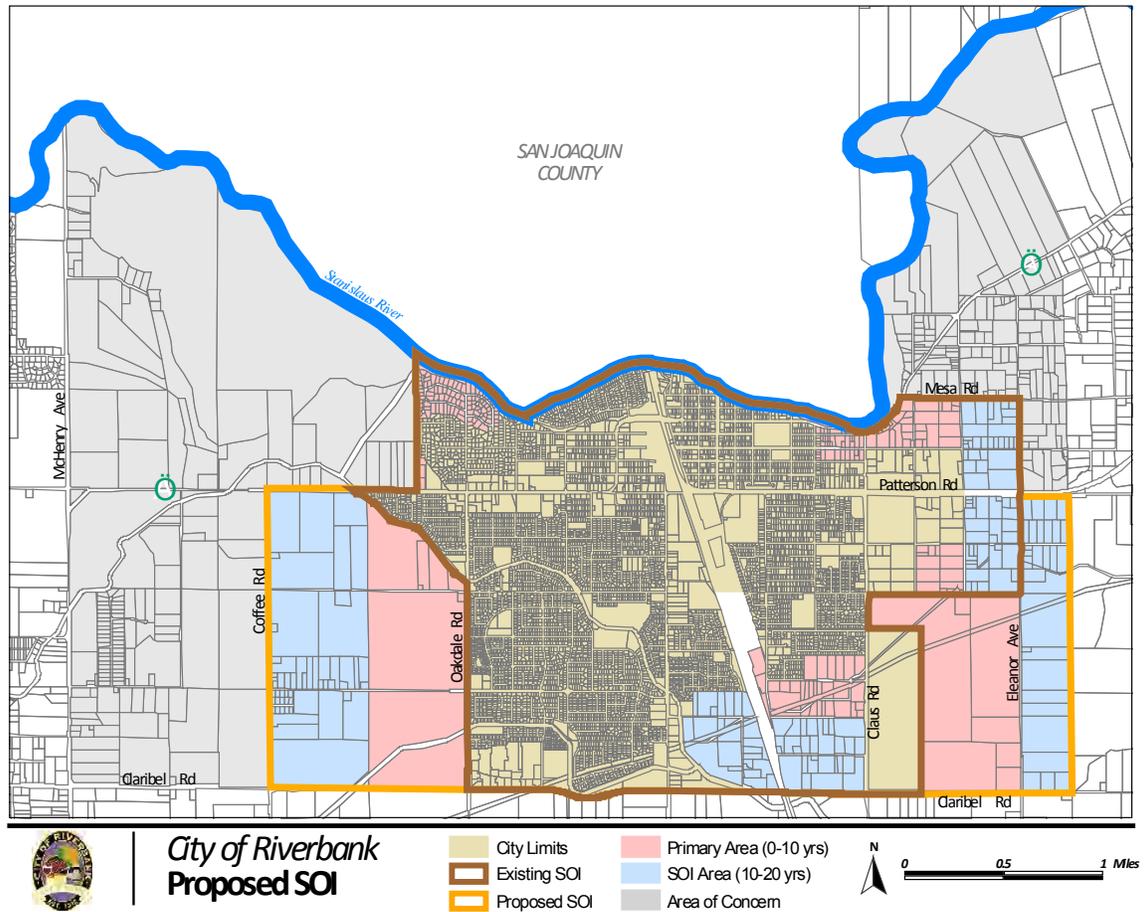
Together, these changes comprise what will be henceforth referred to as the proposed action, or proposed SOI expansion.

The City has also identified areas east and west of its SOI as an "Area of Concern" shown in Figure 1 below. Stanislaus LAFCO defines an Area of Concern as follows:

- **Area of Concern:** a geographic area beyond the Sphere of Influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency (the "Concerned Agency")."

The City's identified Area of Concern includes the remainder of the City's General Plan Area, as shown in Figure 1 and includes lands east and west of the City's proposed SOI expansion. To the west, the Area of Concern will extend to McHenry Avenue and north to the Stanislaus River. To east, the Area of Concern will extend past Eleanor Avenue and north to the Stanislaus River as discussed above, Figure 1 below shows the proposed SOI expansion, including the Area of Concern.

Figure 1: Proposed Sphere of Influence.



The Area of Concern designation does not denote any particular sphere of influence proposal at this time, but represents the area that the City of Riverbank, as the Concerned Agency, wishes to be considered during any potential land use decisions by the County, as the Acting Agency. The City of Riverbank will work cooperatively with Stanislaus County to ensure that agency contact notifications are received by the City of Riverbank for projects proposed in Stanislaus County.

ENVIRONMENTAL DETERMINATION

The City of Riverbank's proposed SOI expansion is subject to review under the California Environmental Quality Act (Pub. Res. Code § 21000 et seq., "CEQA"; 14 Cal. Code Reg. § 15000 et seq., the "CEQA Guidelines"). Where a project has been previously analyzed at a programmatic level, the CEQA standard for supplemental environmental review applies:

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

(Pub. Res. Code § 21166.)

The City of Riverbank included the proposed SOI expansion as part of its Planning Area in its 2005-2025 General Plan Update ("General Plan"). In addition, future SOI expansions related to the Planning Area (including the proposed SOI expansion) were included as part of the Project Description and analyzed as part of the programmatic environmental review of the General Plan EIR (SCH#2006092051), which the City Council certified in 2009. (General Plan EIR, p. 3-19, 3-19.) The proposed SOI expansion therefore constitutes a portion of the project that was analyzed under the General Plan EIR.

The General Plan Land Use Diagram, as analyzed under the General Plan EIR shows the land use designations of the General Plan area, including those portions of the Planning Area that include the proposed SOI expansion.

The General Plan EIR noted that the City would seek SOI expansions in phases, with the intent that the build-out assumptions of each proposed SOI expansion would be consistent with the build-out assumptions analyzed in the General Plan EIR. (General Plan EIR, p. 3-18, 3-19) The General Plan EIR analyzed build-out of the entire General Plan Planning Area, which assumed maximum build-out of the City and the proposed Planning Area would reach a population of approximately 52,500, with the addition of

approximately 10,700 new dwelling units, and 3,300,000 additional square feet of commercial and industrial building space. (General Plan EIR, p. 3-18, 3-19.)

The General Plan EIR determined that build-out of the Planning Area, as a whole, would result in significant impacts to (1) aesthetics and scenic vistas; (2) agricultural resources from the loss of prime farmland, Williamson Act contracts, and agricultural conversion; (3) air quality impacts due to construction-related activities, long-term operational emissions, toxic air contaminants and odors; (4) noise from transportation-related activities, and stationary sources; (5) traffic and transportation impacts related to levels of service for three roadways and one railroad crossing; and (6) utilities, where the expansion of water supply and treatment facilities may result in construction-related and other environmental impacts.

The City of Riverbank has reviewed the proposed SOI expansion and found that it falls within the programmatic analysis provided in the General Plan EIR, as the footprint of the proposed SOI expansion was included within the Planning Area of the General Plan EIR. The proposed SOI expansion therefore does not contain any new or significant changes, circumstances or information that varies from the build-out assumptions that were analyzed under the General Plan EIR.

FISCAL IMPACT

The proposed action has required Staff to update the adopted MSR and file an application with Stanislaus County LAFCO. The City Council has previously authorized funds to complete the process and has therefore budgeted expenses in excess of \$50,000 for the entire process and application with Stanislaus LAFCo.

STRATEGIC GOALS

As part of the City Councils adopted Strategic Objectives March 31, 2015 – September 15, 2015 under the three-year Goal to Achieve and Maintain Financial Stability and Sustainability, item 8 states the City Manager and Contract Community Development Director shall “Present and the final Sphere of Influence for the East and West side of Riverbank to the City Council for consideration”. This action is consistent with this three - year goal.

ALTERNATIVE ACTIONS

1. Modify Staff’s recommendations to remove or exclude certain properties as articulated by the City Council as a result of testimony heard as part of the noticed public hearing.
2. No action.

ATTACHMENTS

1. Proposed Resolution
2. City Council Resolution No. 2015-081 adopted September 22, 2015

WEB - LINKS

1. City of Riverbank Municipal Services Review and Sphere of Influence Update
<http://www.riverbank.org/DocumentCenter/Home/View/845>

CITY OF RIVERBANK

RESOLUTION NO. 2016-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, RECOMMENDING THAT STANISLAUS LOCAL AGENCY FORMATION COMMISSION (LAFCo) APPROVE THE MUNICIPAL SERVICE REVIEW (MSR) UPDATE AND SPHERE OF INFLUENCE PLAN DATED FEBRUARY 2016, INCLUDING THE PROPOSED SPHERE OF INFLUENCE EXPANSION AND ESTABLISHMENT OF AN AREA OF CONCERN

WHEREAS, City Council at their Strategic Planning session of March 31, 2015 set forth a goal to expand study the expansion of the City's adopted Sphere of Influence (SOI) both to the east and west; and

WHEREAS, City Council conducted a study session on August 11, 2015 to consider possible SOI options, considered public testimony and gave staff feedback as to desired SOI options; and

WHEREAS, the Riverbank General Plan 2005-2025 adopted in 2009 identified specific land uses for all areas within the planned growth areas in and surrounding the City of Riverbank; and

WHEREAS, The Riverbank City adopted Resolution No. 2015-081 on September 22, 2015 authorizing staff to proceed with the preparation of a Municipal Service Review Update and Sphere of Influence Plan as well as prepare the necessary applications for submittal of a formal application to Stanislaus LAFCo; and

WHEREAS, the proposed SOI is in keeping with the boundaries established with the adopted General Plan; and

WHEREAS, the proposed SOI has required an update to the adopted MSR document to support the SOI boundary area as directed by the City Council; and

WHEREAS, The City of Riverbank has reviewed the proposed SOI expansion and found that it falls within the programmatic analysis provided in the General Plan EIR, as the area of the proposed SOI expansion was included entirely within the Planning Area of the General Plan EIR. The proposed SOI expansion therefore does not contain any new or significant changes, circumstances or information that varies from the build-out assumptions that were analyzed under the General Plan EIR; and

WHEREAS, notice of the public hearing on the proposed MSR Update and Sphere of Influence Plan was published in the *Riverbank News*, a newspaper of general circulation, on March 9, 2016; and

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVERBANK HEREBY:

1. That, based on the findings set forth in this Resolution, the evidence in the City Staff Report, and such other evidence as received at the public hearings on this matter, the City Council hereby recommends that Stanislaus LAFCo approve the MSR Update and Sphere of Influence Plan dated February 2016 as presented and based on the boundary determinations made by the City Council which are illustrated in Exhibit A attached hereto.
2. That the MSR Update Sphere of Influence Plan proposes the creation of a "Primary Area of Influence", as established by LAFCo policy, which follows the adopted Riverbank General Plan boundary.
3. The City of Riverbank included the proposed SOI expansion as part of its Planning Area in its 2005-2025 General Plan Update ("General Plan"). In addition, future SOI expansions related to the Planning Area (including the proposed SOI expansion) were included as part of the Project Description and analyzed as part of the programmatic environmental review of the General Plan EIR (SCH#2006092051), which the City Council certified in 2009. (General Plan EIR, p. 3-19, 3-19.) The proposed SOI expansion therefore constitutes a portion of the project that was analyzed under the General Plan EIR.
4. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City Council of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22th day of March, 2016; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:
NAYS:
ABSENT:
ABSTAIN:

ATTEST:

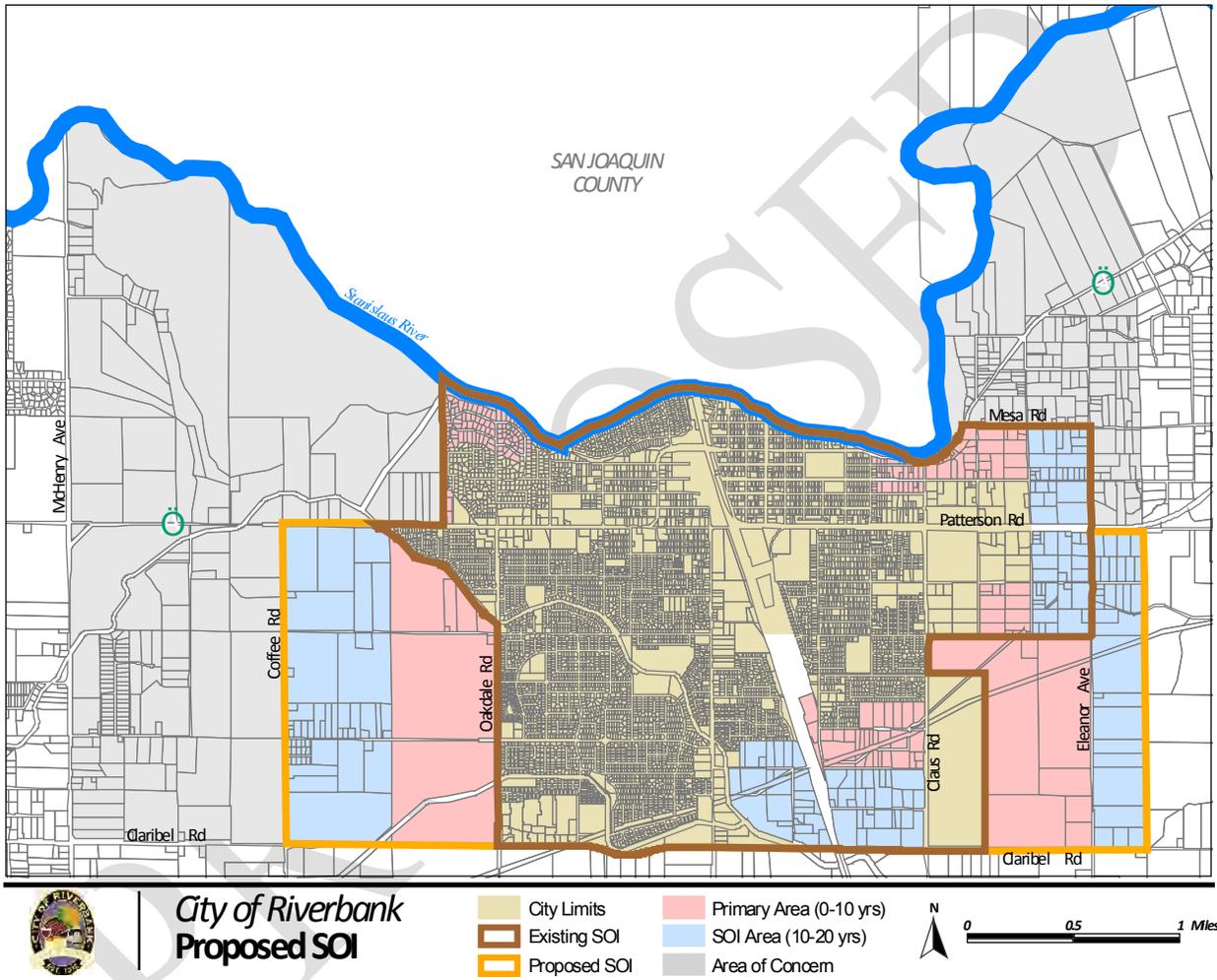
Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

Attachments: Exhibit A – Proposed Sphere of Influence

EXHIBIT A



City of Riverbank
Proposed SOI

- City Limits
- Existing SOI
- Proposed SOI
- Primary Area (0-10 yrs)
- SOI Area (10-20 yrs)
- Area of Concern



CITY OF RIVERBANK

RESOLUTION NO. 2015-081

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AUTHORIZING THE PREPARATION OF AN UPDATED
MUNICIPAL SERVICE REVIEW (MSR) AND APPLICATION TO STANISLAUS
COUNTY LAFCO TO EXPAND THE CITY OF RIVERBANK'S SPHERE OF
INFLUENCE (SOI)**

WHEREAS, City Council at their Strategic Planning session of March 31, 2015 set forth a goal to expand study the expansion of the adopted SOI both to the East and West; and

WHEREAS, City Council conducted a study session on August 11, 2015 to consider possible SOI options, considered public testimony and gave Staff feedback as it relates to desired SOI options; and

WHEREAS, the Riverbank General Plan 2005-2025 adopted in 2009 identified specific land uses for all areas within the planned growth areas in and surrounding the City of Riverbank; and

WHEREAS, the proposed SOI is in keeping with the boundaries established with the adopted General Plan; and

WHEREAS, the proposed SOI will require an update to the adopted MSR document which would support the SOI boundary area as directed by the City Council;

WHEREAS, notice of the public hearing on the proposed Sphere of Influence to be studied by staff was published in the *Riverbank News*, a newspaper of general circulation, on September 2, 2015; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL
OF THE CITY OF RIVERBANK HEREBY:**

1. That, based on the findings set forth in this Resolution, the evidence in the City Staff Report, and such other evidence as received at the public hearings on this matter before the City Council hereby authorizes staff to prepare an updated MSR to support the boundary determinations made by the City Council which are illustrated in **Attachment A**.

2. That the City Council expects the final MSR to be approved by the City Council before a formal application is filed with Stanislaus County LAFCO.
3. That the update MSR and LAFCO application will propose the creation of an "Area of Interest" as recognized in the Cortese/Know/Hertzberg Local Government Reorganization Act of 2000 (Government Section 5600 et seq.) which follows the adopted Riverbank General Plan boundary.
4. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City Council of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

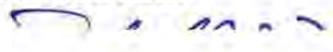
PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22th day of September, 2015; motioned by Councilmember Cal Campbell, seconded by Councilmember Jeanine Tucker, and upon roll call was carried by the following City Council vote of 5-0:

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

ATTEST:

Annabelle Aguilar CMC
City Clerk

APPROVED:



Richard D. O'Brien
Mayor

Attachments: Exhibit A – SOI Study Boundary Map

EXHIBIT A



RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARING

Meeting Date:	March 22, 2016
Subject:	A Resolution of the City Council of the City of Riverbank, California, Recommending Approval of the Riverbank Sustainable Agricultural Strategy Dated February 2016
From:	Jill Anderson, City Manager
Submitted by:	John B. Anderson, Consulting Planner

RECOMMENDATION

After consideration of public testimony, motion to approve a Resolution adopting, as a policy document, the Riverbank Sustainable Agricultural Strategy dated February 2016.

SUMMARY

The City Council, during its Strategic Planning session held March 31, 2015, suggested that, under the three-year Goal of “Achieve and Maintain Financial Stability and Sustainability”, the City would pursue an expanded SOI to include properties to the east as well as the west. This summary report is a follow-up to the goals set by the City Council earlier this year.

The Riverbank City Council on September 22, 2015, adopted Resolution No. 2015-081 and directed staff to proceed with the preparation of the MSR Update and Sphere of Influence Plan and make the necessary applications to Stanislaus LAFCo to support the proposed SOI expansion. City Staff on January 22, 2016 filed an administrative Draft MSR Update and Sphere of Influence Plan with Stanislaus LAFCo. On February 22, 2016 a formal application along with the final MSR dated February 2016 and Sphere Plan was presented to Stanislaus LAFCo for consideration.

Stanislaus LAFCo Policy 22 requires any City or Special District to present a Plan for Agricultural Preservation for any sphere of influence modification and/or annexation request. It is the intent of Stanislaus LAFCo to review Riverbank’s Agricultural Preservation Plan in accordance with Policy 22 and all of its stated objectives. The Riverbank Sustainable Agricultural Strategy is being presented for Council consideration to support the MSR Update and Sphere of Influence Plan, as required by LAFCo Policy 22.

BACKGROUND

Stanislaus County LAFCO is expressly charged with preserving agricultural lands under its governing statutes, the Cortese-Know-Hertzberg Act (Government Code Section 56000 et seq.). Pursuant to these statutes, LAFCo must assess each proposal's impact to agricultural lands. Further the LAFCo Commission is required by State law to establish written policies and procedures that encourage and exercise its powers in a manner that provides for planned, well-ordered, efficient urban development in patterns with appropriate consideration for preservation of open-space and agricultural lands (Section 56300(a)). Stanislaus LAFCo Policy 22 is intended to comply with Government Codes Section 56000 et seq.

The Riverbank 2005-2025 General Plan includes goals, policies and implementation programs that aim to sustain and preserve existing and future agricultural lands. The Riverbank General Plan Policy states:

Goal LAND-1 – Managed Urban Growth that Benefits the Entire Community.

Policy LAND-1.1 – The City will only allow annexation of land that is: 1) adjacent to existing developed portions of the City, or 2) adjacent to lands with available urban services and located within an area designated in the General Plan for urban development.

Policy LAND-1.2 – The City supports LAFCO policy to develop vacant and underutilized land within the City prior to entertaining any annexation, if such land can meet the same need as the land proposed for annexation.

Goal CONS-3 – Support the Practice of Agriculture and the Resources Associated with Farming in the Riverbank Planning Area and Beyond.

Policy CONS-3.1 – The City will prepare a comprehensive Sustainable Agricultural Strategy intended to conserve agricultural production in the Stanislaus River Watershed, herein defined as the area within Stanislaus County and San Joaquin County between the Tuolumne and Calaveras Rivers, attributable to implementation of the 2025 General Plan. This strategy should provide flexibility so that it can be tied to land-use and regional agricultural preservation policies, and is intended to be funded on a fair-share basis by those projects that have a significant impact on the conversion of Important Farmlands, a non-renewable resource, to urban use. In determining a level of significance, it is the intent of the City to use quantifiable, measurable inputs and if a project has a significant impact on Farmland resources, then the project will mitigate for this impact.

Policy CONS-3.2 – Ongoing agricultural practices on fertile lands in the western portion of the Riverbank Planning Area shall be protected from encroachment of urban use through the use of buffers. The buffers should also protect residential development from the effects of existing agricultural operations. The buffer shall

be designed to protect the feasibility of ongoing agricultural activities on nearby lands and reduce the effects of noise, dust and the application of agricultural chemicals on residential development. The width of the buffer shall be 300 feet, except that the width of the buffer may be reduced where a project applicant demonstrates that a narrower buffer would protect the feasibility of ongoing agricultural activities on nearby lands and reduce the effects of noise, dust, and the application of agricultural chemicals on residential development. Buffer areas may remain as open space or may be used for storm water management; renewable energy production; community recreation amenities; or any other allowed use consistent with this policy.

The Adoption of the Sustainable Agricultural Strategy presented is intended to implement General Plan Policy CONS 3.1, restated above.

ANALYSIS

The Riverbank General Plan serves as an excellent tool to evaluate the potential lands which might be impacted by urban development as the City grows. Presented below are the impacts identified with the Riverbank 2005-2025 General Plan/

IMPACT 4.3-1

Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to Non-Agricultural Use. Approximately 5,351 acres (62%) of the Riverbank Planning Area consists of important farmland, of which approximately 3,431 acres (40%) is Prime Farmland. Build-out of the proposed General Plan would result in conversion of important farmland resources. This impact would be significant and unavoidable.

Conversion of Prime soils to nonagricultural production uses is considered a significant adverse impact under CEQA. The proposed General Plan allows for the development of urban uses on undeveloped land within the Planning Area, large areas of which are classified by the California Department of Conservation as Prime Farmland, Farmland of Statewide Importance and Unique Farmland. Implementation of the land uses proposed within the Planning Area would result in the conversion of Prime Farmland, Farmland of Statewide Importance, and Unique Farmland to nonagricultural use.

Approximately 5,351 acres (62%) of the Riverbank Planning Area consists of important farmland (Prime Farmland, Unique Farmland, and Farmland of Statewide Importance), of which 3,431 acres (40%) consists of Prime Farmland soils.

Proposed General Plan goals, policies, and implementation programs seek to balance goals for urban growth and development with goals for resource conservation, including agricultural resource conservation. The General Plan update describes anticipated population and employment increases, much of which would occur through growth of the City outward. Riverbank, like most central valley communities, is surrounded by high-quality farmland. Outward urban development of the City in any direction would involve some loss of farmland. Overall, the City's General Plan goals and policies are designed to promote orderly and

compact development, that overall reduces the level of unnecessary conversion of agricultural land. The General Plan includes goals and policies that prevent leap-frog development, require clustered development in certain locations, prevent urban sprawl, encourage compact and mixed-use development, promote infill development and revitalization, and protect ongoing agricultural operations from nuisance complaints. Relevant policies are found in the Conservation and Open Space Element and the Land Use Element of the City's General Plan Update. For example:

- ▶ (Policy CONS-3.2) Ongoing agricultural practices on fertile lands in the western portion of the Riverbank Planning Area shall be protected from encroachment of urban use through the use of buffers. Buffers shall be designed to reduce complaints of new residents attributable to noise, dust, odor, and other typical complaints.
- ▶ Policy LAND-1.1: The City will only allow annexation of land that is: 1) adjacent to existing, developed portions of the City, 2) adjacent to lands with available urban services and located within an area designated in the General Plan for urban development, or 3) rural residential land that does not need public infrastructure.
- ▶ Policy LAND-1.2: The City supports LAFCO policy to develop vacant and underutilized land within the City prior to entertaining any annexation if such land can meet the same need as the land proposed for annexation.
- ▶ Policy LAND-1.3: Annexation will be preceded by a City evaluation to determine the level of urban services necessary and financing of infrastructure and services by annexation proponents.
- ▶ Policy LAND-1.4: Existing infrastructure in areas seeking annexation will be evaluated to determine the costs necessary to bring such infrastructure up to City standards.
- ▶ Policy LAND-1.5: The City will pre-zone land within the Sphere of Influence consistent with the General Plan prior to annexation.

Goal Land-5: Full Range of Public Services and Facilities for All Areas of the Community

- ▶ Policy LAND-5.2: Infill development will be given priority to remaining capacity for water supply and delivery, wastewater treatment and conveyance, storm water collection and conveyance, and other services and infrastructure currently in place. Development impact fees shall reflect the existing capacity to serve infill development areas. Any urban development of new growth areas shall plan and finance necessary infrastructure and service expansion to serve those areas.
- ▶ Policy LAND-1.2: The City supports LAFCO policy to develop vacant and underutilized land within the City prior to entertaining any annexation if such land can meet the same need as the land proposed for annexation.
- ▶ Policy LAND-2.3: The City will encourage re-use of vacant or underutilized land in the Infill Opportunity Area through policies that seek to encourage more intense infill development.

► Policy LAND-3.3: The City will encourage “compact development,” which places origination and destination points closer together (residence, stores, schools, places of work, etc.), allowing for alternatives to vehicular travel.

IMPACT

4.3-2

Conflict with Existing Zoning for Agricultural Use, or a Williamson Act Contract. Approximately 2,826 acres (32 %) of the land within the Planning Area is currently in a Williamson Act contract. Build-out of the Planning Area would result in a significant and unavoidable impact.

The Planning Area consists of the city of Riverbank, unincorporated areas west and east of the City, and Jacob Myers Park, which is located across the Stanislaus River in San Joaquin County. Most of the unincorporated land in the Riverbank Planning Area is designated in the Stanislaus County General Plan for Agriculture and zoned for agricultural uses by the County. Urban development of large areas of land zoned for agriculture is considered a potentially significant impact.

Currently, 2,826 acres (32%) of the total Planning Area (8,683 acres) are currently in an active Williamson Act contracts.

The City’s General Plan designates much of the land within the Planning Area for future urban use. The General Plan anticipates urban development of large areas east and west of the existing developed city. However, the General Plan also designates approximately 1,300 acres of the land (the majority of which is in an active General Plan also designates approximately 1,300 acres of the land (the majority of which is in an active

Williamson Act contract) as Agricultural Resource Conservation Areas, which will be preserved for future agricultural use and other uses compatible with ongoing agricultural use.

Development permitted under the proposed General Plan would involve lands currently held in active Williamson Act contracts in the Planning Area. Therefore, a potentially-significant impact as a result of a conflict with Williamson Act contracts could occur. However, Williamson Act contracts are strictly voluntary, and the proposed General Plan does not obligate any land owner within the Planning Area to file for non-renewal or early cancellation of Williamson Act contracts, although land owners may be encouraged to do so in anticipation of urban growth.

Proposed General Plan goals, policies, and implementation programs seek to address the impact of new development and their infringement upon existing agricultural resources in the City’s proposed Planning Area, as noted under Impact 4.3-1. Enforcement of the following goals, policies, and land use designations, and pursuit of Implementation Strategies will assist the City in meeting the goal for reducing the City’s encroachment on agricultural properties. However, urban development of large areas of land with Williamson Act contracts and agricultural zoning, as anticipated under the General Plan, represents a significant impact.

IMPACT
4.3-3

Involve Other Changes in the Existing Environment Which, Due to Their Location or Nature, Could Result in Conversion of Farmland, to Non-Agricultural Use. The City's Planning Area includes a large amount of agricultural land, with urban land use designations. Future urban development within this area would result in the conversion adjacent farmland properties. This impact would be significant and unavoidable.

New urban development can make farming more difficult or costly due to conflicts between urban and agricultural activities. For example, residents may complain about noise, dust, odors and low-flying aircraft. Increased restrictions on agriculture processes and other aspects of urban encroachment on agricultural areas can lower productivity, increase costs, and otherwise impair agricultural operations.

Urban uses can create soil erosion, add vehicular traffic that makes movement of agricultural equipment more difficult, and create air pollution that can be harmful crops in certain instances. Urban activities can result in vandalism and the introduction of domestic animals that may disturb certain agricultural activities. Urban uses can drive up the potential value of properties, creating pressure to convert agricultural land to urban use. One or a combination of these conflicts could limit agricultural activities or encourage farmers to take their land out of agricultural production, resulting in adverse impacts to agricultural resources in the Riverbank Planning Area.

As previously discussed, there are many policies and regulatory mechanisms at the City and County level designed to prevent against unnecessary conversion of agricultural land use urban use. The County's Right-to-Farm Ordinance prevents against conflicts between urban and agricultural uses that may adversely affect ongoing agricultural operations.

The proposed General Plan contains several policies to help minimize conflicts between agricultural and urban uses and an implementation measure to develop a similar right-to-farm program:

► Implementation Strategy CONS-2: The City will adopt a "right-to-farm" ordinance (or adopt the County's right-to-farm ordinance, as appropriate) that informs residents of ongoing agricultural practices at the edges of Riverbank and protects farmers and other agriculture interests from dumping, nuisance complaints, and other Riverbank and protects farmers and other agriculture interests from dumping, nuisance complaints, and other

County regarding the design of the County's Right-to-Farm Ordinance to develop consistency, where appropriate.

Policies are also contained in the proposed General Plan addressing transitional areas between urban uses and ongoing agricultural operations, including use of the Multi-Use Recreation/Resource Management designation in western portions of the Planning Area between planned urban development and ongoing agricultural operations and the use of clustering to buffer between these potentially incompatible land uses:

► Multi-Use Recreation/Resource Management (MUR/R): This designation would provide opportunities for storm water management and community recreation amenities. This area would accommodate storm water detention facilities, groundwater recharge areas, trails,

benches, and other passive recreational areas. Areas designated MUR/R could act as a buffer between ongoing agriculture and new residential areas and provide an identifiable and permanent boundary to outward expansion of the City. It is expected areas used between new growth areas and ongoing agricultural operations would be a minimum of 300 feet in width.

► Clustered Rural Residential: This category provides an opportunity to preserve usable open space, including ongoing agricultural operations, or to protect natural resource areas. Residential development in this area must be clustered to preserve large and unbroken pieces of property for agriculture or open space, including both cultivation and grazing activities.

Open space may be owned and maintained privately by a homeowner's association or similar mechanism, or by a public entity with ongoing funding for maintenance provided by the project applicant.

The density range of residential development in this area is 0.2 to 1 dwelling unit per acre (one to five acres per dwelling unit). Any residential development in this area requires clustering that retains at least 80% of the parent parcel in unimproved open space use, and is not to be included in any property with a residence or any other urban use. The City recognizes the value of not only open space preservation, but also open space-oriented improvements such as habitat restoration, groundwater recharge areas, and open-space oriented recreational facilities. The City also recognizes that the habitat, agricultural, buffering, topographic, aesthetic/view shed, and other open space considerations of different properties may require different strategies for clustered development. With this recognition, the City, at its sole discretion may allow some flexibility in the density and open space standards in extraordinary situations where high-quality, publicly accessible, open space-oriented uses can be provided consistent with General Plan policy.

Residential lots in a clustered development shall:

- Minimize impacts to agriculture by avoiding development of Prime Farmland (as shown on Department of Conservation maps) or permanently protect other Prime Farmland via an approved irrevocable easement;
- Provide buffers, as necessary, between residential uses and adjacent ongoing agricultural uses;
- Avoid trees, wetlands, and other biological resources;
- Zero net urban storm run-off leaving the site from previous conditions;
- Orient all dwelling units for maximum passive and active solar energy efficiency;
- Locate developed portion of the site as close as possible to existing and planned roadways; and,
- Locate developed portion of the site to optimize the efficiency of, and minimize extension of any necessary infrastructure.

City policies are designed to support the continuation of working farmland and agricultural land, and to reduce to the extent feasible the potential impacts resulting from the development of urban uses adjacent to agricultural uses. However, given the amount of land in this area anticipated for urban development under the General Plan and the potential effects of urban development on adjacent agricultural land, the impact is considered significant and unavoidable.

Stanislaus LAFCO's Agricultural Preservation Policy, adopted on September 26, 2012, does not require commercial development to mitigate for the loss of agricultural land. In this context, the City of Riverbank will require all residential parcels proposed for annexation to mitigate for the loss of agricultural lands.

With implementation of this Sustainable Agricultural Strategy, preservation of similar quality farmland would be permanently preserved within the region, occurring at a 1:1 ratio of the amount of farmland converted for residential uses to the amount of farmland preserved. This strategy would offset agricultural impacts that would result from development of residential parcels annexed into Riverbank.

ENVIRONMENTAL DETERMINATION

The proposed Agricultural Policy is a mechanism for the preservation of Natural Resources and the Environment through the requirement for mitigation for the probable loss of Agriculture and sets for opportunities for the creation of fee interest easements and other techniques. The proposed action therefore is found to be categorically exempt from CEQA using Class 7, 8 and 17 of the CEQA Guidelines Sections 15307, 15308 and 15317 respectively.

FISCAL IMPACT

The proposed action will not have a direct fiscal impact on Riverbank.

STRATEGIC GOALS

As part of the City Council's adopted Strategic Objectives March 31, 2015 – September 15, 2015 under the three-year Goal to Achieve and Maintain Financial Stability and Sustainability, item 8 states the City Manager and Contract Community Development Director shall "Present the final Sphere of Influence for the East and West side of Riverbank to the City Council for consideration". This action is consistent with this three-year goal.

ALTERNATIVE ACTIONS

1. Modify Staff's recommendations to remove or exclude certain language as presented as a result of testimony heard as part of the noticed public hearing.
2. No action.

ATTACHMENTS

1. Proposed Resolution

WEB - LINKS

1. City of Riverbank Sustainable Agricultural Strategy

<http://www.riverbank.org/DocumentCenter/Home/View/844>

CITY OF RIVERBANK

RESOLUTION NO. 2016-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, RECOMMENDING APPROVAL OF THE RIVERBANK
SUSTAINABLE AGRICULTURAL STRATEGY DATED FEBRUARY 2016**

WHEREAS, City Council at their Strategic Planning session of March 31, 2015 set forth a goal to study the expansion of the adopted SOI both to the East and West; and

WHEREAS, the Riverbank General Plan 2005-2025 adopted in 2009 identified specific land uses for all areas within the planned growth areas in and surrounding the City of Riverbank; and

WHEREAS, The Riverbank City adopted Resolution No. 2015-081 on September 22, 2015 authorizing staff to proceed with the preparation of a Municipal Service Review Update and Sphere of Influence Plan as well as prepare the necessary applications for submittal of a formal application to Stanislaus LAFCo; and

WHEREAS, the proposed Sustainable Agricultural Strategy is a required policy document to complete the Stanislaus LAFCo filing and is in keeping with the adopted Riverbank General Plan; and

WHEREAS, notice of the City Council's public hearing on the proposed Riverbank Sustainable Agricultural Strategy was published in the *Riverbank News*, a newspaper of general circulation, on March 9, 2016; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL
OF THE CITY OF RIVERBANK HEREBY:**

1. That, based on the findings set forth in this Resolution, the evidence in the City Staff Report, and such other evidence as received at the public hearings on this matter, the City Council hereby adopts the Riverbank Sustainable Agricultural Strategy dated February 2016 as presented.
2. The City of Riverbank included the proposed SOI expansion as part of its Planning Area in its 2005-2025 General Plan Update ("General Plan"). In addition, future SOI expansions related to the Planning Area (including the proposed SOI expansion) were included as part of the Project Description and analyzed as part of the programmatic environmental review of the General Plan EIR (SCH#2006092051), which the City Council certified in 2009. (General Plan

EIR, p. 3-19, 3-19.) The proposed SOI expansion therefore constitutes a portion of the project that was analyzed under the General Plan EIR.

3. The proposed Agricultural Policy is a mechanism for the preservation of natural resources and the environment through the requirement for mitigation of the probable loss of agriculture and sets opportunities for the conservation of agricultural land through fee interest, easements and other techniques. The proposed action therefore is found to be categorically exempt from CEQA using Class 7, 8 and 17 of the CEQA Guidelines Sections 15307, 15308 and 15317 respectively.
4. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City Council of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 22nd day of March, 2016; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

Attachments: Exhibit A – Riverbank Sustainable Agricultural Strategy

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	March 22, 2016
Subject:	Report on Options for Surveillance Camera System for City and Private Business Use
From:	Jill Anderson, City Manager
Submitted by:	Chief Erin Kiely, Riverbank Police Services

RECOMMENDATION:

It is recommended that Riverbank City Council receive this report on two programs that would use surveillance video camera systems to help enhance public safety throughout the City and provide direction to the staff.

SUMMARY:

This report has been prepared as part of the City's strategic planning process in support of the goal to Enhance Public Safety and to meet the specific objective to make a recommendation to the City Council regarding a city-wide video surveillance system for use by the city and private business.

The purpose of the proposed options is to use camera systems to enhance public safety by serving as a possible deterrent to crime, recording criminal actions and assisting with suspect identifications.

SYSTEM OPTIONS

Option #1:

The installation of city owned cameras in public areas that have higher frequencies of crimes (such as graffiti and illegal drug activity): Day/Night cameras, typically secured on dusk/ dawn light poles via locking security hardware, would utilize radio technology to push data via wireless transmission to a Riverbank Police Services and/or a City Hall server (base station). The data/imagery would be retrievable for a 30 day window. The system would eventually be capable of city-wide, 360 degree coverage and be capable of growing with the city. The areas covered and viewed would be dependent upon the quantity of cameras installed and their locations. This system would typically be passively monitored (imagery reviewed after a crime has occurred).

Financial Impact:

The cost of the base station would be approximately \$3,000 and the cost of each camera, including all that is needed to support it (i.e. security hardware, routers, data leads, key-fob resets, Ubiquity Antennas, etc.) would be approximately \$10,500.

Pros:

The location of cameras and fields of view could be determined by city and RPS personnel and view direction could be changed based upon need. Access to imagery within a 30 day window of time of occurrence is absolute. A radio system would not be cellular dependent (cost, service package, peak usage time impacts) and the city-wide network could be easily expanded. Has potential to send imagery (stored and real-time) to patrol units in the field via their mobile data computers.

Cons:

These systems are relatively expensive and the costs (both installation costs and any associated with damage/vandalism and maintenance) would be paid for with public funds. Funding sources would need to be identified. Some locations may fall into Landscape and Lighting Districts (Harless Park, Silva Park), but many other locations would not and would need to be paid for via the general fund or potentially through a secured grant. There's a potential for some members of the public to have 'big brother' concerns.

Option #2

The implementation of a Safe-Cam Program (also known as a Community Video Partnership Program): This program would allow owners and legal occupants of commercial and residential properties to voluntarily register their outdoor video surveillance systems with Riverbank Police Services, free of charge. This program would map (privately owned) public view camera locations, log recording retention times, camera capabilities and list camera owner contact information. The RPS Community Services Officer would be tasked with processing applications receiving, mapping and entering program data on regular duty time.

In order to assist with the timely recovery of imagery related to a criminal investigation, RPS could send out e-mail notifications based upon a neighborhood's proximity to the crime. Participants would review their imagery and then notify RPS if they have a possible suspect or involved vehicle image captured. Participants could then voluntarily provide relevant video recordings to RPS upon request. This should allow for more efficient investigations (as opposed to physically knocking on doors during a traditional canvassing of a neighborhood, which is time consuming and typically results in sporadic contact with homeowners). Participants can opt to stop their participation in the program at any time.

Financial Impact:

None

Pros:

Similar programs have been successfully used in large cities such as; Ventura, Philadelphia, Buffalo, New Orleans and Salt Lake City. The program is entirely voluntary and uses privately owned systems for community/public good. Imagery is consensually accessed 'after the fact' and only regarding criminal investigations which should alleviate 'big brother' related concerns. No additional costs would be associated with the program. The program is likely to enlist the use of hundreds of cameras with public views, so is likely to have a larger coverage area than a city owned camera system would have. It should help facilitate more time-efficient investigations.

Cons:

Program success would be largely dependent upon the degree of community participation. Camera capabilities, public coverage areas, storage timeframes, etc. would be determined by the camera owners. The time it will take the RPS Community Service Officer to review applications, register participants, and enter data is an unknown and dependent upon the number of registrations. The potential of Public Records Act requests (confidentiality vs interests of disclosure) could have a chilling effect on participation.

Option #3

Exercise both Option #1 and Option #2 concurrently.

ATTACHMENTS

There are no attachments to this report.

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	March 22, 2016
Subject:	Outdoor Water Use Plan
From:	Jill Anderson, City Manager
Submitted by:	Michael Riddell, Public Works Superintendent Annabelle Aguilar, CMC, Sr. Management Analyst/City Clerk

RECOMMENDATION

It is recommended that the City Council receive the proposed outdoor water use plan and provide direction as deemed necessary for the implementation of an outdoor water use policy to establish the enforcement and restrictions of water use in accordance with water provisions in Chapter 52 of the Riverbank Municipal Code.

SUMMARY

On February 23, 2016, City Council considered information supporting the first reading and introduction of a proposed ordinance amendment to the water provisions of Chapter 52, under Title V of the Riverbank Municipal Code (RMC) which was initiated by Governor Brown's proclamation of a state emergency to the current drought conditions, and additional issued state mandates that followed thereafter. On March 8, 2016, City Council considered the second reading of the proposed ordinance and unanimously adopted Ordinance No. 2016-004, which amended several sections of Chapter 52, to comply with the state mandated water restrictions, and to address a Conservation Order received from the State Water Resources Control Board, Office of Enforcement, directing the City of Riverbank to immediately take additional action to meet the mandated water conservation target of 32% or be subjected to a civil liability of up to \$500 per day for each day the violation continued.

In accordance with the adopted ordinance, an outdoor water use plan is being proposed for water use by water serviced customers within the City of Riverbank. Upon consideration and final direction received from the City Council, a resolution to set the water use plan as policy will be introduced at the April 12, 2016, City Council meeting to formally establish the restrictions and enforcement of the City's outdoor water use plan. Because of the unpredictable factors that influence drought conditions, water needs, and water use, the City's policy on outdoor water use is subject to change as deemed necessary by the City Council.

Proposed Outdoor Water Use Plan

In accordance with adopted Ordinance 2016-004, the following plan will assist the City of Riverbank to regulate outdoor water use during seasonal changes as well as during unexpected and extreme weather conditions that tend to increase levels of water use. The final development of the outdoor water use plan will be set by City Council resolution as the official policy.

1. Landscape Irrigation Schedule

(A) **Summer Schedule:** Is the period from *April 1st through October 31st.

(*Note: The current winter schedule ending April 30, 2016, previously approved by City Council remains in effect; therefore, the new proposed summer schedule months would become effective May 1, 2016, or soon thereafter.)

(B) **Summer Restrictions:**

- (1) No landscape irrigating between 10:00 a.m. and 7:00 p.m.
- (2) *Odd-numbered addresses:* Irrigation is allowed only on Wednesdays and Sundays before 10:00 a.m. and after 7:00 p.m.
- (3) *Even-numbered addresses:* Irrigation is allowed only on Tuesdays and Saturdays before 10:00 a.m. and after 7:00 p.m.
- (4) Landscape irrigation is prohibited at all times on Mondays, Thursdays, and Fridays.
- (5) Landscape irrigation is prohibited within (48) hours after a measureable rainfall event ends, regardless of the permitted aforementioned summer watering schedule.

(C) **Winter Schedule:** Is the period from November 1st through March 31st.

(D) **Winter Restrictions:**

- (1) No landscape irrigating between 10:00 a.m. and 7:00 p.m.
- (2) *Odd-numbered addresses.* Irrigation is allowed only on Sundays before 10:00 a.m. and after 7:00 p.m.
- (3) *Even-numbered addresses.* Irrigation is allowed only on Saturdays before 10:00 a.m. and after 7:00 p.m.
- (4) Landscape irrigation is prohibited at all times Monday through Friday.

(5) Landscape irrigation is prohibited within (48) hours after a measureable rainfall event ends, regardless of the permitted aforementioned winter watering schedule.

(A) **No Excessive Water Flow or Runoff.** Watering or irrigating any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining street, alley, gutter or ditch is prohibited.

(B) **Obligation to Fix Leaks, Breaks or Malfunctions.** Excessive use, loss or escape of water through breaks, leaks or other malfunctions is prohibited and should be immediately corrected to stop the waste of water.

2. Other Outdoor Water Use

(A) **Vehicle Washing.** The washing of commercial and noncommercial privately owned automobiles, trucks, trailers, motor homes, boats, buses, and other types of vehicles is restricted to the use of a hand-held bucket and quick rinses using a hose with a quick-acting positive shut-off nozzle.

(1) Vehicle washing is limited to one (1) washing per week.

(B) **Washing Exterior Surfaces.** There shall be no washing of building exteriors, mobile home exteriors, sidewalks, patios, driveways, gutters or other exterior surfaces, unless permitted by the Public Works Director, or Superintendent, or his/her designee, and done with the use of a quick-acting positive shut-off nozzle on the hose.

3. Temporary Waiver

The City may grant or conditionally grant a temporary waiver of the restrictions for existing potable water use otherwise prohibited under the policy, if it is determined that failure to grant such a waiver would cause an emergency condition adversely affecting the health, sanitation, and fire protection of the public or person requesting the waiver.

(A) Persons requesting a waiver from the provisions of the outdoor water use policy requirements shall file a temporary waiver application with the Public Works Superintendent or his/her designee.

(1) **Application.** The application form to file for a temporary waiver shall be provided by the City of Riverbank, and must be submitted to the Public Works Superintendent, or his/her designee.

(2) **Supporting Documentation.** The application may be accompanied by photographs, maps, drawings, or other relevant information.

(B) Waivers granted by the City shall be for a short period of time and shall expire at the end of the period granted by the Public Works Superintendent or his/her designee. New applications for waivers must be filed for each reoccurrence.

- (C) No waiver shall be retroactive or otherwise apply to any previous violation and/or subsequent penalties of this policy that occurred prior to the issuance of the waiver.
- (D) *Approval Authority.* The Public Works Superintendent or his/her designee shall act upon any completed application for a temporary waiver no later than seven (7) business days after submittal. The request for a waiver may be approved, conditionally approved, or denied. The applicant shall be promptly notified in writing of any action taken. The decision made by the Public Works Superintendent or his/her designee shall be final.

4. Hardship Exemption

An exemption of the water use policy may be granted or conditionally granted by the City Manager or his/her designee due to extreme extenuating circumstances that would result in undue hardship to a person using water or to a property upon which water is used.

- (A) Persons requesting an exemption from the provisions of the outdoor water use policy restrictions shall file an application for exemption with the Public Works Superintendent or his/her designee.
 - (1) *Application.* The application form to file for an exemption shall be provided by the City of Riverbank, and must be submitted to the Public Works Superintendent, or his/her designee, with a non-refundable processing fee of \$25.
 - (2) *Supporting Documentation.* The application must be accompanied by photographs, maps, drawings, or other relevant information, including a written statement by the applicant indicating reasons why an exemption is sought.
 - (3) *Required Finding.* An application for an exemption shall be denied unless the City Manager, or his/her designee, finds, based on the information provided in the application and supporting documents, all of the following:
 - (a) That due to extreme extenuating circumstances a specific requirement would result in undue hardship;
 - (b) That the exemption does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
 - (c) That because of the special circumstances applicable to the property or its use, the strict application of this policy would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;

- (d) That the authorization of such exemption will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City of Riverbank to execute the purpose of this policy, and will not be detrimental to the public interest; and
 - (e) That the condition or situation of the subject property or the intended use of the property for which the exemption is sought is not common, recurrent or general in nature.
- (B) A granted or conditional granted exemption provides relief from the regulations for up to one year to the person and related property indicated on the application, which is subject for review at any time by the City. The exemption shall expire at the end of one year. The application process must be completed to request continued exemption relief.
- (C) *Approval Authority.* The City Manager or his/her designee shall act upon any completed application for exemption no later than ten (10) business days after submittal. The request for exemption may be approved, conditionally approved, or denied. The applicant shall be promptly notified in writing of any action taken. The decision made by the City Manager or his/her designee shall be final.

5. Penalties

- (A) Penalties for noncompliance with the outdoor water use policy as set by City Council resolution in accordance with the Riverbank Municipal Code Sections of Chapter 52, under Title V are set as follows:
- (1) The fine for the first violation is one hundred dollars (\$100).
 - (2) The fine for the second violation is two hundred dollars (\$200).
 - (3) The fine for the third violation is three hundred dollars (\$300).
 - (4) The fine for the fourth violation is four hundred dollars (\$400).
 - (5) The fine for the fifth violation and each subsequent violation thereafter is five hundred dollars (\$500).
- (B) *Payment of Fines.* Fines shall be placed on the customer's water bill and paid in accordance with Section 52.64 of the Riverbank Municipal Code.
- (C) Pursuant to Section 52.34 (E) (2) of Chapter 52, under Title V of the Riverbank Municipal Code, an administrative citation may be reduced to a formal written warning and the related citation fines waived, or the citation may be cancelled after review of the findings by the Public Works Superintendent or his/her designee, with the approval of the City Manager or his/her designee.

(D) *Citation Appeal Hearing.* Appeal hearings shall be conducted in accordance with Section 52.34(G) of Chapter 52, under Title V of the Riverbank Municipal Code.

- (1) A citation appeal request form must be filed with the City Clerk along with a non-refundable administrative processing fee of \$25.

Implementation of the Outdoor Water Use Plan

The City will continue its efforts of a citywide education and outreach campaign to inform and remind water serviced customers or other persons using water within the City of Riverbank of the new outdoor water use restrictions and conservation measures to achieve the City's 32% water conservation target. Use of the City's social media, website, government channel, newsletter, periodic mailings, door hangers, and any other type of promotional methods available, will be utilized to bring awareness and to encourage compliance with the City's water use restrictions.

FINANCIAL IMPACT

The City will see a 32% reduction in water revenue if all water users meet the conservation standard set by the State Water Board. If an application processing fee of \$25 for exemption requests is implemented, as well as an administration fee of \$25 for a request to have a citation appeal hearing, this will help offset the cost in implementing new policy.

STRATEGIC PLAN

This report has been prepared to achieve the City of Riverbank's Three-Year Goal to Improve and Maintain Infrastructure and Facilities.

ATTACHMENT

There is no attachment to this report.

**RIVERBANK LOCAL REDEVELOPMENT AUTHORITY
AGENDA ITEM NO. 6.3**

SECTION 6: NEW BUSINESS

Meeting Date:	March 22, 2016
Subject/ Title:	A Resolution of the Local Redevelopment Authority of the City Of Riverbank Awarding the Riverbank Army Ammunition Plant Facility Manager Contract to San Joaquin Engineering Solutions LLC
From:	Jill Anderson, City Manager
Submitted by:	Debbie Olson, Executive Director

RECOMMENDATION:

It is recommended that the Local Redevelopment Authority Board of Directors adopt resolution approving a Riverbank Army Ammunition Plant facility management services contract.

BACKGROUND:

A resolution authorizing the LRA to execute a contract with San Joaquin Engineering Solutions (“SJES”) to provide facility management services at the Riverbank Industrial Complex (“RIC”) was signed on January 24, 2011. The contract was for three years with the option of multiple one-year extensions. The contract expired February 2016.

The LRA made the decision to release a Request for Proposal (“RFP”) for facility management services prior to the expiration of the existing contract.

RFP Process

An RFP for Facility Management Services was developed and released on the LRA Website on November 30, 2015, with a deadline for submission on January 14, 2016.

The LRA also issued notice of the RFP as follows:

- Website
- Published legal notice in Modesto Bee
- Published RFP release and link to details in San Francisco Chronicle
- Distributed notice of RFP and links to the Association of Industrial Facility Management, Bay Area Chapter
- Distributed notice of RFP and links to Association of Industrial facility Management, Central Valley Chapter

The LRA received proposals from 2 firms. Those firms are (in no particular order):

- San Joaquin Engineering Solutions (“SJES”)
- NAIBenchmark (“NAIB”)

The LRA was satisfied with the quality of both submission and asked that a panel of three individuals (two LRA staff members and a knowledgeable consultant to the LRA) review both submissions and rank the proposals. A sample of the evaluation sheet used to rank the proposals is provided as an attachment.

The panel unanimously selected SJES as the best qualified firm to provide facility management services at the Riverbank Industrial Complex.

The LRA notified both firms of the results of the panel and proceeded to negotiate a final contract with SJES. A copy of the draft contract, including scope of work is included as an exhibit to this staff report.

STAFF SUMMARY:

After evaluation of submissions in response to an RFP, thorough negotiations and consultation with legal counsel, staff recommends the LRA Board adopt a resolution approving a new Riverbank Army Ammunition Plant facility management services contract with SJES.

FISCAL IMPACT:

No fiscal impact to the City’s General Fund. This contract is funded through Fund 197, split between leasehold revenue from the site and other operations and management fees.

This contract does not exceed what is budgeted for facility management in the FY 2016-17 LRA budget.

ALIGNMENT WITH STRATEGIC PLAN:

The hiring of a qualified facility management firm allows City/LRA staff to improve and maintain infrastructure and facilities as well as better utilize resources.

ATTACHMENTS:

1. *Copy of Grading and Ranking Sheet*

(A sample of the grading and ranking sheet used by the view panel to assess responses to the facility management RFP released by the LRA)

2. *Comparison of Current & Proposed Facility Management Contract*

(Table showing the various terms and services provided by SJES in their current contract compared to the proposed new facility management contract)

- 3. Facility Management Contract w/Scope of Work**
(Proposed contract with San Joaquin Engineering Solutions (“SJES”) for facility management services at the Riverbank Industrial Complex (“RIC”))

- 4. Resolution**
(Resolution to adopt the SJES for facility management services at the RIC)

ATTACHMENT #1 –FACILITY MANAGEMENT RFP EVALUATION SHEETS

GRADING AND SCORING SHEETS FOR RIVERBANK INDUSTRIAL COMPLEX FACILITY MANAGEMENT SUBMISSIONS

Thank you for participating in the evaluation of the submissions received in response to a Request for Proposal for Facility Management Services. A sheet for scoring the proposal has been provided. Each proposal will be evaluated in several areas on a scale from 0 to 3 as follows:

Scoring Scale

- 3. Exceeds requirements
- 2. Meets requirements
- 1. Minimally meets requirements
- 0. Does not meet requirements

Weighting of the Criteria

Project Management Qualification/Strengths	15%
Experience/Personnel Capabilities	15%
Responsive and understands specific site issues	15%
Project Support	10%
Environmental Remediation Experience	20%
Cost for Services	25%
<hr/>	
TOTAL WEIGHT	100%

GRADING AND SCORING SHEET FOR FACILITY MANAGEMNT PROPOSALS

EVALUATOR'S NAME: _____

Did the bidder provide all required information listed in under Section II of the RFP? YES NO

PLEASE EVALUATE THE PROPOSAL IN THE FOLLOWING AREAS:

Description of how the project will be organized and managed	0	1	2	3
The firm's proposal for staffing and organizational structure	0	1	2	3
The qualifications of staff assigned to the project	0	1	2	3
The firm's experience with facility management services	0	1	2	3
The firm's experience with industrial facility management services	0	1	2	3
Experience with property management	0	1	2	3
Plans/programs presented related to property management	0	1	2	3
Experience with facility management software and reporting	0	1	2	3
Evaluate experience related to remediation activities	0	1	2	3
Proposed costs associated with facility and property management	0	1	2	3

PLEASE PROVIDE ANY ADDITONAL COMMENTS REGARDING THIS PROPOSAL BELOW:

ATTACHMENT #2 – FACILITY MANAGEMENT CONTRACT COMPARISON

CONTRACT DEAL POINT	CURRENT CONTRACT	PROPOSED NEW CONTRACT	NOTES
Contract Term	3 years; 2, 1-year extensions; 6-month probationary period	3 years; 2,1- year extensions	
Staffing	Director of Operations Maintenance Supervisor Administrative Assistant Maintenance Technician	Director of Operations Maintenance Supervisor Administrative Assistant Maintenance Technician Property Specialist/Leasing Consultant	
Additional Labor Costs	Salary & Burden plus 10%	Salary & Burden plus 10%	
Termination Details	60 days upon written notice by either party	90 days upon written notice by either party; 30 days upon change in ownership of the property	
Monthly Fee	<ul style="list-style-type: none"> \$65,000 advance/deposit to be returned upon termination or expiration of agreement or applied as credit against final invoice \$5,000 mobilization fee \$15,500 monthly mgmt. fee \$850 monthly RV Park mgmt. fee 	<ul style="list-style-type: none"> \$18,500 monthly mgmt fee (fee includes RV park management) \$90 per hour for specialized property consultant services Return of \$5,000 of the advance 	11% increase in monthly fee
Pass-through Cost	5% on materials and contracts 5% on temporary labor 1% equipment handling fee 15% facility amenities fee \$75 per hour for electrical, water system, plant controls and technical services consulting	5% on materials/services <\$3,000 2.5% on materials /services \$3,000 to \$100,000 Negotiated fee on materials/services > \$100,000	Decline in materials fees; no equipment handling fee; no facility amenities fee
Capital Project Management Fee	2.5% on all projects	2% on projects between \$10,000 and \$100,000 Projects > \$100,000 subject to negotiated fee	Decline in capital project fee; ESCA 2 Contract is excepted
Property Management Functions	No formal property management functions	<p>SJES will:</p> <ul style="list-style-type: none"> Review Tis not requiring formal plan checks Will show available space Determine needs of prospective tenant Develop term sheet for approval by LRA Create draft lease and licenses for review and approval Be responsible for tenant communication regarding leased area conditions, lease violations and payment communications up to eviction proceedings 	Formal policies and protocols to be developed by LRA upon execution
Other	<ul style="list-style-type: none"> LRA will provide office space and equipment at no cost 	<ul style="list-style-type: none"> Uniform fee: \$500 per year No cost for copier use SJES shall provide and maintain their own equipment and supplies SJES will provide at no cost reads of low and medium voltage meters SJES will develop for approval standard, reoccurring reports on a timeframe specified by the LRA and additional reports as requested by the LRA 	<ul style="list-style-type: none"> SJES owns and services their own computers and printers SJES responsible for electrical training associated with meter reads

ATTACHMENT #3 – DRAFT FACILITY MANAGEMENT CONTRACT

FACILITIES MANAGEMENT AGREEMENT

This FACILITIES MANAGEMENT AGREEMENT (“Agreement”) is entered into and shall be effective as of April 1, 2016, (“Effective Date”), by and between the Riverbank Local Redevelopment Authority, a public agency, and its successors and assigns (“RLRA”), and San Joaquin Engineering Solutions, LLC, a California limited liability company (“Manager”). RLRA and Manager may be herein referred to individually as a “Party” and collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

1. RLRA owns, leases, or otherwise has a possessory interest in all or part of the buildings and facilities described on Exhibit A attached hereto, for the property commonly known as the Riverbank Industrial Complex (the former Riverbank Army Ammunition Plan). The buildings and facilities shown on Exhibit A shall be collectively referred to herein as the “Facilities”.

2. Manager has provided management services to the Facilities since 2011 under a previous agreement, as amended from time to time. In November 30, 2015, RLRA released a Request for Proposal for Facilities Management Services. After receiving all responses to the Request for Proposal, RLRA selected Manager to continue providing management services.

3. RLRA desires that Manager provide services to the Facilities, as described on Exhibit B attached hereto (the “Services”) and on the terms and conditions provided herein. Manager desires to provide the Services.

4. The Parties desire to enter into this Agreement to establish the terms by which Manager will provide the Services required to manage and maintain the Facilities.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Purpose. The purpose of this Agreement is for Manager to provide the Services to the Facilities, as of the Effective Date, throughout the Service Period (defined below) and in accordance with the provisions of this Agreement.

2. Term. Manager shall perform the Services for a term of three (3) years commencing with the Effective Date (the “Initial Term”) and terminating on March 31, 2019, unless terminated earlier or extended as provided herein. If neither Party gives notice of termination to the other Party prior to the expiration of the Initial Term, this Agreement shall be extended for up to two additional one-year periods (each an “Additional Term”), unless this Agreement is terminated in accordance with Section 3 below. “Service Period” shall mean the Initial Term and any Additional Terms.

3. Termination.

(a) *Termination for Cause.* If (i) RLRA fails to pay any fee or other amount owing to Manager under this Agreement within fifteen (15) days after notice from Manager; (ii) either Party commits a material breach of any term or condition of this Agreement and such Party fails to commence to cure such breach within 15 days after written notice of such breach by the other Party; or (iii) either Party becomes subject to a Bankruptcy Event, then the other Party shall be entitled, after giving written notice hereunder, to terminate this Agreement.

“Bankruptcy Event” shall mean a circumstance in which a Party (1) makes a general assignment for the benefit of creditors or becomes insolvent, (2) files an insolvency petition in bankruptcy, (3) petitions for or acquiesces in the appointment of any receiver, trustee or similar officer to liquidate or conserve its business or substantial part of its assets, (4) commences under the laws of any jurisdiction any proceeding involving its insolvency, bankruptcy, reorganization, adjustment of debt, dissolution, liquidation or similar proceeding for the release of financially distressed debtors, or (5) becomes a party to any proceeding or action of the type described in clause (3) or (4) and such proceeding or action remains undismissed or unstayed for a period of more than 60 days.

(b) *Termination without Cause.* RLRA may, upon providing 30 days’ notice to Manager, terminate this Agreement if RLRA no longer has any legal interest (owns, leases, or otherwise has a possessory interest) in the Facilities. RLRA is only obligated to pay for expenses or services up to the termination of the agreement. In addition, either Party may terminate this Agreement by providing at least 90 days’ advance notice to the other Party.

4. Services.

(a) *Authorized Services.* The Manager shall provide those Services described in **Exhibit B** and any other services reasonably required to manage and maintain the Facilities. The Manager shall be authorized, at its option, to (i) directly perform the Services, (ii) directly hire subcontractors to perform the Services, or (iii) enter into contracts with third parties and vendors to perform the Services, provided that any contract Manager enters into hereunder with a contractor or vendor shall be approved by RLRA prior to execution or on a form of contract mutually agreed to by the Parties in writing.

(b) *Performance of Services.* All Services shall be performed in accordance with standard industry practices and procedures. Manager agrees to take such safety precautions as are (i) customary in the industry for the Services to be performed, or (ii) reasonably required by RLRA in writing. The Manager shall be solely responsible for the management, performance and behavior of its employees, representatives and agents while they are performing the Services. Any complaints received or presented by RLRA regarding the performance of the Services or behavior of Manager’s employees, representatives or agents, or requests for change in the manner of Services being performed, shall be promptly discussed by Manager and RLRA. If the Services include the maintenance or repair of fire safety or security equipment, Manager shall not be responsible for any damage or loss that results from fire safety or security equipment that fails to perform properly or fails to prevent such damage or loss, except in any instance in which such equipment failure is the direct and proximate result of Manager’s negligence or willful misconduct in the maintenance and repair of

such equipment. Manager shall make every reasonable effort to hire and subcontract personnel and vendors from the local area, provided they meet RLRA's qualifications and requirements.

(c) *Alterations and Additions.* Operator shall not make any alterations or additions costing over \$500 to any of the Facilities without first securing prior written consent of RLRA. Alterations, additions or changes requested by Manager and approved by RLRA shall be made at the sole expense of Manager and shall, upon termination of this Agreement, become the property of City. Alterations, additions or changes to the Facilities requested by RLRA shall be made at the expense of RLRA as provided herein, and upon acceptance by RLRA shall become RLRA property.

5. Payment for Services.

(a) *Monthly Management Fee.* RLRA shall pay a monthly management fee of \$18,500 to Manager, which includes all overhead costs, RV park management and maintenance, and the employee cost including salary and Labor Burden for the Director of Operations who is responsible for overseeing the effective operations and direction of maintenance staff and who will report directly to the RLRA's Executive Director or such other individual as may be designated by the RLRA's Executive Director.

“Labor Burden” shall mean all costs of employment in addition to salary (or wages), including but not limited to (i) worker's compensation and other insurance costs, (ii) all applicable employer taxes, (iii) paid time off, (iv) the employer's portion of healthcare, dental and vision, (v) reimbursable expenses such as cell phone expenses, and (vi) all other employee benefits.

(b) *On-Site Employee Cost.* RLRA shall pay monthly fees to Manager to cover the cost of the following on-site employees: (i) Maintenance Supervisor, for a \$7,673 flat rate that includes salary (or wages) and Labor Burden; (ii) Administrative Assistant, for a \$3,903 flat rate based on 160 hours at \$34.15 per hour that includes salary (or wages) and Labor Burden; and (iii) Maintenance Technician, for a \$3,903 flat rate based on 160 hours at \$24.39 per hour that includes salary (or wages) and Labor Burden.

(c) *Additional Labor.* RLRA shall pay monthly fees to Manager to cover any additional labor, consultant, contractor or employee costs and salaries approved by RLRA in writing. Such approved costs shall include the salary and Labor Burden and may include a 10% markup by Manager, with the exception that if and when RLRA approves payment to Manager for a Leasing Consultant, the Leasing Consultant shall be paid a maximum flat rate of \$90 per hour with no markup charged by Manager.

(d) *Pass-Through Costs.* If RLRA requests that Manager purchase materials or secure additional services, Manager may pass through the costs of those materials and services to RLRA. In addition, Manager may charge the following administrative fees to RLRA with such pass-through costs: (i) markup of 5% for materials or services up to \$3,000; and (ii) markup of 2.5% for materials or services greater than \$3,000 but less than \$100,000. If RLRA requests that Manager procure materials or additional services that exceed \$100,000, RLRA and Manager shall negotiate the administrative fees provided to Manager in connection therewith. All pass-through costs and markup fees provided under this subsection must be authorized by RLRA prior to billing.

(e) *Capital Project Management Fee.* If RLRA enters into any capital improvement project for more than \$10,000 that is not subject to the above pass-through costs in subsection (d), then RLRA shall pay Manager an administrative fee of 2% for projects between \$10,000 and \$100,000 for such projects that require the performance of services by Manager. The Parties shall negotiate Manager's administrative fee for any capital improvement project greater than \$100,000 that requires the performance of services by Manager. All capital project management and Manager administrative fees provided under this subsection must be expressly requested and authorized by RLRA in writing.

(f) *Annual Uniform Fee.* RLRA shall pay an annual uniform fee of \$500 upon the Effective Date of this Agreement, and annually thereafter.

(g) *Administrative Overhead Costs.* RLRA shall make available to Manager the copier used by RLRA, at no cost to Manager. In addition, RLRA shall provide office space and internet service, as needed for the Director of Operations and all other on-site employees. Manager shall be responsible for all other administrative overhead costs, including but not limited to office supplies, utility costs, computers and any other personal property required to perform the Services.

(h) *Legal Expenses.* RLRA shall provide any needed legal assistance, using counsel approved by RLRA, with respect to the administration of leases to the Facilities.

(i) *Change in Law.* In the event any change in applicable laws, rules, regulations or codes affects Manager's cost of providing the Services or RLRA's ability to pay for the Services, then the Parties shall in good faith negotiate an appropriate adjustment in the fees payable pursuant hereto. Any increase or decrease in the Services agreed to by the Parties shall result in an equitable adjustment in the fees that shall be negotiated by the Parties in good faith; provided, however, that if the Parties are not able to reach agreement with respect to the fees in the case of an increase in Services, such increase in Services shall not be implemented until agreement is reached.

6. Deposit. The Parties acknowledge that, in connection with the previous facilities management agreement, RLRA provided a deposit account with Manager in the amount of \$65,000, which at the time represented a \$5,000 non-refundable mobilization fee. The remaining \$60,000 (the "Deposit"), represented a reasonable estimate of the cost of services and maintenance work to be provided by Manager for a two-month period. Upon execution of this Agreement, the Parties agree that the Deposit shall be reduced to \$55,000, to cover the average cost of Services for a one-month period. The reduction in the Deposit of \$5,000 shall be payable to RLRA (a) by providing a check within ten (10) days of the execution of this Agreement, (b) as a credit against the first invoice, or (c) by some other arrangement made by mutual agreement. Upon termination or expiration of this Agreement by either Party, the Manager shall return the Deposit to RLRA, to be applied first as a credit against all authorized fees and expenses in the final invoice issued by Manager, with any remaining portion of the Deposit paid to RLRA within fifteen (15) days of the date of such final invoice.

If the final invoice results in additional monies payable by RLRA to Manager after crediting the amount of the Deposit to the final invoice amount, such amount shall be payable by RLRA to Manager within fifteen (15) days of such final invoice. The Deposit may be adjusted by mutual agreement of the Parties to reflect any material changes in the cost of the Services.

7. Billing. By the 5th date of each month, Manager shall be responsible for sending a monthly invoice to RLRA listing all costs incurred by Manager for the previous month, provided that such costs must be expressly authorized pursuant to Section 5 above. RLRA shall pay Manager, within fifteen (15) days' receipt of each monthly invoice, for all costs incurred by Manager consistent with this Agreement. RLRA reserves the right to refuse payment of costs incurred by Manager that are not timely invoiced to RLRA within ninety (90) days that such costs are incurred or paid by Manager. In addition, RLRA shall pay Manager for all pass-through costs approved pursuant to Section 5 above, provided that (a) Manager provides proof of payment, if requested, (e.g., copies of certified checks or bank statements) for any such pass-through costs, and (b) such pass-through costs are timely invoiced within ninety (90) days. Manager shall only be obligated to make payments related to or arising out of the Services up to the amount of the Deposit. Manager shall not be obligated to incur any liability or obligation on behalf of RLRA without assurance acceptable to Manager in its sole discretion that RLRA will provide the necessary funds for the discharge thereof.

8. Insurance. Manager shall purchase and maintain such insurance as will protect Manager from losses and claims of the types set forth herein that may arise out of or result from Manager's performance, or obligation to perform, the Services, whether such performance be by Manager or any employee or agent of Manager, including any of Manager's personnel.

(a) *Proof of Insurance.* Manager shall provide to RLRA a properly executed certificate of insurance, in a form satisfactory to the City Attorney for commercial general liability coverage; automobile liability and worker's compensation insurance ("Certificates"). Each Certificate shall provide that such insurance will not be cancelled, reduced in coverage, or allowed to expire without thirty (30) days' prior written notice to RLRA. Manager shall submit certificates of insurance reasonably acceptable to RLRA no later than thirty (30) days from the Effective Date of this Agreement or May 1, 2016, and such certificates shall be effective as of April 1, 2016.

(b) *Minimum Insurance Limits.* Manager shall maintain the following minimum insurance limits, unless otherwise negotiated in writing or as required by law, whichever is greater:

(i) General Liability. Manager shall maintain commercial general liability insurance with an insurance company admitted in California with an AM Best Rating of not less than A, as shall protect RLRA, RLRA's elected and appointed councils, commissions, officers, agents, employees and representatives ("RLRA's Agents"), from claims for damages for personal injury, including death, damage by reason of bodily injury, occupational sickness, disease or death of Manager's employees, as well as from claims of property damage which may arise from negligent acts or omissions, or willful misconduct of Manager, its personnel, contractors or subcontractors. The amount of such insurance shall be at least two million dollars (\$2,000,000.00) per occurrence with umbrella liability coverage of at least two million dollars (\$2,000,000.00). Such insurance shall name RLRA and RLRA's Agents as insured by endorsement with respect to the performance of this Agreement. The coverage shall contain no special limitation on the scope of its protection afforded to the above-listed additional insureds, and shall be primary with respect to any insurance or self-insurance programs covering RLRA and RLRA's Agents.

(ii) Automotive Liability Insurance. Manager shall maintain automotive liability insurance for bodily injury and property damage with a limit of not less than one million

dollars (\$1,000,000.00) for each occurrence, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing any services or performing any work under this Agreement. Such insurance shall contain no special limitation on the scope of its protection afforded to the above-listed additional insureds, and shall be primary with respect to any insurance or self-insurance programs covering RLRA and RLRA's Agents.

(iii) Worker's Compensation Insurance. Manager shall maintain worker's compensation insurance in accordance with California Labor Code section 3700, and with a limit of not less than one million dollars (\$1,000,000.00) per occurrence for employer's liability. In the event any work is sublet, Manager shall require any contractor or subcontractor to provide worker's compensation insurance for all contractor's employees or subcontractor's employees, unless such employees are covered by insurance provided by Manager.

9. Proprietary Information.

(a) *Facility Database*. Manager may have access to knowledge, expertise and proprietary software applications and other proprietary or confidential information relating to or arising out of facilities services experience (collectively known as the "Facility Database"). The Facility Database may be continually refined and updated during the course of the performance of the Services. It is further understood that Manager will use the Facility Database to develop Facility-specific operating procedures and data. RLRA shall permit Manager to input Facility-specific operating procedures and data, including, without limitation, data relating to management, cost, technical operations, and maintenance of real and personal property, into both RLRA's Facility Database and any site-specific operations developed by Manager.

(b) *Ownership of Information*. RLRA shall retain ownership of all licenses and data associated with the Facility Database, as modified, from time to time, by, among other things, the site-specific operations developed by Manager. RLRA shall retain ownership of all hardware and software licenses purchased by RLRA for use by Manager.

(c) *Non-disclosure*. Manager shall not, either during or after the Term of this Agreement, disclose to any third party any Facility Database information without the prior written consent of RLRA. If RLRA gives Manager written authorization to make any such disclosure, Manager shall do so only within the limits and to the extent of that authorization, and in any case consistent with the Public Records Act (Gov. Code § 6250 *et seq.*). Such authorization does not guarantee that RLRA will grant the disclosure of Facility Database information. Manager may be directed or advised by the City Attorney on various matters relating to the performance of the Services or on other matters pertaining to the Facilities and, in such event, Manager agrees that it will treat all communications between itself, its employees and its subcontractors as being communications within the attorney-client privilege.

10. Facilities Data; Inspection. Upon Manager's request, RLRA shall provide Manager with data related to the Facilities that RLRA has or is reasonably available to, if such data is reasonably related to the performance of the Services. At any time and for any reason, RLRA and its authorized agents shall have the right to enter and inspect the Facilities, observe the performance of the Manager of its obligations under this Agreement, and install, remove, adjust, repair, replace or otherwise handle any equipment, utility lines, or any other appurtenances, facilities or matters in the

Facilities. RLRA will endeavor to limit its disruption of Manager's work, provided however that RLRA shall have the right to enter and inspect the Facilities even if Manager is not available for any reason due to Manager's performance of the Services.

11. Environmental Remediation.

(a) *Environmental Services.* Manager agrees to perform environmental services, such as the identification, detection and remediation of hazardous materials and environmental hazards during the course of routine maintenance and performance of the Services.

(b) *Certifications.* Subject to advance written approval, RLRA agrees to pay for specialized training and ongoing certifications required in the performance of environmental testing, remediation or removal work, such as for pesticide handling, hazardous waste removal or water testing.

(c) *Additional Environmental Services.* Manager may agree to perform more extensive environmental services in addition to the identification and detection of hazardous materials during the course of routine maintenance and performance of the Services. Specifically, such additional environmental services include activities that require regulatory approval prior to commencing work. The scope of such additional environmental services shall be established through an addendum or amendment to this Agreement, approved and executed by both Parties.

12. Prevailing Wages. RLRA may notify Manager that the source of funds for the performance of certain Services may trigger prevailing wage laws under the State of California or Davis-Bacon Wage Determinations under federal law. Upon such notice, Manager agrees to comply with any and all applicable reporting, disclosures and other requirements under the prevailing wages laws and Davis Bacon Wage Determinations. Further, provided that RLRA has provided such notice, Manager agrees to indemnify RLRA against any claims, proceedings, causes of action and all other liabilities associated with Manager's breach (or alleged breach) of any provisions regarding prevailing wages and wage determinations.

13. Compliance with Laws. Manager shall comply with all applicable federal, state and local laws and secure such licenses and permits as are required to provide the Services.

14. Indemnity. Manager agrees to indemnify and hold RLRA harmless from all claims, damages, losses, and liabilities of any kind or nature (including claims or demands made by employees, agents or subcontractors of Manager) arising out of Manager's performance of Services under this Agreement, but only to the extent caused by the negligence or willful misconduct of Manager or its employees, agents or representatives. Promptly after receipt by any entity entitled to indemnification under this Agreement of notice of the commencement or threatened commencement of any civil, criminal, administrative, or investigative action or proceeding involving a claim in respect of which an indemnitee under this Agreement will seek indemnification pursuant to the provisions of this Agreement, the indemnitee shall notify the indemnitor of such claim in writing. No delay or failure to so notify an indemnitor shall relieve it of its obligations under this Agreement except to the extent that such indemnitor has suffered actual prejudice by such delay or failure.

15. Damages. In no event shall either Party have any liability to the other for punitive, exemplary, incidental, special, or consequential damages, including, without limitation, lost profits.

16. Independent Contractor. Manager shall employ, at its own expense, all personnel reasonably necessary to perform the Services. All acts of Manager, its agents, officers, employees and all others acting on behalf of Manager relating to this Agreement will be performed as independent contractors. Manager, its agents and employees will represent and conduct themselves as independent contractors and not as employees of RLRA. Manager has no authority to bind or incur any obligation on behalf of RLRA. Except as RLRA may specify in writing, Manager shall have no authority, express or implied, to act on behalf of RLRA in any capacity whatsoever as an agent. Manager shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever. Manager is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is expressly approved by RLRA in writing.

17. No Partnership; No Lease. Nothing herein contained is intended to be construed as creating or establishing a partnership relationship or joint venture between Manager and RLRA. Manager shall not be considered a tenant, and shall gain no right to occupy the Facilities as a tenant or any other property right or interest in the Facilities by virtue of this Agreement. As such, Manager and City believe that this Agreement does not create a possessory interest subject to possessory interest or property taxes levied or assessed on such interest. Notwithstanding the above, Manager shall be responsible for any possessory interest taxes or assessments imposed or adjudicated by any public agency or tribunal. Manager shall hold harmless and indemnify RLRA any costs and attorney fees Manager may incur in connection with a possessory interest deemed in connection with the Facilities.

18. Attorney Fees. In the event of any litigation between the Parties concerning the subject matter of this Agreement, the prevailing Party in such litigation shall be entitled to receive from the other Party, all reasonable costs, expenses and attorneys' fees incurred in such litigation, and which may include costs and legal fees incurred prior to reaching a final judgment.

19. Notices. All notices, requests, demands and other communication given or made pursuant hereto shall be in writing and shall be deemed to have been duly given or made when delivered personally or five business days after having been sent by registered or certified mail, postage prepaid, return receipt requested, or upon confirmation of receipt after having been sent by facsimile transmission or one business day after being sent overnight by Federal Express or other comparable nationally recognized overnight courier service to the respective parties at the following addresses or at such other address for a party as shall be specified in a notice given in accordance with this Section.

If to RLRA:

**Riverbank Local Redevelopment Authority
Attn: Debbie Olson
5300 Claus Road, Suite 1
Modesto, CA 95357**

with copy to:

**Churchwell White LLP
Attn: Douglas L. White, Esq.
1414 K Street, 3rd Floor
Sacramento, CA 95817**

If to Manager:

**San Joaquin Engineering Solutions, LLC
Attn: _____
5300 Claus Road, Suite 14
Modesto, CA 95357**

20. General Provisions.

(a) *Recitals and Exhibits.* All recitals and exhibits are hereby incorporated as part of this Agreement and shall constitute part of this Agreement as if fully set forth herein. In the event of any conflict between the terms and conditions of this Agreement and any recitals or exhibit hereto, this Agreement shall prevail. In the event of any conflict between words, on the one hand, and drawings and illustrations referred to in this Agreement, on the other, the order of precedence shall be first to words, then to any such drawings and illustrations.

(b) *Headings.* The section headings of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

(c) *Entire Agreement.* This Agreement, together with its specific references, attachments and exhibits, constitutes all of the agreement, understandings, representations, conditions, warranties and covenants made by and between the Parties with respect to the subject matter of this Agreement. Neither Party shall be liable for any representations made, express or implied, not specifically set forth herein. It is the intention of the Parties that this Agreement shall supersede all prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement. In particular, this agreement supersedes any and all previous facility management agreements and oral and written discussions related thereto between RLRA and Manager.

(d) *Mandatory and Permissive.* In this Agreement, provisions using “shall”, “will” and “agrees” are mandatory; provisions using “may” or “can” are permissive.

(e) *Amendment.* No alteration, modification or amendment of this Agreement shall be valid unless made in writing and executed by all Parties.

(f) *Waiver.* The waiver by any Party of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

(g) *Assignment.* Manager shall not assign, transfer, or otherwise dispose of this Agreement in whole or in part to any individual, firm, or corporation without the prior written consent

of the other Party. Subject to the forgoing provisions, this Agreement shall be binding upon, and inure to the benefit of, the valid successors and assigns of the Parties.

(h) *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the state of California. Venue for all legal proceedings shall be in the Superior Court of California for the County of Stanislaus.

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

(j) *Counterparts.* This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall be deemed a single agreement.

(k) *Authority.* Each Party represents that it has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each has been properly authorized and empowered to enter into this Agreement.

(l) *Records; Audit.* Manager shall maintain all records related to the Services and payments under this Agreement for at least five (5) years. RLRA shall have access at all reasonable times to all reports, records, documents, files, and personnel necessary to audit and verify Manager's charges to RLRA under this Agreement.

(m) *Time is of the Essence.* Time is of the essence in this Agreement for each covenant, term and condition herein.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the Effective Date provided above.

Riverbank Local Redevelopment Authority San Joaquin Engineering Solutions, LLC

**By: _____
Debbie Olson, Executive Director**

**By: _____
_____**

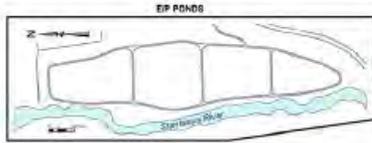
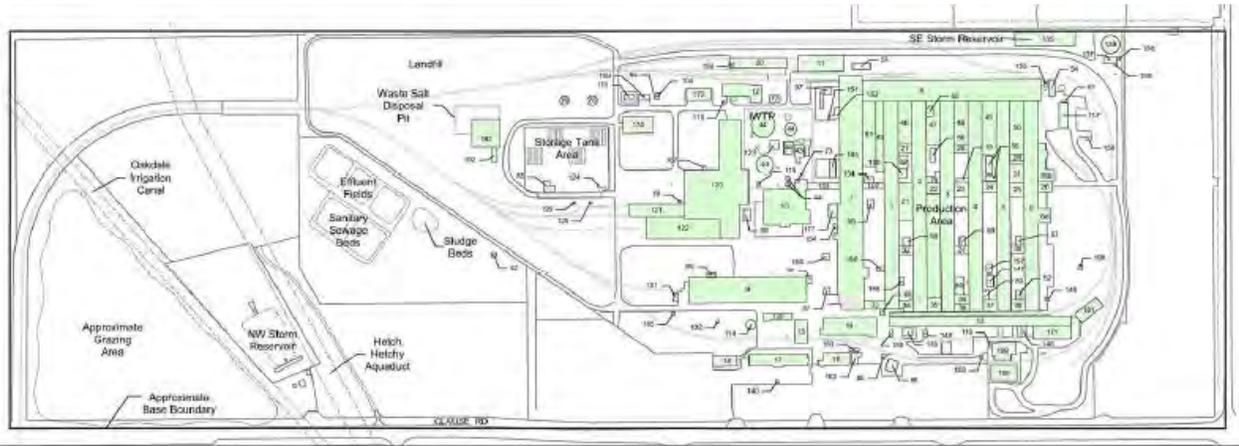
APPROVED AS TO FORM:

**By: _____
Tom Hallinan, Counsel to RLRA**

EXHIBIT A

Facilities

Riverbank Industrial Complex



LEGEND
BUILDINGS



Innovation Plant
7/10

EXHIBIT B

Services

Capital Improvement and Maintenance Schedule

Manager will develop a long-term capital improvement and maintenance schedule, approved by RLRA, which will act as a general outline for capital replacement and maintenance. Manager will use this schedule to prepare a five-year plan for preventive maintenance and repair of installed equipment.

Reporting to RLRA

Manager shall be responsible for ongoing documentation, organization and reporting and facility assessment, which shall specifically include the preparation of quarterly status reports to RLRA to describe the following, at a minimum:

- Capital Projects – Describe status of projects in excess of \$10,000 (as approval by RLRA)
- Capital Improvements – Identify upcoming capital improvement requirements including tenant improvements
- Lease Violations – Address and describe lease violations occurring during the previous quarter
- Contracted Services – Provide status of all contracted services (i.e. landscaping, pest control, janitorial, and electrical PM services)
- Quarterly PM – Summarize all property management completed during the past quarter
- Self-Performed Activities – Summarize all activities self-performed during the previous quarter
- Quality Assurance – Metrics reporting (per section 1.3.1.4)
- Cost Savings –support any and all RLRA cost-reduction initiatives

Facility Management Services – Manager shall be responsible for comprehensive management of the Facilities, including Manager's employee requirements, accounting and financial reporting requirements, and quality control.

Facility Management Services – Specific

Janitorial – Interior Areas – In cooperation with the Managers contracted agent the Manager shall manage the cleaning, sanitizing, and any other special procedures required to maintain the safe, sanitary and clean condition of all building interior areas (occupied and unoccupied). Manager shall make all efforts to ensure that the Facilities are sanitary and free from litter, debris and rubbish at all times. The cost of these services shall be the responsibility of the RLRA and be subject to the terms of section 5 (d) above.

Grounds Maintenance and Management – Exterior Areas – In cooperation with the Managers contracted agent the Manager shall manage the upkeep and maintenance of building exteriors, paved areas, landscaped areas and parking. Landscaping activities include costs for mowing, edging, fertilizing, aerating, trimming, tree trimming, weed abatement, extermination, reseeding, maintenance of ornamental plants, plant replacement, and replacement and repair of irrigation lines and sprinklers. The cost of these services shall be the responsibility of the RLRA and be subject to the terms of section 5 (d) above.

Mechanical Maintenance and Energy Management – The planning, operational, maintenance, monitoring and reporting requirements for all HVAC, mechanical, electrical, plumbing, storm water and fire suppression systems. Ensure that all labeling and code compliance requirements are met. Develop and implement an energy management program. Conduct all meter readings, including those within low and medium voltage areas.

RLRA agrees to pay for arc flash training, provided that Manager must schedule and receive trainings no later than August 31, 2016.

Annual Inspections – Undertake preventive annual inspections of tenant areas to note the condition of each occupied space. Address routing maintenance or other required improvements as necessary, consistent with this Agreement.

Preventative Maintenance – Undertake regular preventive inspections of the common areas and equipment at regular scheduled times (daily, weekly, monthly, quarterly, or annually).

Security Guard, Surveillance and Investigative Services – Work with the RLRA’s contracted Security service to develop and deploy gate attendants, security guards or contract security services. In cooperation with the RLRA’s contracted security service Manager shall implement security guard, surveillance and investigative duties and expectations. When required amend and approve the existing written protocols as to requirements for investigative services, including access to, and surveillance of all buildings and property areas (interior and exterior). Working with the RLRA and the contracted security service, develop requirements for equipment, operation of equipment and staffing performance expectations.

Health and Safety – The development, administration and monitoring of all health and safety plans as they pertain to facilities management activities and subcontractor activities. Administer certifications and oversight of all activities of facility management staff and any subcontractors in performing their duties. Ensure compliance with all regulatory requirements (e.g., OSHA, Cal/OSHA).

Remediation Activities – The identification, testing, remediation, removal, encapsulation or other recommendation with respect to hazardous substances discovered during the performance of normal maintenance activities. Ensure adequate training and other requirements for staff and equipment involved in remediation activities.

Tenant/Property Management – The administration of tenant leases, including payment collection (if required at the sole discretion of the RLRA), fund processing, tenant noticing and other services. Implement and administer policies and procedures for tenant management and rent collection (subject to review and modification by RLRA). Review tenant improvement plans that do not require significant engineering, structural analysis through a formal plan check from a licensed plan checking firm.

Facilities Access – Installation of locks and keys. Manager shall maintain one set of keys and provide a complete copy of keyset to RLRA. Manager may request the installation of a Knox Box to be installed at the expense of RLRA. Manager shall maintain keys for the Knox Box. City shall maintain right of entry at all times. Upon termination of this Agreement, Manager shall return all keys to RLRA.

Website Management – Management and ongoing update of the Riverbank Industrial Complex (“RIC”) website. RLRA will provide training to one employee of Manager. Actively monitor and manage the RIC website for broken links or other issues and revise website information in consultation with RLRA. Revise or develop new content on a monthly or other periodic basis as determined in consultation with the RLRA. Monitor external communications and interaction with tenants or the public through the RIC website.

Graffiti Abatement – Remove graffiti from surfaces on the property using appropriate solvents; determine appropriate paint or other materials, equipment and supplies needed to complete the job.

Leasing/Prospective Tenants – The preparation of leasable space for inspection by prospective tenant, and coordination of leasing activities with the Leasing Consultant, as directed by RLRA. Show available space to

prospective tenants. Determine whether the space meets the utility needs of the prospective tenant. If requested, Develop a term sheet for approval by RLRA. Complete lease template provided by RLRA for RLRA review and approval.

Serve as a liaison and agent with both the U.S. Army and the RLRA as it relates to facilities being managed.

Perform additional duties assigned by RLRA that are reasonably related to the above services.

Provide all duties, reporting and services proposed in Manager's Facilities Management Services in response to RLRA RFP #0111416 ("RFP Response", provided that, if any provision of the RFP Response conflicts with this Agreement, the provisions of this Agreement shall control.

RIVERBANK LOCAL REDEVELOPMENT AUTHORITY

RESOLUTION

A RESOLUTION OF THE LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF RIVERBANK AWARDING THE RIVERBANK ARMY AMMUNITION PLANT FACILITY MANAGER CONTRACT TO SAN JOAQUIN ENGINEERING SOLUTIONS LLC

WHEREAS, the Local Redevelopment Authority (“LRA”) of the City of Riverbank can enter into a contract with San Joaquin Engineering Solutions, LLC (“SJES”); and

WHEREAS, the Riverbank LRA has the responsibility of the redevelopment, operations and maintenance of the former Riverbank Army Ammunition Plant beginning April 1, 2010; and

WHEREAS, knowledgeable, experienced help is necessary to manage and operate the Riverbank Army Ammunition Plant for the LRA; and

WHEREAS, the Riverbank LRA requested proposals from firms to provide facility management and operations experience and property management services by January 14, 2016; and

WHEREAS, from among the proposals received, the Riverbank LRA has determined that San Joaquin Engineering Solutions, LLC’s offer is advantageous to the LRA; and

WHEREAS, San Joaquin Engineering Solutions, LLC has represented that it has the requisite personnel, experience and resources to provide the services required by the LRA and SJES desires to provide the services; and

WHEREAS, the LRA and San Joaquin Engineering Solutions, LLC have also agreed to items listed in Exhibit B titled “Services” of the proposed Facilities Management Agreement; and

WHEREAS, the LRA and San Joaquin Engineering Solutions, LLC are desirous of executing this agreement as authorized by the Local Redevelopment Board of the City of Riverbank; and

NOW, THEREFORE, BE IT RESOLVED that the Local Redevelopment Authority of the City of Riverbank does hereby authorize the City Manager to enter into a contract with San Joaquin Engineering Solutions, LLC for facility management services at the Riverbank Industrial Complex.

PASSED AND ADOPTED by the Local Redevelopment Authority of the City of Riverbank at a regular meeting held on the 22th day of March 2016, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Attest:

Approved:

Annabelle Aguilar
City Clerk

Richard D. O’Brien
Chair

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.4

SECTION 6: NEW BUSINESS

Meeting Date:	March 22, 2016
Subject:	Informational Presentation on the Feasibility of a Citywide Storm Water Utility District
From:	Jill Anderson, City Manager
Submitted By:	Marisela Garcia, Director of Finance Kathleen Cleek, Development Services Admin. Manager

RECOMMENDATION

It is recommended that the City Council receive this informational presentation on the feasibility of establishing the formation of a Citywide Storm Water Utility District.

STRATEGIC PLAN GOAL & OBJECTIVE:

This report is being presented as an informational item in support of the City's Strategic Plan, which includes the goal to "Achieve and Maintain Financial Stability and Sustainability" and the specific objective to "Determine the feasibility of a Citywide Storm water Utility District and make a recommendation to the City Council for action."

SUMMARY:

Although systems of storm drains, municipal streets and other conveyances such as municipal separate storm sewer systems (MS4 systems) are public utilities, they differ from water and wastewater utilities in one significant way: Water and wastewater utilities are financially supported by service fees subject only to the notice and protest requirements of Proposition 218. Traditional utilities like drinking water and sanitary sewer services rely on the protest process outlined in Proposition 218. California created an exemption from the vote requirement for traditional water, sanitary sewer and refuse utilities, stipulating instead that they provide public notice and hold public protest hearings for all new rates and increases. Unfortunately storm water fees were not included in this exemption. Storm water fees must survive both a protest hearing and a majority landowner vote or a supermajority electorate vote. As a result storm water has been designated the "orphaned" utility.

CURRENT ISSUES AND LAWS UNDER THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT:

At this time the City's aging storm water infrastructure improvements and maintenance are supported by the City's general funds with the exception of two Storm Drain Districts: Heartlands (behind the Crossroads Commercial Center) and Sterling Ridge (at the end of Pocket Road). This has presented a major challenge to the City due to the age of our infrastructure and the unfunded laws and regulations the state is asking local jurisdictions to complete, which is outlined in the Municipal Separate Storm Sewer Systems (MS4) Permit.

The MS4 permit requires the City to implement policies and programs to filter out pollutants before local storm water runs off into the river or storm drain basins. Under the MS4 permit, the City is required to create programs and educate the public on illicit discharges to the City's storm water system as well as start enforcement actions. Additionally, Riverbank has the obligation to enforce a Post Construction Storm Water Management Program, which requires consistent oversight and monitoring for compliance. Soon the City will need to begin water quality monitoring and complete a program effectiveness and improvement assessment. These programs only cover the year one and two requirements, the City will continue to have three more years of requirements that will need to be completed and monitored as described in the laws of the MS4 permit.

In addition, the State will be implementing a new requirement at the end of 2016 which will require a 100% trash capture. Once implemented, the City will have 90 days to decide how to comply with the new requirement of 100% trash capture policy. There will be two tracts (Tract 1 & Tract 2) that the City can select from. One of the tracts will require implementation / retrofit of existing infrastructure to ensure that no trash enters the storm system/waterways. This will require funding for the expense of installing the trash capturing devices as well as the high on-going maintenance costs. If the City decides on this Tract, we will be given 10 years to implement. The second option is to implement enhanced BMPs (Best Management Practices), which will need to include a plan/effectiveness study to prove that it works.

Unfortunately, the unfunded state laws in the MS4 permit and the needed infrastructure improvements must be balanced with other programs supported by the City's general funds, including law enforcement, fire, park maintenance, street lighting, and other services.

CURRENT STORM WATER UTILITY RULES UNDER 218:

Storm water should be viewed as a resource that can recharge groundwater supplies via infiltration. Although systems of storm drains, municipal streets, and municipal

separate storm sewer systems, also known as MS4 systems are public utilities, they differ from water and wastewater utilities, because water and wastewater utilities are financially supported by service fees subject only to the notice and protest requirements of Proposition 218. With few exceptions, local municipal storm water utilities are supported by the General Funds of cities and counties. This presents a challenge because storm water funding must be balanced with other programs supported by the General Funds, including law enforcement, park maintenance, etc. Over the past fifteen years there have been numerous failed attempts by local governments to pass storm water fees. Because of the lack of dedicated funding Cities and Counties have failed to place infrastructure to capture and use storm water and maintain and replace aged infrastructure.

The need for funding sources for storm water management programs has increased with the State mandated laws imposed on local jurisdictions through the new MS4 Storm Water Permit. The need to upgrade or replace older infrastructures, the need to conduct periodic water quality testing, and the lack of manpower to manage these obligations are all strong reasons to seek a consistent and reliable source of funding.

CURRENT LAWS TO ESTABLISH A CITYWIDE STORM WATER UTILITY ASSESSMENT DISTRICT:

Chapter 4600 under the Health and Safety Code is known as the Community Facilities Law of 1911. Section 4602.4 allows Cities to form storm water improvement districts. Public hearings and a mailed ballot are required to form an assessment district.

A storm water utility is essentially a special district that may be set up to generate funding specifically for storm water management. Generally, such districts could impose special taxes, special assessments, monthly rates or user fees, and connection fees. The district would collect an annual, quarterly, or monthly storm water fee, paid by all property owners identified in a clearly defined boundary in the City.

Assessment district financing provides a vehicle to apportion the cost of improvements to those who will benefit by typically issuing bonds, which are then repaid with revenue generated by imposing special taxes, or special assessments on those benefiting directly from the improvements and additional City services. This revenue could pay for maintenance and replacement of storm drain facilities, development of drainage plans, administrative costs, permit-required inspections, monitoring, water quality programs, education and outreach, enforcement activities, and construction of major capital improvements.

Under Health and Safety Code Section 4612 a two-thirds voter approval is required to issue bonds and levy special taxes. For special assessments, the assessment district must demonstrate a finding of a direct and special benefit to each parcel being

assessed, as set forth in an Engineer's Report, and compliance with Proposition 218 is required. Once the Engineer's Report is complete, which shows the specific benefits for each parcel, the assessment will be imposed if a majority of the voting property owners do not protest the assessment. Ballots are weighted based on the financial obligation of each property owner.

The City currently has two Storm Water Maintenance Districts:

- Heartlands, which is located behind the Crossroads Commercial Center, which services the commercial center and the Heartlands subdivision.
- Sterling Ridge - located at the end of Pocket Road, which services the developments of Sterling Ridge, Elmwood Estates Unit 1 and Elmwood Estates Unit 2.

Homeowners in these districts are charged an annual storm water assessment fee. Residents in the Heartlands District are charged \$37.62 a year and residents within the Sterling Ridge District are charged \$65.20. The difference in charges is due to the fact that the Heartlands District also includes the Crossroads Commercial Development, which also pays fees based on the square footage of the business.

CURRENT LAWS TO ESTABLISH SPECIAL TAX DISTRICTS – MELLO ROOS COMMUNITY FACILITIES DISTRICT (ACT OF 1982)

If more flexibility is needed in the allocation of costs and funding burdens, a Mello-Roos Community Facilities District (CFD) may be used instead of an assessment district. The Mello-Roos law does not require a finding of benefit for allocating costs among properties within the CFD, and the special tax can be spread in any "reasonable manner" according to the law. If a CFD is determined to be the best alternative, it will follow the City's current Rate and Method of Apportionment of Special Tax for the CFD as a part of CFD formation and bond issuance. It does require a two-thirds approval of registered voters in the proposed district. However, if less than 12 registered voters reside in the district, which is typical of undeveloped land; the special tax can be implemented with a property owner vote.

CURRENT STEPS TO COMPLETE THE FORMATION OF A DISTRICT

The steps and process to establish a Storm Water Utility Fee would consist of:

- Forming the relevant entity – service district, utility, or Mello-Roos CFD.
- Determine the City's infrastructure needs.
- MS4 permit requirements.
- Complete a fee study (for monthly rates) or Engineer's Report (for special assessment)

- Determine rates and rate structure or assessment amount; consider whether bonds should be issued
- Public Hearings
- Proposition 218 process.
- Adopt rates or assessment.

INTRODUCTION OF NEW LEGISLATION:

A new initiative AB 15-0116, The California Water Conservation, Flood Control and Storm Water Management Act of 2016 proposed by Christopher McKenzie, Executive Director, League of California Cities is currently in the polling stage. As soon as the polling stage is complete it will be presented to the legislative body. The intent is to have measure on the November ballot. In regards to the storm water findings, declarations and purposes, the measure states:

- Local agencies should invest in infrastructure to capture and clean water polluted by toxic chemicals and trash; recycle and reuse rain water and storm water runoff; and to prevent toxic storm water and urban runoff from contaminating sources of drinking water.
- California must also improve local flood control by better capturing and managing storm and flood waters and upgrading storm drains, sewer and drainage systems to protect properties from floods and increase local supplies of water available for public use.
- Local governments face thousands of dollars in fines per day from the state and federal governments if they cannot meet obligations under the federal Clean Water Act and state laws and regulations to adequately capture and treat toxic storm water and urban runoff.
- This measure would establish an alternative funding method that authorizes local agencies to levy fees or charges, subject to ratepayer protest, for flood control, and for management of storm water to protect coastal waters, rivers, lakes, streams, groundwater and other sources of drinking water from contamination and to comply with the federal Clean Water Act and state laws and regulations.
- Authorizes local agencies to use fees or charges to reduce water, and sewer fees or charges for low-income customers.

Under this initiative “Storm water service” is defined as any system of public improvements, facilities, projects or services for the collection, conveyance, conservation, drainage, disposal, recycling or treatment of storm water and dry weather runoff: (A) protect sources of drinking water; such as rivers, lakes, streams and groundwater, or the environment, such as beaches coastal waters, and wetlands from toxic chemicals, biological contaminants, and other pollutants; (B) protect public health

and safety; (C) conserve water; or (D) comply with federal or state laws, rules and regulations.

ATTORNEY GENERAL OF CALIFORNIA’S COMMENTS RELATED TO AB 15-0116:

This measure establishes an alternative process for local government to impose fees for water, sewer, storm water, and flood control services, as defined, without voter approval. Authorizes fee structures that recover reasonable costs of providing service, encourage water conservation and resource management, and provide fee reductions for low-income households. Requires notice of and public hearing on proposed fees. Allows fee payers to prevent proposed fee by majority filing written protests. Prohibits use of fee revenues for other purposes. Requires independent audit of revenues and expenditures. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Increased local government revenues and spending for flood control services and storm water management in the range of low hundreds of millions of dollars up to more than \$1 billion annually, depending on future actions by local governing boards and voters.

FINANCIAL IMPACT OF MS4 COMPLIANCE:

The full fiscal impacts of implementing all of the current and future state law MS4 permit requirements and the infrastructure improvements cannot be fully determined at this time unless a comprehensive assessment is completed of all MS4 permit requirements and aged infrastructure replacement needs. At this time the required obligations are being handled by Development Services Administration and Public Works staff, which continues to create a daily personnel demand. At the time the new monitoring and trash requirements become law, funding for a new staff member familiar with the requirements of the permit and approved funding for infrastructure improvements will be recommended.