CALL TO ORDER:     Chair:       John Dinan

ROLL CALL:   Chair:       John Dinan
Vice Chair:    Robert Ball
Commissioner:   Joan Stewart
Commissioner:   Melissa Hughes
Commissioner:   Mallory Fenrich
Commissioner:   Steve Link, Alternate Member

CONFLICT OF INTEREST
Any Planning Commission 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. PUBLIC COMMENTS (No action to 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 Planning Commission 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 Planning Commission Board.

2. CONSENT CALENDAR
All items listed on the Consent Calendar are to be acted upon by a single action of the Planning Commission Board unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 2.1: Posting of the Agenda. The Agenda for the April 16, 2019 Planning Commission Meeting was posted on the City Community Center bulletin board, City Hall North & South bulletin boards, Post Office, city website and emailed to the Library on April 12, 2019.

Item 2.2: Approval of the Agenda. This provides an opportunity for the Planning Commission or Staff to recommend that an item be placed on the agenda for discussion or to adjust the proposed agenda to allow an item to be taken out of order.

Recommendation: Approval by roll call vote.
Item 3.1: Development Agreement No. 01-2019 and Conditional Use Permit 02-2019 / Dept. File# 19-0001 – Canna+Rise - The project consists of a Development Agreement (DA) and a Conditional Use Permit (CUP) to permit a cannabis distribution facility (wholesale to wholesale) at 5729 Terminal Avenue (APN: 075-020-016). The project site consists of an existing approximately 6,000 square foot building on an industrial parcel of approximately one (1) acre in size. Parking lot and landscaping were previously installed. The project site has a General Plan Land Use Designation of Industrial/Business Park and is Zoned Light Industrial (M-1).

**Recommendation:** Approval of Reso #2019-009 by roll call vote to approve the Conditional Use Permit (CUP).

1st________________________________________ 2nd________________________________________

**Recommendation:** Approval of Reso #2019-010 by roll call vote to recommend approval of the Development Agreement (DA) to the City Council.

1st________________________________________ 2nd________________________________________

4. PRESENTATION (Information Only – No Action)

Item 4.1: GP and HE Report Yearly Presentation

5. PLANNING COMMISSION COMMENTS (Information Only – No Action)

None.

6. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)

None.

7. STAFF COMMENTS (Information Only – No Action)

Item 7.1: City Council Meeting Updates.

8. ADJOURNMENT - Regular Planning Commission meeting – May 21, 2019 @ 6:00 p.m.
AFFIDAVIT OF POSTING

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 Development Services Department at (209) 863-7128 or jsmallen@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 Planning Commission shall be in English and anyone wishing to address the Planning Commission 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: The Riverbank Planning Commission meets on the third Tuesday of each month at 6:00 p.m.

COMMISSION AGENDAS: The Planning Commission 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 Development Services Department, 6617 Third Street, Riverbank, CA and at www.riverbank.org upon distribution to a majority of the Planning Commission. A subscription to receive the agenda can be purchased for a nominal fee through the City Clerk’s Office.

PUBLIC HEARINGS: In general, a public hearing is an open consideration within a meeting of the Planning Commission Board, 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.

Televised/Video of Meetings: Charter – Channel 2; AT&T Uverse – Channel 99
Visit www.riverbank.org to connect to meeting videos. (Note: Technical difficulty occurs on occasion preventing the televising or recording of the meeting.)

City Hall Hours: City Hall is open Monday – Thursday: 7:30 am – 5:30 pm and Fridays: 8:00 am – 5:00 pm; CLOSED alternating Fridays. QUESTIONS: Contact the Developmental Services Department at (209) 863-7128.
NOTICE OF A PUBLIC HEARING
CITY OF RIVERBANK

Project Description: Development Agreement No. 01-2019 and Conditional Use Permit 02-2019 / Dept. File# 19-0001 – Canna+Rise - The project consists of a Development Agreement and a Conditional Use Permit to permit a cannabis distribution facility (wholesale to wholesale) at 5729 Terminal Avenue (APN: 075-020-016). The project site consists of an existing approximately 6,000 square foot building on an industrial parcel of approximately one (1) acre in size. Parking lot and landscaping are existing. The project site has a General Plan Land Use Designation of Industrial/Business Park and is Zoned Light Industrial (M-1).

Section 21080 of the Public Resources Code exempts from the application of CEQA for those projects over which public service agencies exercise only ministerial authority. The proposed Project would not have any effect on the environment because it is a development agreement and a conditional use permit for a business within an existing building in an industrial zoning district. The only proposed construction is a tenant improvement within the existing structure.

Planning Commission Meeting
April 16, 2019 at 6:00 pm
City Hall Council Chambers - 6707 Third Street - Riverbank, California

ALL INTERESTED PARTIES are invited to attend the public hearing on April 16, 2019 at the time and place specified above to express opinions or submit evidence for or against the subject matter being considered. Written comments via e-mail to dkenney@riverbank.org by postal service, or hand delivered to 6707 Third Street, Suite A, Riverbank, California, 95367, will be accepted by the Development Services Department up to 5:00 p.m. on said date. All written comments received by said time will be distributed to the Planning Commission for consideration. Oral comments will be received by the Planning Commission prior to the close of the Public Hearing on the subject matter being considered. The Planning Commission will receive all testimony prior to taking action. Testimony cannot be given over the telephone. If you challenge the City's action on these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City at, or prior to, the public hearing.

Meeting facilities are accessible to persons with disabilities. Any person requiring special assistance to participate in the meeting should notify the Administration Dept. at (209) 863-7122 or cityclerk@riverbank.org at least seventy-two (72) hours prior to the meeting. For questions regarding the public hearing matter contact Donna Kenney, Planning & Building Manager, at (209) 863-7124; dkenney@riverbank.org.

Any public record materials pertaining to the presentation of the subject matter being considered will be made available for review at the Development Services Counter at 6717 Third Street, Riverbank, and (if technologically possible) at http://www.riverbank.org/Depts/planning/default.aspx upon distribution to a majority of the Planning Commission (typically 72 hours prior to the meeting).
PUBLIC NOTICE
NOTICE OF A PUBLIC HEARING
CITY OF RIVERBANK

Project Description: Development Agreement No. 01-2019 and Conditional Use Permit 02-2019 / Dept. File# 19-0001 – Canna+Rise - The project consists of a Development Agreement and a Conditional Use Permit to permit a cannabis distribution facility (wholesale to wholesale) at 5729 Terminal Avenue (APN: 075-020-016). The project site consists of an existing approximately 6,000 square foot building on an industrial parcel of approximately one (1) acre in size. Parking lot and landscaping are existing. The project site has a General Plan Land Use Designation of Industrial/Business Park and is Zoned Light Industrial (M-1).

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April 3, 2019
RN #19-033
April 2, 2019

To whom it may concern:

You are receiving this letter because you reside within 300 feet of the project described below.

**NOTICE OF A PUBLIC HEARING**  
**CITY OF RIVERBANK**

**Project Description: Development Agreement No. 01-2019 and Conditional Use Permit 02-2019 / Dept. File# 19-0001 – Canna+Rise** - The project consists of a Development Agreement and a Conditional Use Permit to permit a cannabis distribution facility (wholesale to wholesale) at 5729 Terminal Avenue (APN: 075-020-016). The project site consists of an existing approximately 6,000 square foot building on an industrial parcel of approximately one (1) acre in size. Parking lot and landscaping are existing. The project site has a General Plan Land Use Designation of Industrial/Business Park and is Zoned Light Industrial (M-1).

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**Planning Commission Meeting**  
April 16, 2019 at 6:00 pm  
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ALL INTERESTED PARTIES are invited to attend the public hearing on April 16, 2019 at the time and place specified above to express opinions or submit evidence for or against the subject matter being considered. Written comments via e-mail to dkenney@riverbank.org by postal service, or hand delivered to 6707 Third Street, Suite A, Riverbank, California, 95367, will be accepted by the Development Services Department up to 5:00 p.m. on said date. All written comments received by said time will be distributed to the Planning Commission for consideration. Oral comments will be received by the Planning Commission prior to the close of the Public Hearing on the subject matter being considered. The Planning Commission will receive all testimony prior to taking action. Testimony cannot be given over the telephone. If you challenge the City’s action on these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City at, or prior to, the public hearing.

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CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT

Agenda Item No. 3.1


LOCATION: 5729 Terminal Avenue, Riverbank
APN 075-020-016.

GENERAL PLAN: Industrial/Business Park (I/BP)

ZONING: Light Industrial (M-1)

ENVIRONMENTAL DETERMINATION: The proposed project qualifies for a categorical exemption pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility that will not have a significant effect on the environment.

PROJECT PLANNER: Donna M. Kenney, Planning and Building Manager

RECOMMENDATION: Adopt Planning Commission Resolution No. 2019-009 recommending that the City Council adopt an Ordinance approving a development agreement by and between the City of Riverbank and E & J Distributors, LLC., a California limited liability company doing business as Canna+Rise and adopt Planning Commission Resolution No. 2019-010 approving a Conditional Use Permit for Canna+Rise.

I. EXECUTIVE SUMMARY:

Prior to commencing a cannabis distribution business, Canna+Rise must obtain a Development Agreement pursuant to Riverbank Municipal Code section 120.12. Proposed Resolution 2019-009 recommends the City Council adopt an Ordinance approving a development agreement by and between the City of Riverbank (“City”) and E & J Distributors, LLC., a California limited liability company doing business as Canna+Rise (collectively “Canna+Rise”). In addition, Section 2.5 of the Development Agreement states that Canna+Rise must obtain a Conditional Use Permit prior to development as well. With Proposed Resolution 2019-010, the Planning Commission approves the Conditional Use Permit.

II. BACKGROUND:

Riverbank Planning Commission
Meeting of April 16, 2019
Page 1 of 5
On October 9, 2015, Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643), collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”). MCRSA established the state’s first licensing system for commercial medicinal cannabis activity by qualified patients and their primary care givers. MCRSA also preserved local control of these businesses by requiring that a medicinal cannabis business obtain a local permit in order to operate.

In November of 2016, the voters of California approved Proposition 64 entitled the “Control, Regulate and Tax Adult Use of Marijuana” (“AUMA”). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence.

On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which combined MCRSA and AUMA to create a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in their jurisdiction.

Over several months the City Council participated in workshops concerning new cannabis regulations applicable to commercial and personal cultivation, warehousing, manufacturing, retail sales, and testing cannabis. Upon the conclusion of the workshops, the City Council adopted Ordinance No. 2017-007 on August 22, 2017, permitting certain types of cannabis businesses in the City and providing zoning restrictions for each type of cannabis use. Ordinance 2017-007 requires each cannabis business applicant execute a development agreement with the City prior to conducting commercial cannabis activity.

The City accepted applications from interested parties to conduct commercial cannabis cultivation and cannabis dispensary businesses. The City accepted applications for several license types, including dispensary (and associated delivery services), commercial indoor cultivation, and testing facilities. The development agreement described below is the result of an approved application and subsequent negotiations between City staff and the business operator.

The proposed location has been reviewed and approved for General Plan and Zoning compliance and is over 600 feet from a school campus, commercial day care facility, or teen center.

III. ANALYSIS:

**Development Agreement** -

Canna+Rise seeks to enter a development agreement (Attachment 2) with the City for the purpose of operating a cannabis distribution facility (wholesale to wholesale). Canna+Rise proposes to operate the cannabis distribution facility at that certain real property located at 5729 Terminal Avenue in the City of Riverbank, Assessor’s Parcel Number 075-020-016. Canna+Rise has an agreement to lease the property and the property owner is aware of and agrees to the project operating on the site.
The applicant proposes transporting bulk cannabis and cannabis products from a State licensed cultivation or manufacturing facility to their location, acquiring laboratory testing for the State, packaging the materials, and then labeling the products (with State approved labels) before distributing them wholesale to State licensed dispensaries. There will be no manufacturing of products or storefront sales on site. The products are expected to arrive and leave the rear (railroad tracks side) of the facility in 5-6 secure sprinter vans per week. The public driving by will only see employee vehicles in the parking lot of an existing industrial building that is without business signage.

The major elements of the development agreement are summarized below:

- The term of the agreement is five (5) years.
- Canna+Rise proposes the operation of a cannabis distribution facility (wholesale to wholesale).
- Canna+Rise plans operating on approximately six thousand (6,000) square feet of space for the distribution facility.
- The project would provide Canna+Rise with substantial private benefits that will place burdens upon City infrastructure, services, and neighborhoods. Canna+Rise seeks to offset these impacts through a monthly payment classified as a “Public Benefit” amount. The Public Benefit is designed and intended to offset or mitigate any potential impacts of the project on the community.
- Canna+Rise will pay to the City a Public Benefit of:
  - $6,000 or four percent (4%) of gross receipts (per month to be paid quarterly from operations every quarter starting the second quarter), whichever is greater, each for the first twelve (12) months following the issuance of a Conditional Use Permit;
  - $10,000 or five percent (5%) of gross receipts from operations every quarter, whichever is higher, for months thirteen (13) through twenty-four (24) following the issuance of a Conditional Use Permit; and
  - $15,000 or five percent (5%) of gross receipts from operations, whichever is higher, for each month thereafter through the end of the term of the development agreement.

In accordance with Government Code section 65864 et seq, the City Council must find that the Development Agreement:

- Is consistent with the objectives, policies, general land uses, and programs specified in the Riverbank General Plan and any applicable specific plan. The Project has been found to be consistent with the General Plan policies listed below:
  - **Policy LAND-4.2:** The City will encourage the revitalization of existing commercial areas through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement processes, catalyst projects, public-private partnerships, and other means.
  - **Policy ED-7.3:** The City will pursue locally-oriented commercial uses that are currently underserved in Riverbank, and expand upon the existing base of local-serving retail and service establishments as population increases create additional market demand.
o Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole. A security plan has been submitted which will ensure that Canna+Rise’s activities will not be detrimental to the health, safety, and general welfare of residents within the neighborhood and within the City. Security will be provided 24 hours per day and seven days per week. Similar to “Ring”, security personnel will be able to keep the site locked and use their cameras and speakers to address any people outside the building after hours. Additionally, all transfers of products to and from the sprinter vans will occur within secured areas inside the building and under the supervision of guards.

o Will not adversely affect the orderly development of property or the preservation of property values. Since Canna+Rise is redeveloping an existing vacant building in an existing neighborhood of industrial structures, the project is not anticipated to adversely affect the orderly development of the property or the preservation of property values.

o Is consistent with the provisions of Government Code sections 65864 through 65869.5. The project is consistent with the provisions of Government Code sections 65864 through 65869.5 in that a Development Agreement will provide assurance to the applicant that upon approval of the project, the applicant may proceed with the project under existing codes and policies and that the project is not located in an area with a local coastal program.

o Contains a legal description of the property. The Development Agreement contains Exhibit A, a legal description of the property.

**Conditional Use Permit -**

A Conditional Use Permit must be obtained pursuant to the Development Agreement. Resolution No. 2019-010 contains fifteen (15) conditions with which the business must comply. Besides compliance with all regulations and code requirements of both the City and the State, conditions include a requirement for background checks (Live Scans), hours of construction for the proposed tenant improvements, exterior lighting conditions, and a hold harmless section. No advertising signage is requested by the applicants or expected by the City.

**IV. STRATEGIC GOALS:**

The City of Riverbank Strategic Planning Session is a plan and set of goals that Riverbank will work towards for the next three (3) years. The completion of development agreements for cannabis activities is a specific objective. It is consistent with the established General Plan goal to Achieve and Maintain Financial Stability and Sustainability as part of the City’s Vision “To be recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment.”

**V. ENVIRONMENTAL DETERMINATION:**
Canna+Rise's project is categorically exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, applicable to existing facilities involving no expansion of the facility.

VI. RECOMMENDATION:

Adopt Resolution No. 2019-009 recommending the City Council adopt an Ordinance approving a development agreement by and between the City of Riverbank ("City") and E & J Distributors, LLC., a California limited liability company doing business as Canna+Rise and adopt Resolution No. 2019-010 approving a Conditional Use Permit.

VII. ATTACHMENTS:  
1. Resolution No. 2019-009 Development Agreement  
   Exhibit A - Ordinance No. 2019-XXX  
2. Development Agreement  
   Exhibit A – Legal Description  
   Exhibit B – Site Plan  
   Exhibit C – Lease Agreement  
   Exhibit D – Notice of Non-Performance Penalty  
   Exhibit E – Indemnity Agreement for Land Use Entitlement Processing  
   Exhibit F – Notice of Termination  
   Exhibit G – Assignment and Assumption Agreement  
3. Resolution No. 2019-010 Conditional Use Permit  
   Exhibit A – Site Plan  
   Exhibit B – Floor Plan

Respectfully Submitted By:

__________________________
Donna M. Kenney  
Planning and Building Manager
CITY OF RIVERBANK
RESOLUTION NO. 2019-009

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF RIVERBANK AND E & J DISTRIBUTORS LLC., A CALIFORNIA LIMITED LIABILITY CORPORATION DOING BUSINESS AS CANNA+RISE

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the “Control, Regulate and Tax Adult Use of Marijuana” (“AUMA”). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 et seq., which authorizes the City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application; and

WHEREAS, the City adopted Resolution No. 99-39 authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City; and

WHEREAS, Resolution No. 99-39 requires a written application with specified data to be submitted to the City for consideration of any development agreement; and

WHEREAS, E & J Distributors LLC., a California limited liability company doing business as Canna+Rise (collectively “Canna+Rise”) submitted an application to the City for consideration of a development agreement to operate a cannabis distribution facility, wholesale to wholesale (the “Project”); and

Riverbank Planning Commission
Resolution 2019-009
Meeting of April 16, 2019
Page 1 of 3
WHEREAS, Canna+Rise proposes to improve, develop, and use real property for the Project, in strict accordance with applicable state and local law, including, but not limited to, the Riverbank Municipal Code; and

WHEREAS, Canna+Rise has a lease agreement to occupy that certain real property located at 5729 Terminal Avenue in the City of Riverbank, Assessor’s Parcel Number 075-020-016 on which Canna+Rise intends to develop the Project; and

WHEREAS, City and Canna+Rise seek to enter a development agreement for the Project (the “Development Agreement”) pursuant to Government Code section 65864 et seq. and all applicable local and state laws; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 16, 2019, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, environmental impacts for the Project have been reviewed and assessed by the City pursuant to the California Environmental Quality Act (“CEQA”) (Public Resources Code section 21000 et seq.; California Code of Regulations Title 14, section 15000 et seq.), and the City determined the Project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility; and

WHEREAS, the Planning Commission finds that an ordinance approving the Development Agreement will allow the City to adequately regulate and address all impacts of the Project in the City in accordance with state law; and

WHEREAS, the Planning Commission finds that the ordinance is in the best interest of the health, welfare, and safety of the public.


PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 16th day of April, 2019; motioned by Commissioner ______________, seconded by Commissioner ____________, and upon roll call was carried by the following Planning Commission vote of _-_:  

AYES:

NAYS:

ABSENT:

Riverbank Planning Commission  
Resolution 2019-009  
Meeting of April 16, 2019  
Page 2 of 3
ABSTAIN:

Attest: __________  __________

Donna M. Kenney
Secretary to the Planning Commission

Approved:       

John Dinan
Chairperson
WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the “Control, Regulate and Tax Adult Use of Marijuana” ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 et seq., which authorizes the City of Riverbank ("City") and an individual with an interest in real property to enter a development agreement that establishes certain development rights in real property that is subject to a development agreement application; and

WHEREAS, the City adopted Resolution No. 99-39 authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City; and

WHEREAS, Resolution No. 99-39 requires a written application with specified data to be submitted to the City for consideration of any development agreement; and

WHEREAS, E & J Distributors LLC., a California limited liability corporation doing business as Canna+Rise ("Canna+Rise") submitted an application to the City for consideration of a development agreement to operate a cannabis distribution facility (the "Project"); and
WHEREAS, Canna+Rise proposes to improve, develop, and use real property for the Project, in strict accordance with applicable state and local law, including, but not limited to, the Riverbank Municipal Code; and

WHEREAS, Canna+Rise has a lease agreement to occupy that certain real property located at 5729 Terminal Avenue in the City of Riverbank, Assessor’s Parcel Number 075-020-016 on which Canna+Rise intends to develop the Project; and

WHEREAS, City and Canna+Rise seek to enter a development agreement for the Project (the “Development Agreement”) pursuant to Government Code section 65864 et seq. and all applicable local and state laws; and

WHEREAS, environmental impacts for the Project have been reviewed and assessed by the City pursuant to the California Environmental Quality Act (“CEQA”) (Public Resources Code section 21000 et seq.; California Code of Regulations Title 14, section 15000 et seq.), and the City determined the Project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 16, 2019, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, on May 14, 2019, and May 28, 2019, the City Council held duly noticed public hearings to consider the Development Agreement; and

WHEREAS, the City Council of the City, based on its independent review and analysis of staff’s recommendations, oral and written testimony, and the record as a whole, finds, after due study, deliberation, and public hearing, and based on its independent judgment, that the following circumstances exist:

1. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank.

2. In accordance with Government Code section 65864 et seq, the City Council finds that the Development Agreement:

   a. Is consistent with the objectives, policies, general land uses, and programs specified in the Riverbank General Plan and any applicable specific plan; and

   b. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole; and
NOW, THEREFORE, THE CITY OF RIVERBANK CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Riverbank approves a Development Agreement by and between E & J Distributors LLC., a California limited liability corporation doing business as Canna+Rise, and the City of Riverbank for the development of the Project, and instructs the City Manager to execute the Development Agreement subject to final, technical revisions as required and approved by the City Attorney.

SECTION 2. The City shall review the Development Agreement for compliance with its terms and conditions not less than once every twelve (12) months from the effective date of the Development Agreement; or as otherwise required pursuant to the terms of the Development Agreement.

SECTION 3. Notice of the public hearing on the proposed Development Agreement was published in the Riverbank News, a newspaper of general circulation; and notices of the public hearing on the proposed Development Agreement were mailed to all interested parties and property owners within 300 feet of the property, according to the most recent assessor’s roll.

SECTION 4. Environmental impacts for the Project have been reviewed and assessed by the City pursuant to CEQA (Public Resources Code section 21000 et seq.; California Code of Regulations Title 14, section 15000 et seq.). The Project site is categorically exempt from CEQA pursuant to Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility.

SECTION 5. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Riverbank hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
SECTION 6. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, and publication of the Ordinance shall occur in a newspaper of general circulation at least fifteen (15) days prior to its effective date, or a summary of the Ordinance published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the 14th day of May, 2019; motioned by Councilmember _________, seconded by Council Member _________, and upon roll call was carried by the following vote ___:

AYES:
NAYS:
ABSENT:
ABSTAIN:

ATTEST: APPROVED:

______________________________  __________________________
Annabelle Aguilar, CMC          Richard D. O’Brien
City Clerk                      Mayor
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this 14th day of May, 2019, by and between the CITY OF RIVERBANK, a California municipal corporation ("City") and E & J DISTRIBUTORS LLC., a California limited liability corporation doing business as CANNA+RISE ("Developer"). City and Developer may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

A. On October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers.

B. On November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act ("AUMA"), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use.

C. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which creates a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in Commercial Cannabis
Activity, as defined in Section 1.4 of this Agreement, may operate in a particular jurisdiction.

D. Developer proposes to improve, develop, and use real property to operate a medicinal Cannabis Dispensary, in strict accordance with California Cannabis Laws, and the Municipal Code of the City of Riverbank, as each may be amended from time to time (the “Project”).

E. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 et seq. (the “Development Agreement Statute”), which authorizes City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application.

F. Consistent with the requirements of the Development Agreement Statute, City has adopted Resolution No. 99-39 (“City Development Agreement Resolution”) authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City.

G. The City Development Agreement Resolution requires a written application with specified data to be submitted to the City for consideration of any development agreement.

H. Developer submitted an application to the City for consideration of a development agreement for the Project.

I. Developer leases that certain real property located at 5729 Terminal Avenue in the City of Riverbank, County of Stanislaus, State of California, Assessor’s Parcel Number 075-020-016, of which Developer intends to improve approximately six thousand (6,000) square feet of space (the “Site”), more particularly described in the legal description attached hereto as Exhibit A and the Site Map attached hereto as Exhibit B.

J. Government Code section 65865 requires that an applicant for a development agreement hold a legal or equitable interest in the real property that is the subject of the development agreement.

K. Developer has leased the Site for the purpose of operating the Project. A copy of the lease is attached hereto as Exhibit C, within satisfaction of the requirement of Riverbank Municipal Code Chapter 120. The legal owner of the Site is aware of, and agrees to, the operation of the Project upon the Site.
L. On November 20, 2017, the Riverbank Planning Commission ("Planning Commission") adopted Resolution No. 2017-025 recommending the Riverbank City Council ("City Council") adopt an ordinance establishing zoning limitations and requirements for all cannabis businesses.

M. On December 12, 2017, the City Council adopted Ordinance No. 2017-007 to revise Riverbank Municipal Code 120 to establish a Cannabis Business Pilot Program to regulate all cannabis businesses within the City.

N. Government Code section 65867.5 and the City Development Agreement Resolution requires the Planning Commission hold a public hearing to review an application for a development agreement.

O. On April 16, 2019, the Planning Commission, in a duly noticed and conducted public hearing, considered Developer’s application for this Agreement.

P. On April 16, 2019, the Planning Commission recommended the City Council adopt Ordinance No. 2019-____, which would allow Developer to operate the Project at the Site.

Q. On May 14, 2019, pursuant to Government Code section 65867.5 and the City Development Agreement Resolution, the City Council reviewed, considered, adopted, and entered into this Agreement pursuant to Ordinance No. 2019-_____.

R. This Agreement is entered into pursuant to the Development Agreement Statute and the City Development Agreement Resolution.

S. City and Developer desire to enter into this Agreement to (i) facilitate the orderly development of the Site; (ii) create a physical environment that is consistent with and complements City’s goals and visions; (iii) protect natural resources from adverse impacts; (iv) improve, upgrade, and create additional community facilities and infrastructure, enhance services, and assist in implementing the goals of the General Plan; and (vi) reduce the economic risk of development of the Site to both City and Developer.

T. The Parties intend through this Agreement to allow Developer to develop and operate the Project in accordance with the terms of this Agreement.

U. The City Council has determined that this Agreement is consistent with City’s General Plan and have conducted all necessary proceedings in accordance with Riverbank Municipal Code for the approval of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the
receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

ARTICLE 1
GENERAL PROVISIONS

Section 1.1. Findings. City hereby finds and determines that entering into this Agreement furthers the public health, safety, and general welfare and is consistent with City’s General Plan, including all text and maps in the General Plan.

Section 1.2. Recitals. The Recitals above are true and correct and are hereby incorporated into and made a part of this Agreement. In the event of any inconsistency between the Recitals and the provisions of Articles 1 through 10 of this Agreement, the provisions of Articles 1 through 10 shall prevail.

Section 1.3. Exhibits. The following “Exhibits” are attached to and incorporated into this Agreement:

<table>
<thead>
<tr>
<th>Designation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A</td>
<td>Legal Description</td>
</tr>
<tr>
<td>Exhibit B</td>
<td>Site Map</td>
</tr>
<tr>
<td>Exhibit C</td>
<td>Site Lease</td>
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<tr>
<td>Exhibit D</td>
<td>Notice of Non-performance Penalty</td>
</tr>
<tr>
<td>Exhibit E</td>
<td>Indemnification Agreement</td>
</tr>
<tr>
<td>Exhibit F</td>
<td>Notice of Termination</td>
</tr>
<tr>
<td>Exhibit G</td>
<td>Assignment and Assumption Agreement</td>
</tr>
</tbody>
</table>

Section 1.4. Definitions. In this Agreement, unless the context otherwise requires, the terms below have the following meaning:

(a) “Additional Insureds” has the meaning set forth in Section 6.1.

(b) “Additional Licenses” has the meaning set forth in Section 2.4.

(c) “Adult-use cannabis” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by adults 21 years of age or over in California pursuant to the California Cannabis Laws.

(d) “Agreement” means this Development Agreement, inclusive of all Exhibits attached hereto.
(e) “Application” means the cannabis business application for a development agreement required by Riverbank Municipal Code Chapter 120 and Section 4 of the City Development Agreement Resolution.

(f) “Assignment and Assumption Agreement” has the meaning set forth in Section 10.1.

(g) “AUMA” means the Adult Use of Marijuana Act (Proposition 64) approved by California voters on November 8, 2016.

(h) “Authorized License” has the meaning set forth in Section 2.3.

(i) “Bureau” means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(j) “California Building Standards Codes” means the California Building Code, as amended from time to time, in Part 2, Volumes 1 and 2, as part of Title 24 of the California Code of Regulations, as may be adopted by the Riverbank Municipal Code.

(k) “California Cannabis Laws” includes AUMA, MAUCRSA, CUA, the Medical Marijuana Program Act of 2004 codified as Health and Safety Code sections 11362.7 through 11.62.83, and any other applicable laws that may be enacted or approved.

(l) “Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. Cannabis and the term “marijuana” may be used interchangeably.

(m) “Cannabis Business Pilot Program” means the cannabis business program established and authorized by Riverbank Municipal Code chapter 120.

(n) “Cannabis Dispensary” means a business that engages in Commercial Cannabis Activity related to the retail sale of cannabis pursuant to a Type 10 license.
(o) “CEQA” means the California Environmental Quality Act, as set forth in Division 13 (Commencing with Section 21000) of the California Public Resources Code, and the CEQA Guidelines as set forth in Title 14 (Commencing with Section 15000) of the California Code of Regulations.

(p) “City” means the City of Riverbank, a municipal corporation having general police powers.

(q) “City Council” means the City of Riverbank City Council, as described in Riverbank Municipal Code Section 10.05.

(r) “City Development Agreement Resolution” has the meaning set forth in Recital F.

(s) “City Manager” means the City Manager of the City of Riverbank, or his or her designee, as described in Riverbank Municipal Code Section 31.03.

(t) “Charged Party” has the meaning set forth in Section 8.1.

(u) “Charging Party” has the meaning set forth in Section 8.1.

(v) “Commercial Cannabis Activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of cannabis or a cannabis product that requires a state license pursuant to MAUCRSA.

(w) “Conditional Use Permit” means a conditional use permit issued by City pursuant to the Riverbank Municipal Code.

(x) “CUA” means the Compassionate Use Act (Proposition 215) approved by California voters on November 5, 1996.

(y) “Developer” means Pacafi Cooperative, Inc. doing business as Flavors. Developer also has the meaning set forth in Section 6.1.

(z) “Development Agreement Statute” has the meaning set forth in Recital C.

(aa) “Exhibits” has the meaning set forth in Section 1.3.

(bb) “Gross Receipts from Operations” means total revenue actually received or receivable from operation of the Project, including: all sales; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares, or merchandise; and gains realized from trading in stocks or bonds, interest discounts, rents, royalties, fees, commissions, dividends, or other

{_________}
remunerations, however designated. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as "gross receipts";
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit;
5. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded.

The intent of this definition is to ensure that in calculating the payment required under Section 4.2, all sales of cannabis products through the Project are captured. This definition shall therefore be given the broadest possible interpretation consistent with this intent.

(cc) "Indemnification Agreement" has the meaning set forth in Section 6.3.

(dd) "Major Amendment" means an amendment that shall have a material effect on the terms of the Agreement. Major Amendments shall require approval by the City Council.

(ee) "Marijuana" has the same meaning as cannabis and those terms may be used interchangeably.

(ff) "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified as Business and Professions Code section 26000 et seq., as may be amended from time to time.

(gg) "MCRSA" has the meaning set forth in Recital A.

(hh) "Ministerial Fee" or "Ministerial Fees" has the meanings set forth in Section 4.1.

(ii) "Minor Amendment" means a clerical amendment to the Agreement that shall not materially affect the terms of the Agreement and any amendment described as minor herein. A Minor Amendment also has the meaning set forth in Section 2.4.

(jj) "Mortgage" has the meaning set forth in Article 7.
Section 1.5. Project is a Private Undertaking. The Parties agree that the Project is a private development and that City has no interest therein, except as authorized in the exercise of its governmental functions. City shall not for any purpose be considered an agent of Developer or the Project.
Section 1.6. Effective Date of Agreement. This Agreement shall become effective upon the date that the ordinance approving this Agreement becomes effective (the “Effective Date”).

Section 1.7. Term. The “Term” of this Agreement is five (5) years from the Effective Date, unless terminated or extended earlier, as set forth in this Agreement.

(a) Government Tolling or Termination. City may provide written notice to Developer to cease all Commercial Cannabis Activity, upon which Developer shall immediately comply, if City is required, directed, or believes, in its sole and absolute discretion, it must temporarily halt or terminate Commercial Cannabis Activity within the City to comply with federal or state law. If City temporarily halts this Agreement to comply with federal or state law, this Agreement shall be tolled for no longer than one (1) year (the “Tolling Period”). Developer shall not accrue or be liable to City for any Ministerial Fees or Public Benefit Amount during the Tolling Period. Developer shall resume paying any applicable fees after the Tolling Period ends. City and Developer shall discuss in good faith the termination of this Agreement if the Tolling period exceeds one (1) calendar year to comply with federal or state law.

(b) Developer’s Tolling or Termination. Developer may not temporarily halt or terminate this Agreement for any purpose without causing a default of this Agreement, except as otherwise allowed by this Agreement.

Section 1.8. Priority of Enactment. In the event of a conflict between the various land use documents referenced in this Agreement, the Parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (a) General Plan, (b) Agreement, (c) Conditional Use Permit, and (d) Subsequent City Approvals.

Section 1.9. Amendment of Agreement. This Agreement shall be amended only by mutual consent of the Parties. All amendments shall be in writing. The City Council hereby expressly authorizes the City Manager to approve a Minor Amendment to this Agreement, upon notification of the City Council. A Major Amendment to this Agreement shall be approved by the City Council. The City Manager shall, on behalf of City, have sole discretion for City to determine if an amendment is a Minor Amendment or a Major Amendment. Nothing in this Agreement shall be construed as requiring a noticed public hearing, unless required by law.

Section 1.10. Recordation of Development Agreement. The City Clerk shall cause a copy of this Agreement to be recorded against the title of the Site within ten (10) business days of the Effective Date.

Section 1.11. Funding Agreement for Processing Costs. Developer has deposited Thirty Thousand Dollars ($10,000) with City to pay for the Application, all actual fees and expenses incurred by City that are related to the preparation and processing of this
Agreement, including recording fees, publishing fees, staff time, consultant and attorney fees and costs (collectively, “Processing Costs”), and the first installment of the Public Benefit. The Processing Costs are refundable solely to the extent of non-expended Processing Costs. Developer shall be entitled to a refund of available Processing Costs only after City determines all financial obligations associated with the Project have been received and paid by City.

(a) Apportionment of Processing Costs. If the amount deposited for purposes of Processing Costs is insufficient to cover all Processing Costs, Developer shall deposit with City such additional funds necessary to pay for all Processing Costs within thirty (30) calendar days. The failure to timely pay any such additional amounts requested by City shall be considered a material default of this Agreement and City may terminate this Agreement.

(b) Accounting. Developer may request, and City shall issue within a reasonable time, an accounting and written acknowledgement of Processing Costs paid to City.

ARTICLE 2
DEVELOPMENT OF PROPERTY

Section 2.1. Vested Right of Developer. During the Term, in developing the Site consistent with the Project described herein, Developer is assured that the development rights, obligation terms, and conditions specified in this Agreement, including, without limitation, the terms, conditions, and limitations set forth in the Exhibits, are fully vested in Developer and may not be modified or terminated by City except as set forth in this Agreement or with Developer’s written consent.

Section 2.2. Vested Right to Develop. In accordance with Section 2.1, Developer shall have the vested right to develop and use the Project consistent with this Agreement, the Conditional Use Permit, and Subsequent City Approvals.

Section 2.3. Permitted Uses and Development Standards. Developer shall be authorized to develop, construct, and use the Site for Commercial Cannabis Activity consistent with the following license type (the “Authorized License”):

| Type 11 | Distributor |

Developer shall be permitted to use the Site consistent with the Authorized License for the Term of this Agreement and during the time Developer is applying for the Authorized License with the applicable State Licensing Authority. Notwithstanding the foregoing, Developer is required to apply for and obtain the Authorized License from the State of California. If the State Licensing Authority does not grant the Authorized License to Developer, Developer shall immediately cease Commercial Cannabis Activity on the Site. Developer shall also, within thirty (30) calendar days of receiving notice from the
State Licensing Authority, notify City of the State Licensing Authority’s denial or rejection of any license. If the Authorized License is not granted by the State of California, Developer shall immediately cease operations. In this situation, this Agreement shall terminate immediately. The Parties intend for this Agreement and the Conditional Use Permit to serve as the definitive and controlling documents for all subsequent actions, discretionary or ministerial, relating to development of the Site and Project.

Section 2.4. Major Amendment to Permitted Uses. Developer may request to add to the Authorized License additional license types once that license is applied for or obtained from the appropriate State Licensing Authority (the “Additional Licenses”).

Section 2.5. Conditional Use Permit. Prior to commencing operation of any Commercial Cannabis Activity on the Site, Developer shall obtain a Conditional Use Permit and any applicable Subsequent City Approvals. Developer shall be required to comply with all provisions of the Riverbank Municipal Code and any City rules and administrative guidelines associated with implementation of the Cannabis Business Pilot Program. Nothing in this Agreement shall be construed as limiting the ability of City to amend the Riverbank Municipal Code or issue rules or administrative guidelines associated with implementation of the Cannabis Business Pilot Program or Developer’s obligation to strictly comply with the same.

Section 2.6. Subsequent Entitlements, Approvals, and Permits. Successful implementation of the Project shall require Developer to obtain additional approvals and permits from City and other local and state agencies. City shall comply with CEQA in the administration of all Subsequent City Approvals. In acting upon any Subsequent City Approvals, City’s exercise of discretion and permit authority shall conform to this Agreement. Notwithstanding the foregoing, in the course of taking action on the Subsequent City Approvals, City will exercise discretion in adopting mitigation measures as part of the Conditional Use Permit. The exercise of this discretion is not prohibited or limited in any way by this Agreement. Nothing in this Agreement shall preclude the evaluation of impacts or consideration of mitigation measures or alternatives, as required by CEQA.

(a) Contemplated City Rules and Guidelines. City anticipates issuing additional rules and administrative guidelines associated with implementation of the Cannabis Business Pilot Program. City may establish requirements that are identical to or place a higher standard of care as existing provisions of the California Cannabis Laws, State Cannabis Regulations, or any amendments thereto. City reserves the right to adopt additional categories of rules or guidelines that are not listed in this section as part of the Cannabis Business Pilot Program. Developer shall comply with any and all administrative guidelines adopted by City that govern or pertain to the Project.
Section 2.7. Initiatives and Referenda. If any City ordinance, rule or regulation, or addition to the Riverbank Municipal Code is enacted or imposed by a citizen-sponsored initiative or referendum after the Effective Date that would conflict with this Agreement, an associated Conditional Use Permit, Subsequent City Approvals, or reduce the development rights or assurances provided to Developer in this Agreement, such Riverbank Municipal Code changes shall not be applied to the Site or Project; provided, however, the Parties acknowledge that City’s approval of this Agreement is a legislative action subject to referendum. City shall cooperate with Developer and shall undertake such reasonable actions as may be appropriate to ensure this Agreement remains in full force and effect and is implemented in accordance with its terms to the fullest extent permitted by state or federal law.

Section 2.8. Regulation by Other Government Entities. Developer acknowledges that City does not have authority or jurisdiction over any other government entities’ ability to grant governmental approvals or permits or to impose a moratorium or other limitations that may negatively affect the Project or the ability of City to issue a permit to Developer or comply with the terms of this Agreement. Any moratorium imposed by another government entity, including the State Licensing Authority, on City shall not cause City to be in breach of this Agreement.

Section 2.9. Developer’s Right to Rebuild. Developer may renovate portions of the Site any time within the Term of this Agreement consistent with the Riverbank Municipal Code. Any such renovation or rebuild shall be subject to all design, building code, and other requirements imposed on the Project by this Agreement.

Section 2.10. Changes in California Building Standards Codes. Notwithstanding any provision of this Agreement to the contrary, development of the Project shall be subject to changes occurring from time to time to the California Building Standards Codes.

Section 2.11. Changes Mandated by Federal or State Law. The Site and Project shall be subject to subsequently enacted state or federal laws or regulations that may preempt the Riverbank Municipal Code, or mandate the adoption or amendment of local regulations, or are in conflict with this Agreement or local rules or guidelines associated with the Cannabis Business Pilot Program. As provided in Section 65869.5 of the Development Agreement Statute, in the event state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Upon discovery of a subsequently enacted federal or state law meeting the requirements of this Section, City or Developer shall provide the other Party with written notice of the state or federal law or regulation, and a written statement of the conflicts thereby raised with the provisions of the Riverbank Municipal Code or this Agreement. Promptly thereafter, City and Developer shall meet and confer in good faith in a reasonable attempt to modify this
Agreement, as necessary, to comply with such federal or state law or regulation provided City shall not be obligated to agree to any modification materially increasing its obligations or materially adversely affecting its rights and benefits hereunder. In such discussions, City and Developer will attempt to preserve the terms of this Agreement and the rights of Developer derived from this Agreement to the maximum feasible extent while resolving the conflict. If City, in its judgment, determines it necessary to modify this Agreement to address such conflict, City shall have the right and responsibility to do so, and shall not have any liability to Developer for doing so or be considered in breach or default of this Agreement. City also agrees to process, in accordance with the provisions of this Agreement, Developer’s proposed changes to the Project that are necessary to comply with such federal or state law and that such proposed changes shall be conclusively deemed to be consistent with this Agreement without further need for any amendment to this Agreement.

Section 2.12. Health and Safety Emergencies. In the event that any future public health and safety emergencies arise with respect to the development contemplated by this Agreement, City agrees that it shall attempt, if reasonably possible as determined by City in its discretion, to address such emergency in a way that does not have a material adverse impact on the Project. If City determines, in its discretion, that it is not reasonably possible to so address such health and safety emergency, to select that option for addressing the situation which, in City’s discretion, minimizes, so far as reasonably possible, the impact on development and use of the Project in accordance with this Agreement, while still addressing such health and safety emergency in a manner acceptable to City.

ARTICLE 3
ENTITLEMENT AND PERMIT PROCESSING, INSPECTIONS

Section 3.1. Subsequent City Approvals. City shall permit the development, construction, and conditionally permitted use contemplated in this Agreement. City agrees to timely grant, pursuant to the terms of this Agreement, the Riverbank Municipal Code, and any Subsequent City Approvals reasonably necessary to complete the goals, objectives, policies, standards, and plans described in this Agreement. The Subsequent City Approvals shall include any applications, permits, and approvals required to complete the improvements necessary to develop the Site, in general accordance with this Agreement ("Subsequent City Approvals"). Nothing herein shall require City to provide Developer with Subsequent City Approvals prior to, or without complying with, all of the requirements in this Agreement, the Riverbank Municipal Code, and any applicable state law.

Section 3.2. Timely Processing. City shall use its reasonable best efforts to process and approve, within a reasonable time, any Subsequent City Approvals or environmental review requested by Developer during the Term of this Agreement.
Section 3.3. Cooperation between City and Developer. Consistent with the terms set forth herein, City agrees to cooperate with Developer, on a timely basis, in securing all permits or licenses that may be required by City or any other government entity with permitting or licensing jurisdiction over the Project.

Section 3.4. Further Consistent Discretionary Actions. The exercise of City’s authority and independent judgment is recognized under this Agreement, and nothing in this Agreement shall be interpreted as limiting City’s discretion or obligation to hold legally required public hearings. Except as otherwise set forth herein, such discretion and action taken by City shall, however, be consistent with the terms of this Agreement and not prevent, hinder or compromise development or use of the Site as contemplated by the Parties in this Agreement.

ARTICLE 4
PUBLIC BENEFIT, PROCESSING, AND OVERSIGHT

Section 4.1. Processing Fees and Charges. Developer shall pay to City those processing, inspection, plan checking, and monitoring fees and charges required by City which are in force and effect at the time those fees and charges are incurred (including any post-Effective Date increases in such fees and charges) for processing applications and requests for building permits, inspections, other permits, approvals and actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions (each a “Ministerial Fee” and collectively, the “Ministerial Fees”).

Section 4.2. Public Benefit.

(a) The Parties acknowledge and agree that this Agreement confers substantial private benefits upon Developer that will place burdens upon City infrastructure, services, and neighborhoods. Accordingly, the Parties intend to provide consideration to City to offset these impacts that commensurate with the private benefits conferred on Developer (the “Public Benefit”). In consideration of the foregoing, Developer shall remit to City as follows:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>No Public Benefit Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>First (1st) Business Day of 1st Month of the Second Quarter Following Issuance of the Conditional Use Permit.</td>
<td>$6,000 or 4% of Gross Receipts from Operations quarterly, whichever is greater (“Tier 1 Amount”).</td>
</tr>
<tr>
<td>First (1st) Business Day of 1st Month of the Quarter for months Thirteen (13) through Twenty-four (24) Following Issuance of the Conditional Use Permit.</td>
<td>$10,000 or 5% of Gross Receipts from Operations quarterly, whichever is greater (“Tier 2 Amount”).</td>
</tr>
</tbody>
</table>
(b) Collectively, these amounts shall be known as the “Public Benefit Amount”.

(c) Developer shall file an applicable statement that complies with the California State Board of Equalization, California Department of Tax and Fee Administration, or either’s successor agency (the “State Taxing Authority”) for sales tax purposes showing the true and correct amount of Gross Receipts from Operations of the Project during the applicable time period. Developer shall provide a copy of such statement to City upon request by City.

Section 4.3. Reporting. Developer shall provide City with copies of any reports provided to a state cannabis licensing agency within forty-five (45) calendar days of that submission.

Any failure or refusal of Developer to provide any statement or report to City, the State Taxing Authority, or any other State Licensing Authority as required within the time required, or to pay such sums due hereunder when the same are due and payable in accordance with the provisions of this Agreement, may constitute full and sufficient grounds for the revocation or suspension of the Conditional Use Permit.

Section 4.4. Records. Developer shall keep records of all Commercial Cannabis Activity in accordance with Chapter 16 (commencing with Section 26160) of Division 10 of the Business and Professions Code and the applicable State Cannabis Regulations. All records required by this Section shall be maintained and made available for City’s examination and duplication (physical or electronic) at the Site or at an alternate facility as approved in writing by the City Manager or his or her designee.

Section 4.5. Penalty. Developer acknowledges that to ensure proper compliance with the terms of this Agreement and any applicable laws, City must engage in costly compliance review, inspections, and, if necessary, enforcement actions to protect the health, safety, and welfare of its residents. Penalty and interest provisions are necessary to assist City in compliance review and enforcement actions. If Developer fail to make any payment when due as required by this Agreement, including the Public Benefit Amount, City may impose a “Non-Performance Penalty.” A Non-Performance Penalty of one percent (1%) shall be applied to all past due payments. City shall deliver to Developer a “Notice of Non-Performance Penalty,” attached hereto as Exhibit D. Payment of the Non-Performance Penalty shall be in a single installment due on or before a date fifteen (15) calendar days following delivery of the Notice of Non-Performance Penalty.
Section 4.6. Interest on Unpaid Non-Performance Penalty. If Developer fails to pay the Non-Performance Penalty after City has delivered the Notice of Non-Performance Penalty, then, in addition to the principal amount of the Non-performance Penalty, Developer shall pay City interest at the rate of eighteen percent (18%) per annum, computed on the principal amount of the Non-Performance Penalty, from a date fifteen (15) calendar days following delivery of the Notice of Non-performance Penalty.

Section 4.7. Protections from City Tax. Notwithstanding Section 4.2, for the Term of this Agreement, Developer shall be exempt from any City tax, including a business license tax, on commercial cannabis businesses. Notwithstanding the foregoing, Developer and the Project shall be subject to any and all taxes, assessments, or similar charges or fees of general applicability enacted by the federal government, state government, or County of Stanislaus, including any tax applicable to an area greater than the City limits to which City may be a party (i.e., county tax sharing agreement). In the event the Public Benefit Amount is invalidated for any reason, Developer shall be subject to any applicable tax on commercial cannabis businesses from the start date of such invalidation through the remaining Term of this Agreement.

ARTICLE 5
PUBLIC FACILITIES, SERVICES, AND UTILITIES

City shall use the Public Benefit Amount to pay for the impact on and maintenance or improvement of City neighborhoods and the existing level of service of City infrastructure and services to accommodate for the Project.

ARTICLE 6
INSURANCE AND INDEMNITY

Section 6.1. Insurance. Developer shall require all persons doing work on the Project, including its contractors and subcontractors (collectively, “Developer” for purposes of this Article 6 only), to obtain and maintain insurance of the types and in the amounts described in this Article with carriers reasonably satisfactory to City.

(a) General Liability Insurance. Developer shall maintain commercial general liability insurance or equivalent form with a limit of not less than Two Million Dollars ($2,000,000) (or as otherwise approved, in writing, by City) per claim and Two Million Dollars ($2,000,000) each occurrence. Such insurance shall also:

(i) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as “Additional Insureds” by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed additional insured.
(ii) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives.

(iii) Contain standard separation of insured provisions.

(b) **Automotive Liability Insurance.** Developer shall maintain business automobile liability insurance or equivalent form with a limit of not less than One Million Dollars ($1,000,000) for each accident. Such insurance shall include coverage for owned, hired, and non-owned automobiles. Such insurance shall also:

   (i) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as Additional Insureds by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed Additional Insureds.

   (ii) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives.

   (iii) Contain standard separation of insured provisions.

(c) **Workers’ Compensation Insurance.** Developer shall take out and maintain during the Term of this Agreement, workers’ compensation insurance for all of Developer’s employees employed at or on the Project, and in the case any of the work is subcontracted, Developer shall require any general contractor or subcontractor similarly to provide workers’ compensation insurance for such contractor’s or subcontractor’s employees, unless such employees are covered by the protection afforded by Developer. In case any class of employee engaged in work on the Project is not protected under any workers’ compensation law, Developer shall provide and shall cause each contractor and subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Developer hereby indemnifies City for any damage resulting from failure of Developer, its agents, employees, contractors, or subcontractors to take out or maintain such insurance. Workers’ compensation insurance with statutory limits and employer’s liability insurance with limits of not less than One Million Dollars ($1,000,000) for each accident shall be maintained.

**Section 6.2. Other Insurance Requirements.** Developer shall do all of the following:

(a) Prior to taking any actions under this Agreement, furnish City with properly executed certificates of insurance that clearly evidence all insurance required in this Article, including evidence that such insurance will not be canceled, allowed to expire, or be materially reduced in coverage without thirty (30) days prior written notice to City.
(b) Provide to City, upon request, and within seven (7) calendar days of said request, certified copies of endorsements and policies, and properly executed certificates of insurance evidencing the insurance required herein.

(c) Replace or require the replacement of certificates, policies, and endorsements for any insurance required herein expiring prior to the termination of this Agreement.

(d) Maintain all insurance required herein from the Effective Date of this Agreement to the earlier of the expiration of the Term or the mutual written termination of this Agreement.

(e) Place all insurance required herein with insurers licensed to do business in California with a current Best’s Key Rating Guide reasonably acceptable to City.

Section 6.3. Indemnity. To the fullest extent permitted by law, Developer shall defend, indemnify, and hold harmless City and its agents, elected and appointed officials, officers, employees, consultants, and volunteers (collectively, “City’s Agents”) from any and all liability arising out of a claim, action, or proceeding against City, or City’s Agents, to attack, set aside, void, or annul an approval concerning the Project, this Agreement, any applicable Conditional Use Permit, or Subsequent City Approvals. Developer shall execute the indemnification agreement (“Indemnification Agreement”) attached hereto as Exhibit E.

Section 6.4. Failure to Indemnify; Waiver. Failure to indemnify City, when required by this Agreement, shall constitute a material breach of this Agreement and of any applicable Conditional Use Permit and Subsequent City Approvals, which shall entitle City to all remedies available under law, including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which City may rescind its approval of any applicable Conditional Use Permit. Developer’s failure to indemnify City shall be a waiver by Developer of any right to proceed with the Project, or any portion thereof, and a waiver of Developer’s right to file a claim, action or proceeding against City or City’s Agents based on City’s rescission or revocation of any Conditional Use Permit, Subsequent City Approvals, or City’s failure to defend any claim, action, or proceeding based on Developer’s failure to indemnify City.

Section 6.5. Waiver of Damages. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge that City would not have entered into this Agreement had it been exposed to liability for damages from Developer and, therefore, Developer hereby waive all claims for damages against City for breach of this Agreement. Developer further acknowledge that under the Development Agreement Statute, land use approvals (including development agreements) must be approved by the City Council and that, under law, the City Council’s discretion to vote in any particular way may not be constrained by contract. Developer therefore waive all claims for damages against City in the event that this Agreement or any Project approval is: (1) not
approved by the City Council or (2) is approved by the City Council, but with new changes, amendments, conditions, or deletions to which Developer is opposed. Developer further acknowledge that, as an instrument which must be approved by ordinance, a development agreement is subject to referendum; and that, under law, the City Council’s discretion to avoid a referendum by rescinding its approval of the underlying ordinance may not be constrained by contract, and Developer waive all claims for damages against City in this regard.

ARTICLE 7
MORTGAGEE PROTECTION

This Agreement, once executed and recorded, shall be superior and senior to any lien placed upon the Site or any portion thereof following recording of this Agreement, including the lien of any deed of trust or mortgage (“Mortgage”). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value. This Agreement shall immediately be deemed in default and immediately terminate upon the foreclosure or transfer of any interest in the Site or Project, whether by operation of law or any other method of interest change or transfer, unless the City Manager has authorized such change or transfer in advance, in writing.

ARTICLE 8
DEFAULT


(a) Subject only to any extensions of time by mutual consent in writing, or as otherwise provided herein, the failure or delay by any Party to perform in accordance with the terms and provisions of this Agreement shall constitute a default. Any Party alleging a default or breach of this Agreement (“Charging Party”) shall give the other Party (“Charged Party”) not less than ten (10) calendar days written notice, which shall specify the nature of the alleged default and the manner in which the default may be cured. During any such ten (10) calendar day period, the Charged Party shall not be considered in default for purposes of termination of this Agreement or institution of legal proceedings for the breach of this Agreement.

(b) After expiration of the ten (10) calendar day period, if such default has not been cured or is not in the process of being diligently cured in the manner set forth in the notice, or if the breach cannot reasonably be cured within ten (10) calendar days, the Charging Party may, at its option, institute legal proceedings pursuant to this Agreement, give notice of its intent to terminate this Agreement pursuant to Government Code section 65868. In the event City is the Charging Party, City may, in its sole discretion, give notice, as required by law, to the Charged Party of its intent to revoke or rescind any operable Conditional Use Permit related to or concerning the Project.
(c) Prior to the Charging Party giving notice to the Charged Party of its intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review by City in the manner set forth in Government Code sections 65865, 65867, and 65868 within thirty (30) calendar days from the expiration of the ten (10) day notice period.

(d) Following consideration of the evidence presented and said review before City, and after providing the Charged Party an additional five (5) calendar day period to cure, the Charging Party may institute legal proceedings against the Charged Party or may give written notice of termination of this Agreement to the Charged Party.

(e) Evidence of default may arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Government Code section 65865.1, as set forth in Section 8.2. If any Party determines that another Party is in default following the completion of the normally scheduled periodic review, without reference to the procedures specified in Section 8.1(c), said Party may give written notice of termination of this Agreement, specifying in the notice the alleged nature of the default and potential actions to cure said default where appropriate. If the alleged default is not cured in ten (10) calendar days or within such longer period specified in the notice or the defaulting Party is not diligently pursuing a cure or if the breach cannot reasonably be cured within the period or the defaulting party waives its right to cure such alleged default, this Agreement may be terminated by the non-defaulting Party by giving written notice.

(f) In the event Developer is in default under the terms and conditions of this Agreement, no permit application shall be accepted by City nor will any permit be issued to Developer until the default is cured, or the Agreement is terminated.

Section 8.2. Annual Review. City shall, at least every twelve (12) months during the Term of this Agreement, review the extent of good faith, substantial compliance of Developer and City with the terms of this Agreement. Such periodic review by City shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. City shall deposit in the mail or fax to Developer a copy of all staff reports and, to the extent practical, related exhibits concerning this Agreement or the Project’s performance, at least seven (7) calendar days prior to such periodic review. Developer shall be entitled to appeal a determination of City or City Manager to the City Council. Any appeal must be filed within ten (10) calendar days of the decision of City or the City Manager, respectively. Developer shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before City, the City Manager, or City Council, as applicable. The reasonable cost for City's annual review of this Agreement shall be paid by Developer, not to exceed the actual costs incurred by City in connection with the review.

Section 8.3. Estoppel Certificates.
(a) City shall, with at least twenty (20) calendar days prior written notice, execute, acknowledge, and deliver to Developer, Developer's lender, potential investors, or assignees an Estoppel Certificate in writing which certifies that this Agreement is in full force and effect, that there are no breaches or defaults under the Agreement, and that the Agreement has not been modified or terminated and is enforceable in accordance with its terms and conditions.

(b) At Developer's option, City's failure to deliver such Estoppel Certificate within the stated time period shall be conclusive evidence that the Agreement is in full force and effect, that there are no uncured breaches or defaults in Developer's performance of the Agreement or violation of any City ordinances, regulations, and policies regulating the use and development of the Site or the Project subject to this Agreement.

Section 8.4. Default by City. In the event City does not accept, review, approve, or issue any permits or approvals in a timely fashion, as defined by this Agreement, or if City otherwise defaults under the terms of this Agreement, City agrees that Developer shall not be obligated to proceed with or complete the Project, and shall constitute grounds for termination or cancellation of this Agreement by Developer.

Section 8.5. Cumulative Remedies of Parties. In addition to any other rights or remedies, City or Developer may institute legal or equitable proceedings to cure, correct, or remedy any default, enforce any covenant, or enjoin any threatened or attempted violation of the provisions of this Agreement, so long as any such action conforms to section 9.1(c) of this Agreement.

Section 8.6. Enforced Delay, Extension of Times of Performance. Delays in performance, by either Party, shall not be deemed a default if such delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed where mandated by governmental entities other than City, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulations enacted by the state or federal government, litigation, or other force majeure events. An extension of time for such cause shall be in effect for the period of forced delay or longer, as may be mutually agreed upon.

Section 8.7. Appeals. Developer may appeal any adverse decision or action of City pursuant to Riverbank Municipal Chapter 99.

ARTICLE 9
TERMINATION

Section 9.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term, unless it is terminated earlier pursuant to the terms of this Agreement. Upon termination of this Agreement, City shall record a notice

(_______)
of such termination in substantial conformance with the “Notice of Termination” attached hereto as Exhibit F, and this Agreement shall be of no further force or effect except as otherwise set forth in this Agreement.

Section 9.2. Effect of Termination on Developer’s Obligations. Termination of this Agreement shall eliminate any further obligation of Developer to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement, in whole or in part, shall not, however, eliminate the rights of Developer to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

Section 9.3. Effect of Termination on City’s Obligations. Termination of this Agreement shall eliminate any further obligation of City to comply with this Agreement, or some portion thereof. Termination of this Agreement shall not, however, eliminate the rights of City to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

Section 9.4. Survival After Termination. The rights and obligations of the Parties set forth in this Section 9.4, Section 2.8, Section 6.3, Section 10.3, Section 10.4, Section 10.5, Section 10.7, and any right or obligation of the Parties in this Agreement which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

ARTICLE 10
OTHER GENERAL PROVISIONS

Section 10.1. Assignment and Assumption. Developer shall not have the right to sell, assign, or transfer all or any part of its rights, title, and interests in all or a portion of Site, or Project, subject to or a part of this Agreement, to any person, firm, corporation, or entity during the Term of this Agreement without the advance written consent of the City Manager. This assignment prohibition applies to the corporate and business entities of Developer that are a Party to this Agreement. Any assignment or transfer prohibited by this Agreement will be considered an immediate breach of this Agreement and City may elect to immediately terminate this Agreement. If the City Manager approves an assignment or transfer of any interest detailed in this Section 10.1, City and Developer shall execute an “Assignment and Assumption Agreement” in the form attached hereto as Exhibit G.

Section 10.2. Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of interest in the Site or Project, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including California Civil Code Section 1468. Each covenant herein to act or refrain
from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Site, and is binding upon Developer.

Section 10.3. Notices. Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) 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 3rd Street  
Riverbank, California 95367  
Attention: City Manager

and

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

If to Developer:  
______________________  
______________________  
______________________  
______________________

If to Developer:  
______________________  
______________________  
______________________  
______________________
Section 10.4. Governing Law and Binding Arbitration. The validity, interpretation, and performance of this Agreement shall be controlled by and construed pursuant to the laws of the State of California. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by binding arbitration in Sacramento, California, before one arbitrator. The arbitration shall proceed pursuant to the Comprehensive Arbitration Rules and Proceedings of the Judicial Arbitration and Mediation Services. Judgment on the award may be entered in any court having jurisdiction thereof.

Section 10.5. Invalidity of Agreement / Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any term or provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any term or provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, any provisions that are not invalid or unenforceable shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement. The Parties expressly agree that each Party is strictly prohibited from failing to perform any and all obligations under this Agreement on the basis that this Agreement is invalid, unenforceable, or illegal. By entering into this Agreement, each Party disclaims any right to tender an affirmative defense in any arbitration or court of competent jurisdiction, that performance under this Agreement is not required because the Agreement is invalid, unenforceable, or illegal.

Section 10.6. Cumulative Remedies. In addition to any other rights or remedies, City and Developer may institute legal or equitable proceedings to cure, correct, or remedy any default, to specifically enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of the provisions of this Agreement. The prevailing party in any such action shall be entitled to reasonable attorneys’ fees and costs. Notwithstanding the foregoing or any other provision of this Agreement, in the event of City default under this Agreement, Developer agree that Developer may not seek, and shall forever waive any right to, monetary damages against City, but excluding therefrom the right to recover any fees or charges paid by Developer in excess of those permitted hereunder.

Section 10.7. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity challenging this Agreement or any associated entitlement, permit, or approval granted by City to Developer for the Project (collectively, “Project Litigation”), the Parties agree to cooperate with each other as set forth herein. City may elect to tender the defense of any lawsuit filed and related in whole or in part to Project Litigation with legal counsel selected by City. Developer will
Section 10.8. Constructive Notice and Acceptance. Every person who after the Effective Date and recording of this Agreement owns or acquires any right, title, or interest to any portion of the Site is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Site, and all rights and interests of such person in the Site shall be subject to the terms, requirements, and provisions of this Agreement.

Section 10.9. Statute of Limitations and Laches. City and Developer agree that each Party will undergo a change in position in detrimental reliance upon this Agreement from the time of its execution and subsequently. The Parties agree that section 65009(c)(1)(D) of the California Government Code, which provides for a ninety (90) day statute of limitations to challenge the adoption of this Agreement, is applicable to this Agreement. In addition, any person who may challenge the validity of this Agreement is hereby put on notice that, should the legality or validity of this Agreement be challenged by any third party in litigation, which is filed and served more than ninety (90) days after the execution of this Agreement, City and Developer shall each assert the affirmative defense of laches with respect to such challenge, in addition to all other available defenses. This Section in no way limits the right of a Party, claiming that the other Party breached the terms of this Agreement, to bring a claim against the other Party within the four (4) year statute of limitations set forth in Section 337 of the California Civil Code.

Section 10.10. Change in State Regulations. In no event shall Developer operate the Project in violation of the Agreement, or State Cannabis Regulations, as many be amended from time to time.

Section 10.11. Standard Terms and Conditions.

(a) Venue. Venue for all legal proceedings shall be in the Superior Court of California in and for the County of Stanislaus.

(b) Waiver. A waiver by any Party of any breach of any term, covenant, or condition herein contained or a waiver of any right or remedy of such Party available hereunder, at law or in equity, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition herein contained or of any
continued or subsequent right to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

(c) Completeness of Instrument. This Agreement, together with its specific references, attachments, and Exhibits, constitutes all of the agreements, understandings, representations, conditions, warranties, and covenants made by and between the Parties hereto. Unless set forth herein, no Party to this Agreement shall be liable for any representations made, express or implied.

(d) Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, or representations, written, electronic, or oral, between the Parties hereto with respect to the Site and the Project.

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

(f) Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, and the word “person” includes corporations, partnerships, firms, or associations, wherever the context requires.

(g) Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” or “can” are permissive.

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

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

(j) 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 fulfill the purposes and intentions of this Agreement.

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

(l) 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 state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, no Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

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

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

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

(p) Calculation of Time Periods. All time referenced in this Agreement shall be calendar days, unless the last day falls on a legal holiday, Saturday, or Sunday, in which case the last day shall be the next business day.

[SIGNATURES ON FOLLOWING PAGE]
IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the Effective Date of the Agreement, as defined above.

“CITY”

Date: May 14, 2019

CITY OF RIVERBANK, CA
da California Municipal Corporation

By: _____________________________
   Sean Scully
   City Manager

Attest:

By: _____________________________
   Annabelle Aguilar
   City Clerk

Approved to as Form

By: _____________________________
   Tom Hallinan
   City Attorney

“DEVELOPER”

Date: May 14, 2019

E & J DISTRIBUTORS, DBA CANNA+RISE, a California limited liability corporation

By: _____________________________

Its: _____________________________
California All-Purpose Acknowledgment

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

State of California  )
County of____________________  )

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

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

Witness my hand and official seal.

__________________________
(Signature)

__________________________
(Seal)

DEVELOPMENT AGREEMENT
CITY OF RIVERBANK
& E & J DISTRIBUTORS LLC, DBA CANNA+RISE
Page 29 of 48
California All-Purpose Acknowledgment

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

State of California  )
County of ________________ )

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

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

Witness my hand and official seal.

________________________________________
(Signature)

(SEAL)
Exhibit A

Legal description
LEGAL DESCRIPTION

5729 Terminal Ave., Riverbank

Parcel 2 as per the Official Map filed October 20, 1989, in Book 42 of Parcel Maps.

APN: 075-020-016
Exhibit B

Site Plan
Exhibit C

Lease Agreement
COMMERCIAL LEASE AGREEMENT

THE PARTIES. This Lease Agreement agreed on March 15th 2019 is between:

The Lessor is 2 individual(s) known as Robert Barnett and Sherry Barnett with a mailing address of 2812 Esta Ave, Modesto, California, 95355, hereinafter referred to as the "Lessor".

AND

The Lessee is a business entity known as E&J Distributors, LLC dba Gamma-Rise Distribution with a mailing address of the Property's Address, hereinafter referred to as the "Lessee".

The Lessor and Lessee hereby agree as follows:

DESCRIPTION OF LEASED PREMISES. The Lessor agrees to lease to the Lessee the following described 6000 square feet (SF) of warehouse space located at 5729 Terminal Ave, Riverbank, California, 95367.

Additional Description: Lease includes 6,000 square ft. building and immediate surrounding fenced yard only.

Hereinafter referred to as the "Premises".

USE OF LEASED PREMISES. The Lessor is leasing the Premises to the Lessee and the Lessee is hereby agreeing to lease the Premises for Storage, Repackaging and Distribution Of Legal Food And Medical Products As Allowed By Conditional Use Permit Issued By City Of Riverbank, California.

Any change in use or purpose of the Premises other than as described above shall be upon prior written consent of Lessor only otherwise the Lessee will be considered in default of this Lease Agreement.

EXCLUSIVE USE. The Lessee shall not hold exclusive rights on the Premises. The Lessor shall hold the rights to lease other areas of the Property to any same or like use as the Lessee.

TERM OF LEASE. This Lease shall commence on April 1st 2019 and expire at Midnight on March 31st 2022 ("Initial Term").

RENT AMOUNT. Payment shall be made by the Lessee to the Lessor for the Initial Term of this Lease Agreement in accordance with the following payment schedule:

PAYMENT SCHEDULE

Start Date: April 1st 2019 End Date: June 30th 2019 Payment: $3,600.00 per month

Start Date: July 1st 2019 End Date: March 31st 2022 Payment: $5,400.00 per month

RENT PAYMENT. The Rent shall be paid under the following instructions:
Rent shall be paid by the Lessee to the Lessor on a per month basis with payment due no later than the 1st of every month.

Rent shall be paid by the Lessee to the Lessor's aforementioned mailing address.

RETURNED CHECKS (NSF). If the Lessee attempts to pay Rent with a check that is not deemed valid by a financial institution due to non-sufficient funds, or any other reason for it to be returned, the Lessee will be subject to a fee of $50.00 in addition to any late fee.

LATE FEE. The Lessor shall charge a late payment fee if rent is not paid on time in the following amount:

The Lessee shall be charged a late fee in the amount of $100.00 daily until the rent is fully satisfied, including any late payment fees, if the rent is not paid after the 1st day payment is due.

OPTION TO RENEW. The Lessee shall have the right to renew this Agreement under the following conditions:

Lessee shall have the right to renew this Lease Agreement, along with any renewal period, and be required to exercise such renewal period(s) by giving written notice via certified mail to the Lessor no less than 60 days prior to the expiration of the Initial Term or any subsequent renewal period. The Lessee shall have a total of 1 renewal periods which will continue to abide by the same covenants, conditions and provisions as provided in this Lease Agreement as described:

RENEWAL PERIODS

The first (1st) renewal period shall begin on April 1st 2022 and end on March 31st 2025 with the Rent to be paid per month with the Rent for the renewal period to be negotiated in good faith upon the Lessee providing notice of their intention to renew.

EXPENSES. In accordance with a Modified Gross Lease the responsibility of the expenses shall be attributed to the following:

It is the intention of the Parties, and they hereby agree, that in addition to the Rent, the Lessee shall be obligated to pay the following expenses to the Lessor on a per month basis:

COMMON AREA MAINTENANCE (CAM's) - The Lessee shall be responsible for all costs related to the parking area maintenance, snow removal, landscaping, trash removal, janitorial services, and security systems on the Premises.

REAL ESTATE TAXES - Lessor shall pay, during the term of this Lease, the real estate taxes and special taxes and assessments (collectively, the "taxes") attributable to the premises and accruing during such term.

INSURANCE - The Lessee shall provide and maintain personal liability and property damage insurance. The Lessee and will designate the Lessor as an "also named insured". The Lessee shall provide the Lessor with a copy of such insurance certification or policy prior to the effective date of this Lease Agreement. The insurance shall protect and indemnify the Lessor of any injury, death, or property damage to occur on the property to the limits of $1,000,000.00.

UTILITIES. The Lessee shall be responsible for any and all utilities to the Premises in relation to the total property area.
SECURITY DEPOSIT. A security deposit in the amount of $5,600.00 shall be due and payable in advance upon the signing of this Lease and which amount shall be held in escrow by the Lessor in a separate, interest-bearing savings account as security for the faithful performance of the terms and conditions of the Lease.

Provided the Premises is returned to the Lessor in the same condition as the Start the Initial Term, less any normal "wear and tear", the Lessee shall have their Security Deposit amount of $5,600.00 returned within 30 days.

FURNISHINGS. The Lessor will provide the following furnishings to the Lessee upon the start of this Lease’s Initial Term: 3- Desks, 3- Chairs & 1- File Cabinet

PARKING. Parking shall be provided to the Lessee in a dedicated manner provided on the Premises. There shall be a total number of 8 parking spaces provided to the Lessee.

There shall be no fee charged to the Lessee for the use of the Parking Space(s).

RIGHT OF FIRST REFUSAL. Lessor grants to Lessee throughout the Initial Term, along with any renewal periods, a right of first refusal to purchase the Premises pursuant to any offer received and accepted by the Lessor. Lessor must notify Lessee in writing and offer to purchase all or part of the Premises with Lessee having 14 calendar days after receipt of the notice to exercise its right of first refusal and notify Lessor of its decision whether or not to purchase the Premises under the same or similar terms under the offer accepted by the Lessor.

If financing is needed by the Lessee, the Lessee will be allowed the time-frame as stated in the offer accepted that was accepted by the Lessor. If the offer accepted by the Lessor is not contingent on financing then the Lessee shall be granted a maximum of 30 days to secure financing for the purchase of the Premises.

LEASEHOLD IMPROVEMENTS. The Lessee agrees that no leasehold improvements, alterations or changes of any nature, (except for those listed on any attached addenda) shall be made to the leasehold Premises or the exterior of the building without first obtaining the consent of the Lessor in writing, which consent shall not be unreasonably withheld, and thereafter, any and all leasehold improvements made to the Premises which become affixed or attached to the leasehold Premises shall remain the property of the Lessor at the expiration or termination of this Lease Agreement. Furthermore, any leasehold improvements shall be made only in accordance with applicable federal, state or local codes, ordinances or regulations, having due regard for the type of construction of the building housing the subject leasehold Premises. If the Lessee makes any improvements to the Premises the Lessee shall be responsible payment.

Nothing in the Lease shall be construed to authorize the Lessee or any other person acting for the Lessee to encumber the rents of the Premises or the interest of the Lessee in the Premises or any person under and through whom the Lessee has acquired its interest in the Premises with a mechanic’s lien or any other type of encumbrance. Under no circumstance shall the Lessee be construed to be the agent, employee or representative of Lessor. In the event a lien is placed against the Premises, through actions of the Lessee, Lessee will promptly pay the same or bond against the same and take steps immediately to have such lien removed. If the Lessee fails to have the Lien removed, the Lessor shall take steps to remove the lien and the Lessee shall pay Lessor for all expenses related to the Lien and removal thereof and shall be in default of this Lease.
LICENCES AND PERMITS. A copy of any and all local, state or federal permits acquired by the Lessee which are required for the use of the Premises shall be kept on site at all times and shall be readily accessible and produced to the Lessor and/or their agents or any local, state, or federal officials upon demand.

MAINTENANCE. The Lessee shall be responsible for all repairs and maintenance on the Premises due to normal wear and tear on the Premises. Particularly items which need immediate attention including but not limited to, the replacement of light bulbs, normal repair and cleaning of windows, cleaning of bathrooms, clearing of toilets, etc. The Lessee shall properly maintain the premises in a good, safe and clean condition and shall properly and promptly remove all rubbish and hazardous wastes and see that the same are properly disposed of according to all local, state or federal laws, rules regulations or ordinances.

In the event the Premises is damaged as a result of any neglect or negligence of Lessee, his employees, agents, business invitees, or any independent contractors serving the Lessee or in any way as a result of Lessee's use and occupancy of the premises, then the Lessee shall be primarily responsible for seeing that the proper claims are placed with the Lessee's insurance company, or the damaging party's insurance company, and shall furthermore be responsible for seeing that the building is safeguarded with respect to said damage and that all proper notices with respect to said damage, are made in a timely fashion, including notice to the Lessor, and the party or parties causing said damage.

SALE OF PROPERTY. Lessee shall, in the event of the sale or assignment of Lessor's interest in the building of which the premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Lessor covering the premises, attorn to the purchaser and recognize such purchaser as Lessor under this Lease.

HVAC MAINTENANCE. Lessor will provide or engage a reputable and experienced firm for the purpose of periodically inspecting and maintaining the heating ventilating, and air conditioning equipment located on the Premises exclusive of any such equipment or part thereof which may exclusively serve the Leased Premises, in which case the Lessee shall be responsible for such maintenance. Lessee shall reimburse the Lessor, as Additional Rent, for Lessee's Percentage of the amount by which the cost of such maintenance and inspection.

INSURANCE. In the event Lessee shall fail to obtain insurance required hereunder and fails to maintain the same in force continuously during the term, Lessor may, but shall not be required to, obtain the same and charge the Lessee for same as additional rent. Furthermore, Lessee agrees not to keep upon the premises any articles or goods which may be prohibited by the standard form of fire insurance policy, and in the event the insurance rates applicable to fire and extended coverage covering the premises shall be increased by reason of any use of the premises made by Lessee, then Lessee shall pay to Lessor, upon demand, such increase in insurance premium as shall be caused by said use or Lessee's proportionate share of any such increase.

SUBLET/ASSIGNMENT. The Lessee may not transfer or assign this Lease, or any right or interest hereunder or sublet said leased premises or any part thereof.

DAMAGE TO LEASED PREMISES. In the event the building housing the leased premises shall be destroyed or damaged as a result of any fire or other casualty which is not the result of the intentional acts or neglect of Lessee and which precludes or adversely affects the Lessee's occupancy of the leased premises, then in every such cause, the rent herein set forth shall be abated or adjusted according to the extent to which the Premises have been rendered unfit for use and
occupation by the Lessee and until the demised premises have been put in a condition at the expense of the Lessor, at least to the extent of the value and as nearly as possible to the condition of the premises existing immediately prior to such damage. It is understood, however, in the event of total or substantial destruction to the Premises that in no event shall the Lessor’s obligation to restore, replace or rebuild exceed an amount equal to the sum of the insurance proceeds available for reconstruction with respect to said damage.

The Lessee shall, during the term of this Lease, and in the renewal thereof, at its sole expense, keep the interior of the leased premises in as good a condition and repair as it is at the date of this Lease, reasonable wear and use excepted. This obligation would include the obligation to replace any plate glass damaged as a result of the neglect or acts of Lessee or her guests or invitees. Furthermore, the Lessee shall not knowingly commit nor permit to be committed any act or thing contrary to the rules and regulations prescribed from time to time by any federal, state or local authorities and shall expressly not be allowed to keep or maintain any hazardous waste materials or contaminates on the premises. Lessee shall also be responsible for the cost, if any, which would be incurred to bring her contemplated operation and business activity into compliance with any law or regulation of a federal, state or local authority.

HAZARDOUS MATERIALS LAWS. Shall mean any and all federal, state, or local laws, ordinances, rules, decrees, orders, regulations, or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under, or about the Premises, the Building, or the Property, or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Hazardous Materials Transportation Act, any other law or legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing.

LESSEE’S DEFAULT AND POSSESSION. In the event that the Lessee shall fail to pay said rent and expenses as set forth herein, or any part thereof, when the same are due and payable, or shall otherwise be in default of any other terms of said Lease for a period of more than 15 days, after receiving notice of said default, then the parties hereto expressly agree and covenant that the Lessor may declare the Lease terminated and may immediately re-enter said premises and take possession of the same together with any of Lessee’s personal property, equipment or fixtures left on the premises which items may be held by the Lessor as security for the Lessee’s eventual payment and/or satisfaction of rental defaults or other defaults of Lessee under the Lease. It is further agreed, that if the Lessee is in default, that the Lessor shall be entitled to take any and all action to protect its interest in the personal property and equipment, to prevent the unauthorized removal of said property or equipment which threatened action would be deemed to constitute irreparable harm and injury to the Lessor in violation of its security interest in said items of personal property. Furthermore, in the event of default, the Lessor may expressly undertake all reasonable preparations and efforts to release the Premises including, but not limited to, the removal of all inventory, equipment or leasehold improvements of the Lessee’s, at the Lessee’s expense, without the need to first procure an order of any court to do so, although obligated in the interim to undertake reasonable steps and procedures to safeguard the value of Lessee’s property, including the storage of the same, under reasonable terms and conditions at Lessee’s expense, and, in addition, it is understood that the Lessor may sue the Lessee for any damages or past rents due and owing and may undertake all and additional legal remedies then available.

LESSOR’S DEFAULT. The Lessee may send written notice to the Lessor stating duties or obligations that have not been fulfilled under the full performance of this Lease Agreement. If said duties or obligations have not been cured within 30 days from receiving such notice, unless the
Lessor needs to more time to cure or remedy such issue in accordance with standard industry protocol, then the Lessor shall be in default of this Lease Agreement.

If the Lessor should be in default the Lessee shall have the option to terminate this Lease Agreement and be held harmless against any of its terms or obligations.

DISPUTES. If any dispute should arise in relation to this Lease Agreement the Lessor and Lessee shall first negotiate amongst themselves in "good faith". Afterwards, if the dispute is not resolved then the Lessor and Lessee shall seek mediation in accordance with the laws in the State of California. If the Lessor and Lessee fail to resolve the dispute through mediation then the parties shall be allowed to submit their cases in accordance with the local court system.

INDEMNIFICATION. The Lessee hereby covenants and agrees to indemnify, defend and hold the Lessor harmless from any and all claims or liabilities which may arise from any cause whatsoever as a result of Lessee’s use and occupancy of the premises, and further shall indemnify the Lessor for any losses which the Lessor may suffer in connection with the Lessee’s use and occupancy or care, custody and control of the premises. The Lessee also hereby covenants and agrees to indemnify and hold harmless the Lessor from any and all claims or liabilities which may arise from any latent defects in the subject premises that the Lessor is not aware of at the signing of the lease or at any time during the lease term.

BANKRUPTCY - INSOLVENCY. The Lessee agrees that in the event all or a substantial portion of the Lessee’s assets are placed in the hands of a receiver or a Trustee, and such status continues for a period of 30 days, or should the Lessee make an assignment for the benefit of creditors or be adjudicated bankrupt, or should the Lessee institute any proceedings under the bankruptcy act or any amendment thereto, then such Lease or interest in and to the leased premises shall not become an asset in any such proceedings and, in such event, and in addition to any and all other remedies of the Lessor hereunder or by law provided, it shall be lawful for the Lessor to declare the term hereof ended and to re-enter the leased land and take possession thereof and all improvements thereon and to remove all persons therefrom and the Lessee shall have no further claim thereon.

SUBORDINATION AND ATTORNEMENT. Upon request of the Lessor, Lessee will subordinate its rights hereunder to the lien of any mortgage now or hereafter in force against the property or any portion thereof, and to all advances made or hereafter to be made upon the security thereof, and to any ground or underlying lease of the property provided, however, that in such case the holder of such mortgage, or the Lessor under such Lease shall agree that this Lease shall not be divested or in any way affected by foreclosure, or other default proceedings under said mortgage, obligation secured thereby, or Lease, so long as the Lessee shall not be in default under the terms of this Lease. Lessee agrees that this Lease shall remain in full force and effect notwithstanding any such default proceedings under said mortgage or obligation secured thereby. Lessee shall, in the event of the sale or assignment of Lessor’s interest in the building of which the Premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Lessor covering the Premises, attorn to the purchaser and recognize such purchaser as Lessor under this Lease.

USAGE BY LESSEE. Lessee shall comply with all rules, regulations and laws of any governmental authority with respect to use and occupancy. Lessee shall not conduct or permit to be conducted upon the premises any business or permit any act which is contrary to or in violation of any law, rules or regulations and requirements that may be imposed by any authority or any insurance company with which the premises is insured, nor will the Lessee allow the premises to be used in any way which will invalidate or be in conflict with any insurance policies applicable to the building. In no event shall explosives or extra hazardous materials be taken onto or retained on the
premises. Furthermore, Lessee shall not install or use any equipment that will cause undue interference with the peaceable and quiet enjoyment of the premises by other Lessees of the building.

SIGNAGE. Lessee shall not place on any exterior door, wall or window of the premises any sign or advertising matter without Lessor’s prior written consent and the approval of the local municipality. Thereafter, Lessee agrees to maintain such sign or advertising matter as first approved by Lessor in good condition and repair. Furthermore, Lessee shall conform to any uniform reasonable sign plan or policy that the Lessor may introduce with respect to the building. Upon vacating the premises, Lessee agrees to remove all signs and to repair all damages caused or resulting from such removal.

PETS. No pets shall be allowed on the premises without the prior written permission of Lessor unless said pet is required for reasons of disability under the Americans with Disability Act.

CONDITION OF PREMISES/INSPECTION BY LESSEE. The Lessee acknowledges they have had the opportunity to inspect the Premises and acknowledges with its signature on this Lease that the Premises are in good condition and comply in all respects with the requirements of this Lease. The Lessor makes no representation or warranty with respect to the condition of the premises or its fitness or availability for any particular use, and the Lessor shall not be liable for any latent or patent defect therein. The Lessee represents that Lessee has inspected the premises and is leasing and will take possession of the premises with all current fixtures present in their “as is” condition as of the date hereof.

AMERICANS WITH DISABILITY ACT. Per 42 U.S. Code § 12183 if the Lessee is using the Premises as a public accommodation (e.g. restaurants, shopping centers, office buildings) or there are more than 15 employees the Premises must provide accommodations and access to persons with disabilities that is equal or similar to that available to the general public. Owners, operators, lessors, and lessees of commercial properties are all responsible for ADA compliance. If the Premises is not in compliance with the Americans with Disability Act any modifications or construction will be the responsibility of the Lessor.

RIGHT OF ENTRY. It is agreed and understood that the Lessor and its agents shall have the complete and unencumbered right of entry to the Premises at any time or times for purposes of inspecting or showing the Premises and for the purpose of making any necessary repairs to the building or equipment as may be required of the Lessor under the terms of this Lease or as may be deemed necessary with respect to the inspection, maintenance or repair of the building. In accordance with State and local laws, the Lessor shall have the right to enter the Premises without the consent of the Lessee in the event of an emergency.

ESTOPPEL CERTIFICATE. Lessee at any time and from time to time, upon at least ten (10) days prior notice by Lessor, shall execute, acknowledge and deliver to Lessor, and/or to any other person, firm or corporation specified by Lessor, a statement certifying that the Lease is unmodified and in full force and effect, or if the Lease has been modified, then that the same is in full force and effect except as modified and stating the modifications, stating the dates to which the fixed rent and additional rent have been paid, and stating whether or not there exists any default by Lessor under this Lease and, if so, specifying each such default.

HOLDOVER PERIOD. Should the Lessee remain in possession of the Premises after the cancellation, expiration, or sooner termination of the Lease, or any renewal thereof, without the execution of a new Lease or addendum, such holding over in the absence of a written agreement shall immediately forfeit any Security Deposit that was placed at the commencement of this Lease.
In addition, the Lessor will begin eviction proceedings in accordance with local laws followed by seeking damages along with any accrued attorney's fees.

WAIVER. Waiver by Lessor of a default under this Lease shall not constitute a waiver of a subsequent default of any nature.

GOVERNING LAW. This Lease shall be governed by the laws of the State of California.

NOTICES. Notices shall be addressed to the following:

Lessor
Robert Barnett and Sherry Barnett
2812 Esta Ave, Modesto, California, 95355

Lessee
E&J Distributors, LLC dba Canna-Rise Distribution
5729 Terminal Ave, Riverbank, California, 95367

PERSONAL GUARANTEE BY LESSEE. This Lease Agreement shall be personally guaranteed by Julian Farboud, referred to as the "Guarantor(s)", and shall unconditionally guarantee the payment of the rent along with any other financial duties or obligations.

PERSONAL GUARANTEE BY THIRD (3RD) PARTY. This Lease Agreement shall be personally guaranteed by Jeff Pappas referred to as the "3rd Party Guarantor", and shall unconditionally guarantee the payment of the rent along with any other financial duties or obligations. The 3rd Party Guarantor agrees that the Lessor is not first required to enforce against the Lessee, or any other Guarantor, the liability, obligation, or duty guaranteed by this Lease Agreement before seeking enforcement thereof against the 3rd Party Guarantor. A lawsuit may be brought and maintained against the 3rd Party Guarantor by the Lessor to enforce any liability, obligation or duty guaranteed by this Lease Agreement without the necessity of joining the Lessee or any other individual in the lawsuit. It is expressly agreed and understood that the 3rd Party Guarantor unconditionally guarantees the performance under this Lease Agreement.

AMENDMENT(S). No amendment of this Lease shall be effective unless reduced to writing and subscribed by the parties with all the formality of the original.

SEVERABILITY. If any term or provision of this Lease Agreement is illegal, invalid or unenforceable, such term shall be limited to the extent necessary to make it legal and enforceable, and, if necessary, severed from this Lease. All other terms and provisions of this Lease Agreement shall remain in full force and effect.

BINDING EFFECT. This Lease and any amendments thereto shall be binding upon the Lessor and the Lessees and/or their respective successors, heirs, assigns, executors and administrators.

LESSOR SIGNATURE

Signature ___________________________ Date ___________________________
Robert Barnett
Signature ___________________________ Date ________________
Sherry Barnett

LESSEE SIGNATURE

Signature ___________________________ Date ________________
Julian Farhoud, Pres / CEO

GUARANTOR SIGNATURE

Signature ___________________________ Date ________________
Jeff Pappas
ACKNOWLEDGMENT OF NOTARY PUBLIC

State of ____________

County of ____________, ss.

On this ___ day of _________________, 20___, before me appeared ________________, as the LESSOR(S) of this Commercial Lease Agreement who proved to me through government issued photo identification to be the above-named person, in my presence executed foregoing instrument and acknowledged that they executed the same as their free act and deed.

Notary Public Signature: _______________________________________

Print Name: ______________________________

My commission expires: _______

(Seal)

ACKNOWLEDGMENT OF NOTARY PUBLIC

State of ____________

County of ____________, ss.

On this ___ day of _________________, 20___, before me appeared ________________, as the LESSEE(S) of this Commercial Lease Agreement who proved to me through government issued photo identification to be the above-named person, in my presence executed foregoing instrument and acknowledged that they executed the same as their free act and deed.

Notary Public Signature: _______________________________________

Print Name: ______________________________

My commission expires: _______

(Seal)
Exhibit D

Notice of Non-Performance Penalty

DATE: ____________________, 20__

PARTIES: 
CITY OF RIVERBANK, a California municipal corporation
6707 3rd Street
Riverbank, California 95367

E & J DISTRIBUTORS LLC DBA CANNA+RISE, a California limited liability corporation

THIS NOTICE OF NON-PERFORMANCE PENALTY (“Penalty Notice”) is being executed by the City of Riverbank, a California municipal corporation (“City”), with reference to the following.

A. By Instrument No. _____________, which was recorded in the Official Records of Stanislaus County, California on ________________, 2019, City recorded a development agreement between the City and E & J Distributors LLC. DBA Canna+Rise (“Developer”), dated May 14, 2019 (the “Development Agreement”), relating to the development and operation of a cannabis dispensary.

B. Pursuant to Section 4.2 of the Development Agreement, Developer agrees to pay to City a Public Benefit on the first business day of each quarter following the second quarter during the term of the Development Agreement.

C. On ____________, 20__, the Public Benefit was due to City by Developer. City did not receive payment.

D. Pursuant to Section 4.5 of the Development Agreement, if Developer fails to make payment when it is due, City may impose a penalty of one percent (1%) of the total of the past due amounts (“Penalty”). As of ____________, 20__, the past due amount equals $_________. The Penalty owed by Developer equals $__________ (“Penalty Amount”).

E. Pursuant to Section 4.5 of the Development Agreement, Developer shall make payment of the Penalty Amount in a single installment due within fifteen (15) days of delivery of this Penalty Notice (“Penalty Due Date”).

{__________}
F. Pursuant to Section 4.6 of the Development Agreement, if Developer fails to pay the Penalty Amount before the Penalty Due Date, then in addition to the Penalty Amount specified in subdivision (E), Developer shall pay City interest on the Penalty Amount, at the rate of eighteen percent (18%) per annum ("Penalty Interest Payment"), computed from the Penalty Due Date specified in subdivision (F). The Penalty Interest Payment is due fifteen (15) days following delivery of the Penalty Due Date. As of __________, 20__, the Penalty Interest Payment amount equals $_________.

G. Nothing contained herein shall constitute a waiver of City’s future claims for the Public Benefit, Penalty, or interest on the Penalty.

NOW, THEREFORE, City hereby provides Developer the Penalty Notice required by Section 4.5 of the Development Agreement. This Penalty Notice shall be effective upon notice pursuant to Section 10.3 of the Development Agreement.

CITY OF RIVERBANK,
a California municipal corporation

By: ________________________________
City Manager
Exhibit E

INDEMNITY AGREEMENT FOR
LAND USE ENTITLEMENT PROCESSING

THIS INDEMNITY AGREEMENT FOR LAND USE ENTITLEMENT PROCESSING ("Agreement") is made and entered into on this ___ day of ______ 2019, ("Effective Date") by and between the City of Riverbank, a California municipal corporation ("City") and E & J Distributors LLC. DBA Canna+Rise ("Applicant"). City and Applicant may be referred to herein individually as a “Party” or collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

A. In 1996, the people of the state of California approved Proposition 215, the Compassionate Use Act of 1996 ("CUA"). The CUA enables seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law. In 2003, the California Legislature adopted Senate Bill 420, entitled the Medical Marijuana Program ("MMP"), which authorizes qualified patients and their primary caregivers to cultivate marijuana for medical purposes without being subject to criminal prosecution under the California Penal Code.

B. On October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers.

C. On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act ("AUMA"). AUMA legalizes the cultivation, commercial sale, and possession of recreational cannabis for adults age 21 and older.

D. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction.
E. Riverbank Municipal Code ("R.M.C.") chapter 120 authorizes cannabis businesses to operate within the City under specified restrictions pursuant to a Cannabis Pilot Program.

F. Applicant intends to improve, develop, and use real property to operate a cannabis dispensary business within the City (the “Project”) in strict compliance with MAUCRSA and R.M.C. chapter 120. Applicant must obtain certain land use entitlements including a Development Agreement and a conditional use permit (“Land Use Entitlements”) prior to initiating the Project.

G. Applicant has an agreement to purchase that certain real property located in the City of Riverbank, identified as Stanislaus County Assessor’s Parcel Number 075-020-016 (the “Property”), shown on Exhibit A attached hereto (“Property Description”).

H. As a condition of approval of the Land Use Entitlements, City has required Applicant to enter into this Agreement.

I. It is in the public interest for City and Applicant to enter into this Agreement, as Applicant will benefit from City’s processing of the Project.

J. Applicant desires to enter into this Agreement to fulfill a condition of approval of the Project, which is a prerequisite for construction of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and agreements set forth below, the Parties agree as follows:

Section 1. Recitals. The recitals set forth above (“Recitals”) are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Sections 1 through 19 of this Agreement, Sections 1 through 19 shall prevail.

Section 2. Applicant’s Indemnification Obligations.

2.1. Indemnification for Land Use Entitlements. To the fullest extent permitted by law, Applicant shall indemnify, and hold harmless City and its agents, elected and appointed officials, officers, employees, and volunteers (collectively, “City’s Agents”) from any and all liability arising out of a claim, action, or proceeding against the City, or City’s Agents, to attack, set aside, void, or annul, an approval concerning the Land Use Entitlements by reason of the action or inaction of City, or City’s Agents. Applicant’s duty to indemnify and hold harmless shall not extend to any claim, action or proceeding arising from the gross negligence or willful

{________}
misconduct of City, or City’s Agents.

Applicant’s obligations under this Agreement to indemnify City shall apply to any claim, lawsuit or challenge against City brought against the Project, specifically including, but not limited to, any legal challenge based on the California Environmental Quality Act, codified in California Public Resources Code section 21000 et seq.; actions or proceedings brought to challenge the validity of environmental documents prepared in conjunction with the approval of the Project or Land Use Entitlements, or the requirements of any other federal, state, or local laws, including, but not limited to, general plan, specific plan, and zoning requirements.

2.2. Tender of Defense. Upon receiving notice of a claim and pursuant to Article 6 of the Land Use Entitlements, Applicant shall assume the defense of the claim, action, or proceeding through the prompt payment of all attorneys’ fees and costs, incurred in good faith and in the exercise of reasonable discretion, of City’s counsel in defending such an action. Regardless of whether Applicant chooses to defend City pursuant to Section 6.4 of the Land Use Entitlements, City shall have the absolute and sole authority to control the litigation and make litigation decisions, including, but not limited to, selecting counsel to defend City and settlement or other disposition of the matter.

2.3. Deposit for Costs. Applicant shall make a refundable deposit to the City within thirty (30) days of written notification from the City ("Cost Deposit"), to cover the estimated fees and costs associated with the City’s defense of any claim, action or proceeding. Applicant shall make any and all additional payments to City to replenish the Cost Deposit within thirty (30) days of written notice from City.

2.4. Failure to Indemnify; Waiver. Failure to indemnify City, when required by this Agreement, shall constitute a material breach of this Agreement and of the Land Use Entitlements, which shall entitle City to all remedies available under law including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which City may rescind its approval of the Land Use Entitlements. Applicant’s failure to indemnify City shall be a waiver by Applicant of any right to proceed with the Project, or any portion thereof, and a waiver of Applicant’s right to file a claim, action or proceeding against City or City’s Agents based on City’s rescission or revocation of the Land Use Entitlements, or City’s failure to defend any claim, action or proceeding based on Applicant’s failure to indemnify City.

2.5. Satisfaction of Judgment. With respect to any claims, demands, acts, causes of action, damages, costs, expenses, settlements, losses or liabilities which Applicant has indemnified City against, Applicant shall pay and satisfy any judgment, award, settlement or decree that may be rendered or agreed against City and City’s Agents arising out of any final, non-appealable judicial or administrative action.

2.6. Payment of Costs and Fees. Applicant’s obligations under this Agreement to defend and indemnify City shall include, but not be limited to, payment of all court costs and
attorneys' fees, all litigation-related costs, all costs of any judgments or awards against City, or all settlement costs which arise out of City’s processing or approval of the Project.

2.7. **Continuing Obligation.** Applicant shall be and remain personally obligated to all of the terms of this Agreement, notwithstanding any attempt to assign, delegate or otherwise transfer all or any of the rights or obligations of this Agreement, and notwithstanding a change in or transfer of Developership of the real property upon which the Project is located (or any interest therein). However, Applicant may be released from such obligations if Applicant obtains City’s prior written consent to such transfer, which consent shall not be unreasonably withheld.

Section 3. **City’s Obligations.** City shall notify Applicant of any claim, action or proceeding within ten (10) business days of receiving service of any claim, action or proceeding. If City fails to notify Applicant of any claim, action, or proceeding, Applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless City. City shall have and retain, in its sole discretion, the right to not participate in the defense of any claim, action, or proceeding. At its sole discretion, the City may participate at its own expense in the defense, but such participation shall not relieve Applicant of any obligation imposed by this Agreement.

Section 4. **Notice.** Any notice or communication required hereunder between City and Applicant must be in writing and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party’s facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday or holiday, shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days’ written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:  
City of Riverbank  
6707 3rd Street  
Riverbank, California 95367
Attention: City Clerk

With copy to
City of Riverbank
6707 3rd Street
Riverbank, California 95367
Attn: City Manager
sscully@riverbank.org

and
Churchwell White, LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Douglas L. White, Esq.
doug@churchwellwhite.com

If to Applicant:
E & J Distributors DBA Canna+Rise
4236 Geer Road
Hughson, CA 95326
Attention: Julian Farhoud

and

Section 5. Modification of Agreement. This Agreement may be supplemented, amended, or modified only by a writing signed by the City and Applicant.

Section 6. Entire Agreement. This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties pertaining to the action and supersedes all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement.

Section 7. Agreement is Voluntary. The Parties acknowledge that they have entered into this Agreement voluntarily, on the basis of their own judgment and without coercion, and not in reliance on any promises, representations, or statements made by the other Party other than those contained in this Agreement. This Agreement incorporates the entire understanding of the Parties and recites the sole consideration of the promises and agreements contained within it. The Parties have read this Agreement and are fully aware of its contents and legal effect.

Section 8. Time of Essence. Time is of the essence for this Agreement, and each section
contained within this Agreement is made and declared to be a material, necessary, and essential part of this Agreement.

Section 9. **Severability of Agreement.** If a court or an arbitrator of competent jurisdiction holds any section of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining sections of this Agreement shall not be affected.

Section 10. **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 or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

Section 11. **Noninterference.** No Party will do anything to interfere with or inhibit the ability of the other to comply with their respective obligations under the terms of this Agreement.

Section 12. **Ambiguities.** Each Party has participated fully in the review and revision of this Agreement. Any rule of construction that ambiguities are to be resolved against the drafting Party does not apply in interpreting this Agreement.

Section 13. **Headings.** The headings in this Agreement are included for convenience only, and neither affect the construction or interpretation of any section in this Agreement nor affect any of the rights or obligations of the Parties to this Agreement.

Section 14. **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 Agreement. The Parties will act in good faith to carry out the intent of this Agreement.

Section 15. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.

Section 16. **Venue.** Venue for all legal proceedings shall be in the Superior Court of California, in and for the County of Stanislaus.

Section 17. **Attorney’s Fees and Costs.** If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret sections of this Agreement, the prevailing
Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

Section 18. **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.

Section 19. **Counterparts.** This Agreement may be executed in counterparts and all so executed shall constitute an agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties’ designated representatives do not appear on the same page.

[SIGNATURE PAGE TO FOLLOW]
IN WITNESS THEREOF, the Parties have executed this Agreement on the day, month and year first above written.

APPLICANT

E & J Distributors LLC, DBA Canna+Rise, a California limited liability corporation

By: __________________________
Name: _________________________
Its: ___________________________
Date: _________________________

CITY

City of Riverbank, a California municipal corporation

By: ____________________________
Sean Scully, City Manager

Date: ___________________________

APPROVED AS TO FORM:

By: ____________________________
Douglas L. White, Deputy City Attorney
Exhibit F

Notice of Termination

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

City of Riverbank
6707 3rd Street
Riverbank, CA 95367
Attention: City Clerk

NOTICE OF TERMINATION AND RELEASE OF DEVELOPMENT AGREEMENT

DATE: _____________________, 20___

PARTIES: CITY OF RIVERBANK, a California municipal corporation
6707 3rd Street
Riverbank, California 95367

E & J DISTRIBUTORS LLC., DBA CANNA+RISE, a California limited liability corporation

THIS NOTICE OF TERMINATION AND RELEASE (the “Release”) is being executed by the City of Riverbank, a California municipal corporation (“City”), with reference to the following.

A. By Instrument No. _____________, which was recorded in the Official Records of Stanislaus County, California on ______________, 2019, City recorded a development agreement between the City and E & J Distributors LLC., DBA Canna+Rise (“Developer”), dated ______________, 2019 (the “Development Agreement”), relating to the development and operation of a cannabis distribution facility.

{_______}

DEVELOPMENT AGREEMENT
CITY OF RIVERBANK
& E & J DISTRIBUTORS LLC. DBA CANNA+RISE
Page 44 of 48
B. Pursuant to Sections 1.7 and 9.1 of the Development Agreement, the term of the Development Agreement expires five (5) years from _______, 2019, on __________, 2024.

C. Pursuant to Section 9.1 of the Development Agreement, once terminated, the Development Agreement has no further force or effect, unless otherwise set forth in the Development Agreement.

NOW, THEREFORE, City hereby terminates, cancels, and otherwise releases Developer and Developer’s heirs, executives, administrators, successors, and assigns from their obligations in the Development Agreement on this ___ (day) of ___ (month), 20__, and relinquishes any right it may hereafter have to enforce any of the terms and provisions set forth in the Development Agreement, unless otherwise set forth in the Development Agreement. This termination, cancellation, and release shall be effective upon the recordation of this Release in the office of the County Recorder for the County of Stanislaus, State of California.

CITY OF RIVERBANK,
a California municipal corporation

By: ________________________________
   City Manager
Exhibit G

Assignment and Assumption Agreement

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

City of Riverbank
6707 3rd Street
Riverbank, CA 95367
Attention: City Clerk

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “Agreement”) is entered into this _____ day of ______________________, 20___, by and between E & J Distributors LLC., DBA Canna+Rise (“Developer”) and __________________________ (“Assignee”). Developer may be referred to herein as (“Assignor”).

RECITALS

A. On __________, 2019, Assignor and the City of Riverbank (the “City”) entered into that certain agreement entitled “Development Agreement by and between the City of Riverbank, a California municipal corporation and E & J Distributors LLC., DBA Canna+Rise relating to the improvement, development, and use of real property to operate a cannabis distribution facility (the “Development Agreement”), originally recorded upon Stanislaus County Assessor’s Parcel Number 075-020-016 (the “Property”).

B. Section 10.1 of the Development Agreement prohibits the sale, assignment, or transfer by Assignor of any portion of Assignor’s interests, rights, or titles described in that section of the Development Agreement (“Assignable Rights”) to a third party without prior written approval by the City Manager of the City of Riverbank (the City Manager”).

C. Assignor intends to assign, and Assignee intends to assume, the Assignable Rights under the Development Agreement.

D. In accordance with the terms of the Development Agreement, Assignor has provided to City Manager a written request for consent to assignment. City Manager has received the information he or she deems appropriate and consulted with the City Attorney for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement. This Agreement is intended to meet the requirements
Section 10.1 of the Development Agreement for an Assignment and Assumption Agreement, and is executed with the consent of City Manager as contemplated in the Development Agreement.

NOW, THEREFORE, Assignor and Assignee hereby agree as follows:

1. The foregoing Recitals are true and incorporated herein by this reference as though set forth in full.

2. Assignor hereby assigns to Assignee all of the Assignable Rights of Assignor under the Development Agreement.

3. Assignee hereby assumes all of the burdens and obligations of Assignor under the Development Agreement, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this Agreement, Assignee shall become substituted for Assignor as the “Developer” under the Development Agreement.

4. This Agreement shall take effect and be binding only upon City Manager’s consent to and approval of the Agreement.

5. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement. Assignee acknowledges that the Assignable Rights are as set forth in Section 10.1 of the Development Agreement, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and the City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that the City is not party to such other agreements.

6. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

[Signatures on the following page]
ASSIGNOR / DEVELOPER:
E & J Distributors LLC., DBA Canna+Rise, a California limited liability corporation
Its: ____________________________

ASSIGNEE

ASSIGNOR / DEVELOPER:
E & J Distributors LLC., DBA Canna+Rise, a California limited liability corporation
Its: ____________________________

ASSIGNEE

AGREED TO AND ACCEPTED:

CITY OF RIVERBANK
a California municipal corporation

____________________________________
City Manager
WHEREAS, the Community Development Department of the City of Riverbank has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Riverbank Municipal Code, Section 153.360-153.374; and

WHEREAS, the project proponent is E & J Distributors LLC.; and

WHEREAS, the applicant is requesting to operate a cannabis distribution facility (wholesale to wholesale) within the Light Industrial (M-1) zoning district; and

WHEREAS, the property has a general plan designation of Industrial / Business Park (I/BP); and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the proposed Use Permit is consistent with all applicable general and specific plans; and

WHEREAS, the proposed Conditional Use Permit with the conditions of approval is in conformity with both the intent and provisions of the Zoning Ordinance, RMC 153.216 of the City of Riverbank Code of Ordinances; and

WHEREAS, the project was found to be categorically exempt according to the California Environmental Quality Act, Section 15301 of Title 14 of the California Code of Regulations applicable to existing facilities involving no expansion of the facility that will not have a significant effect on the environment; and

WHEREAS, the request of E & J Distributors LLC. for the Conditional Use Permit is hereby granted and approved, subject to the following conditions:

1) This approval is dependent upon and limited to the proposals and plans contained, supporting documents submitted, presentations made to staff, Planning Commission and/or City Council as affirmed to by the applicant. Any variation from these plans, proposals, supporting documents or presentations is subject to review and approval by staff prior to implementation.
2) The applicant shall secure and comply with all applicable state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.

3) The applicant shall comply with all regulations and code requirements of the Community Development Director, City Engineer, Building Official, Stanislaus Consolidated Fire Protection District, the Police Chief, State of California, and any other agencies requiring review of the project. If required, these agencies shall be supplied copies of the final maps, site plans, public improvement plans, grading plans and building plans.

4) This use permit is for the wholesale distribution of cannabis and cannabis products only. Retail sales (storefront) are expressly prohibited.

5) All conditions of approval for this project shall be written by the project developer on all building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all construction plans kept on the project site. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Community Development Director must be received before any changes are constituted in site design, building design, building colors or materials, etc.

6) Site plan shall be in substantial conformance to the existing site plan as submitted. Any proposed changes to the exterior of the building or site shall be reviewed by the Community Development Director, who will determine if Architecture and Site Plan Review is required. If required, plans shall be prepared, wet signed and sealed by a civil engineer, land surveyor, or architect registered in the State of California and licensed to prepare site and/or building plans.

7) Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, if the site receives numerous Health and/or Safety violations, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents or presentations to staff, Planning Commission or City Council, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to be violated.

8) All business partners and employees shall obtain background checks (Live Scans) before operations may commence.
9) Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the applicant a copy of this signed resolution and an approved building permit.

10) The hours of construction, including equipment warm-up, shall be limited to 7:00 a.m. to 6:30 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on weekends and legal holidays.

11) All new construction, including tenant improvements, requires building permits in accordance with all applicable building and fire codes.

12) The applicant shall defend, indemnify and hold harmless the City of Riverbank, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, or any aspect of the City’s consideration of applicant’s project. The applicant recognizes and agrees that applicant’s voluntary commitment to meet the obligations described in this condition is an integral factor in the City’s approval of this project. The intent of this condition is to require the applicant to bear the cost of any and all litigation instituted to overturn or in any way modify the City’s approval of this project. Such costs include without limitation, any award of attorney’s fees and costs to a prevailing plaintiff or petitioner.

13) This approval may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the approval or add/modify conditions approval.

14) All new exterior light fixtures shall be shown on plans subject to staff review and approval. All lights attached to buildings shall provide a soft “wash” of light against the wall. All building and parking or yard lights shall conform to City Standards and shall compliment the site and building architecture.

15) The Project and Project applicant shall strictly comply with all administrative guidelines promulgated by the City for the operation of a cannabis distribution facility, specifically including any administrative guidelines later adopted by the City, or as may be changed from time to time.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission that the requested Conditional Use Permit is approved subject to those conditions established by Resolution No. 2019-010 and attached Exhibits A and B.
Passed and adopted by the Planning Commission of the City of Riverbank at a regular meeting held on the 16th of April, 2019, motioned by Commissioner ________, seconded by Commissioner __________, and upon roll call was carried by the following vote _ - _:

AYES: Commissioners:

NOES:

ABSENT:

ABSTAIN: None

Attest:                                      Approved:

Donna M. Kenney, Secretary                   John Dinan, Chairperson
Planning and Building Manager                Planning Commission

Exhibits:        A – Site Plan
                 B – Floor Plan

ENVIRONMENTAL The proposed project is not considered a Project pursuant to the California Environmental Quality Act (CEQA).

PROJECT PLANNER: Donna M. Kenney, Planning and Building Manager

I. EXECUTIVE SUMMARY:

Each year, California cities are required to prepare an annual progress report on the status of implementing the General Plan Housing Element and submit the report to the State Department of Housing and Community Development (HCD) and the Governor’s Office of Planning and Research (OPR). Using a form provided by HCD, the annual report provides a snapshot of housing unit production across affordability levels, development applications received and processed during the reporting year, affordable housing production and provides an update on housing program implementation. The annual report must be provided to the legislature (City Council) prior to sending to the State.

II. BACKGROUND & PROJECT INFORMATION:

State law requires that general plans include seven elements which must cover the following topics: Land Use, Circulation, Housing, Safety, Noise, Conservation, and Open Space. Elements for other topics of local concern may also be included. The Riverbank General Plan includes four optional elements: Community Character and Design, Economic Development, Public Services and Facilities and Air Quality. Except for the Housing Element, all elements of the Riverbank general Plan were adopted as a single document on April 22, 2009. State requirements for housing elements are more detailed and specific than for the other general plan elements. Housing elements are updated every eight years according to a schedule set by the State. For these reasons the Riverbank Housing Element is contained in a separate document which was adopted by the City Council February 23, 2016 and certified by the State HCD on December 30, 2015. The Housing Element covers the eight year period from 2015 to 2023. Other elements may be updated less frequently and typically have a 20-year horizon.

As part of the update to the City’s Housing Element, the City is required to identify sites to accommodate its Regional Housing Needs Allocation (RHNA), as determined by HCD and the Stanislaus Council of Governments (StanCOG). In summary, the RHNA process allocates the State of California’s future housing needs to each County throughout the State. The State of
California requires HCD to identify housing needs for each region in response to projected population and household growth. State law further mandates that each Council of Governments (COG) distribute the RHNA to each jurisdiction within the COG’s region, or in this case, StanCOG. As such, the City, in the update to the Housing Element, identified a number of sites that could accommodate the City’s fair share of the RHNA, in all income categories (e.g. very-low income, above moderate income, etc.).

Under California Government Code Section 65400, the City is required to prepare a General Plan Housing Element Annual Progress Report for submittal to the City Council, OPR and HCD by April 1st of each year. The purpose of the annual report is to provide the City Council and the State Departments a progress on the General Plan Housing Element’s implementation status toward meeting the City’s fair share in the RHNA (as discussed above).

The forms provided by HCD were originally adopted in 2010 and have recently been updated pursuant to Assembly Bill 879 (AB 879) and Senate Bill 35 (SB 35). The forms provided by HCD require the following information:

- Status of the plan and progress in it is implementation
- Progress in meeting its share of the regional housing needs
- The number of housing development applications received in the prior year
- The number of units included in all development applications in the prior year
- The number of units approved and disapproved in the prior year
- The degree to which its approved general plan complies with the guidelines developed
- List of sites rezoned to accommodate that portion of the City’s share of the regional housing need for each income level
- Number of net new units of housing, including both rental and for-sale housing, that have been issued an entitlement, a building permit, or a certificate of occupancy

III. ANALYSIS:

Staff has prepared the 2018 Riverbank Housing Element Annual Progress Report, included as an Attachment of this Staff Report. Some highlights of the 2018 calendar year include:

Progress Towards RHNA Goals

The RHNA table for the current Housing Cycle has been updated to reflect progress made towards the City’s RHNA goal, and is presented in the Attachment to this Staff Report. In Summary the City has completed:

- Ten (10) percent of the Very Low Income goal;
- Fourteen (14) percent of the Low Income goal;
- Zero (0) percent of the Moderate Income goal; and
- Twenty (20) percent of the Above Moderate Income goal

New Home Construction

The City of Riverbank issued building permits for forty (40) above moderate residential units in 2018, all of which were single-family residences. The majority of the building permits were issued
in East Riverbank (Diamond Bar West and Elmwood Estates). No building permits were issued for very low-, low-, and/or moderate-income categories.

IV. ATTACHMENTS:

1. 2018 General Plan and Housing Element Annual Progress Report

Respectfully Submitted By:

Donna M. Kenney
Donna M. Kenney
Planning and Building Manager
2018 General Plan Annual Progress Report

City of Riverbank

March 2019
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CHAPTER 1 – INTRODUCTION AND SUMMARY

A. PURPOSE OF THE ANNUAL PROGRESS REPORT

Section 65400 of the California Government Code requires the City to file an annual report addressing the status of the General Plan and progress made toward implementing its goals and policies. The progress report must be submitted to the Governor’s Office of Planning and Research (OPR) and the Housing and Community Development Department (HCD). The annual progress report provides a means to monitor the success of implementing the General Plan and determine if changes are needed in the plan or its implementation programs.

B. PURPOSE OF THE GENERAL PLAN

The General Plan is mandated by California Government Code Section 65300, which requires each city and county to adopt a general plan for the physical development of the jurisdiction. The Riverbank General Plan establishes a vision for the City’s long-term growth and enhancement and provides strategies and implementing actions to achieve this vision. The Plan also conveys to City departments, other agencies, and private developers the community goals and policies, and establishes a basis for determining if development proposals and public projects are consistent. The Plan provides for establishing and prioritizing detailed plans and implementation programs.

C. STATUS OF THE ADOPTED ELEMENTS OF THE RIVERBANK GENERAL PLAN

State law requires that general plans include seven elements which must cover the following topics: Land Use, Circulation, Housing, Safety, Noise, Conservation, and Open Space. Elements for other topics of local concern may also be included. The Riverbank General Plan includes four optional elements: Community Character and Design, Economic Development, Public Services and Facilities and Air Quality. Except for the Housing Element, all elements of the Riverbank general Plan were adopted as a single document on April 22, 2009. State requirements for housing elements are more detailed and specific than for the other general plan elements. Housing elements are updated every eight years according to a schedule set by the State. For these reasons the Riverbank Housing Element is contained in a separate document which was adopted by the City Council February 23, 2016 and certified by the State HCD on December 30, 2015. The Housing Element covers the eight year period from 2015 to 2023. Other elements may be updated less frequently and typically have a 20-year horizon.

The correspondence between State mandated elements and the Riverbank General Plan is illustrated in the table below.
Compliance with OPR Guidelines

Riverbank’s General Plan was updated in 2009 according to OPR’s Guidelines and remained consistent with the Guidelines.

CHAPTER 2 – IMPLEMENTATION OF THE GENERAL PLAN

This chapter discusses the implementation of all of the adopted elements of the General Plan except for the Housing Element. The annual progress report on the Housing Element is contained in Chapter 3. Exhibit A shows the implementation status of each General Plan policy.

A. REVIEW OF IMPLEMENTATION MEASURES

Progress Report Highlights
The following are highlights of the progress made in calendar year 2018 organized by general plan element:

Land Use:
- Permitting and New Development. The following is a summary of the building permits issued for the year 2018:
  - Diamond Bar West – Approved in 2015, construction continues on this fifty-eight (58) single-family residential project, located in eastern Riverbank. Thirty (30) building permits were issued in 2018.
  - In-Fill Lots – Three (3) building permits were issued for single-family residential projects on in-fill lots within the City in 2018.
  - Elmwood Estates – Seven (7) Building Permits were issued in 2018 for the Elmwood Estates project, located in east Riverbank.

Circulation:
- Amendments. There were no amendments to the Circulation Element in 2018.
Community Character and Design:
- **Amendments.** There were no amendments to the Community Character and Design Element in 2018.

Economic Development:
- **Amendments.** There were no amendments to the Economic Development Element in 2018.

Conservation and Open Space:
- **Amendments.** There were no amendments to the Conservation and Open Space Element in 2018.

Safety:
- **Amendments.** There were no amendments to the Safety Element in 2018.

Noise:
- **Amendments.** There were no amendments to the Noise Element in 2018.

Public Services and Facilities:
- **Amendments.** There were no amendments to the Public Services and Facilities Element in 2018.

Air Quality:
- **Amendments.** There were no amendments to the Air Quality Element in 2018.

Housing
- **Amendments.** There were no amendments to the Housing Element in 2018.

Regional Coordination
- **North County Corridor.** The Mayor and City Staff continued to participate with the Stanislaus Council of Governments (StanCOG) to provide input and direction as to how the North County Corridor should be aligned as it passes Riverbank. The Mayor Richard D. O’Brien is a member of the Stanislaus Council of Governments Policy Board and Kathleen Cleek, a City Staff member, is part of the Valley Vision Stanislaus Steering Committee to help collaboratively address the requirements of Senate Bill 375 (SB 375).

- **Regional Transportation Plan / Sustainable Communities Strategies (RTP / SCS).** City staff continued to participate with Stanislaus Council of Governments in the Sustainable Communities Strategy process to develop and implement an action plan that will lead to a more sustainable region, and implement SB 375. Staff regularly attended Valley Vision Stanislaus Steering Committee meetings and made periodic presentations to the City Council and Planning Commission.

- **Stanislaus County Planning Directors Meeting.** The Planning and Building Manager meets regularly with the Planning Directors of other cities in Stanislaus County to share information and discuss topics of mutual interest.
**General Plan Amendments**

There were no General Plan Amendments in the Calendar year of 2018.

**B. GOALS, POLICIES, OBJECTIVES, STANDARD OR OTHER PLAN PROPOSALS THAT NEED TO BE ADDED OR WERE DELETED, AMENDED OR OTHERWISE ADJUSTED.**

No changes to goals, policies, objectives, standards, or other plan proposals were identified in 2018.

**CHAPTER 3 – ANNUAL PROGRESS REPORT ON IMPLEMENTATION OF THE HOUSING ELEMENT**

The report addresses the progress in meeting the Regional Housing Need Allocation (RHNA) housing goals and the attainment of housing goals and objectives specified in the 2015-2023 Housing Element, adopted February 23, 2016. The State of California Department of Housing and Community Development requires an annual report attached as Exhibit B.

Following are highlights of the Calendar Year 2018 Housing Element Annual Progress Report:

**Housing Element Implementation Highlights**
The following are highlights of the Calendar Year 2018 Housing Element Annual Progress Report:

- Five (5) years have elapsed for the January 2014 through September 2023 Regional Housing Needs Allocation (RHNA) period. As measured through the issuance of building permits, the City has met:
  - Ten (10) percent of the Very Low Income goal;
  - Fourteen (14) percent of the Low Income goal;
  - Zero (0) percent of the Moderate Income goal; and
  - Twenty (20) percent of the Above Moderate Income goal.
- *Building Permits Issued in 2018.* In 2018, 40 building permits were issued for single and multi-family development.
2018 General Plan Annual Progress Report

Exhibit A: General Plan Annual Implementation Report – 2018
### Table I: General Plan Annual Implementation Report - 2017

<table>
<thead>
<tr>
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<tbody>
<tr>
<td></td>
<td><strong>Land Use Element</strong></td>
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<tr>
<td>Land – 1</td>
<td>The City will conduct a comprehensive review of the land use element, including analysis and actions to ensure there is adequate land in appropriate locations for employment-generating land uses.</td>
<td>X, No Later Than 2013</td>
<td>CDD</td>
<td>The City continues to monitor and review the Land Use Element for adequate land in appropriate locations. No updates to the Land Use Element occurred in 2018.</td>
</tr>
<tr>
<td>Land – 2</td>
<td>The CDD will maintain an inventory of vacant and underutilized land to (a) evaluate proposed annexations and (b) ensure an adequate supply of vacant land to meet the community’s needs.</td>
<td>X</td>
<td>CDD</td>
<td>The Community Development Department and City Council continue to maintain vacant and underutilized land for annexations and supply. As part of the Housing Element Update, a list was developed to determine the amount of Vacant and Underutilized Multi-family Residential (R-3) land within City limits. Further, the City currently maintains an underutilized site inventory on CalOpps.com to connect potential developers with vacant and underutilized sites in the City.</td>
</tr>
<tr>
<td>Land – 3</td>
<td>The City and Redevelopment Agency will pursue grant monies, as well as other funding sources for road and public infrastructure improvements to revitalize areas in need.</td>
<td>X</td>
<td>EDH, F, CDD</td>
<td>The Community Development Department, Finance Department and the Public Works Department continue to pursue funding for road and public infrastructure improvements. No action for Redevelopment Agency due to the demise of Redevelopment.</td>
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### Agency Codes

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</table>
The City will develop a comprehensive infill development streamlining and incentive program to encourage the redevelopment and revitalization of the Infill Opportunity Area.

There has not been any work done to develop infill development streamlining and incentive program due to staff constraints.

In 2018, Staff met with multiple developers who were interested in developing land within the City of Riverbank in infill development areas. Staff expressed support for new development in infill areas.

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<tr>
<td>Land – 4</td>
<td>The City will update the Zoning Code and other Municipal Code sections regulating land development to ensure consistency with the General Plan.</td>
<td>On-going</td>
<td>CDD</td>
<td>In 2018, the City updated residential sections of the Zoning Code to ensure consistency with the General Plan.</td>
</tr>
<tr>
<td>Land – 5</td>
<td>The City will coordinate with StanCOG and member jurisdictions and Caltrans to remove the State Highway 108 designation as it occurs through Riverbank and plan and condition land uses along a future alignment to enable Caltrans to redesignate Highway 108 near the Riverbank Planning Area.</td>
<td>X</td>
<td>CDD</td>
<td>The City of Riverbank continues to be involved in the North County Corridor planning process and is among the members of the Joint Powers Authority, securing a voice for Riverbank as the project moves forward and routes are being finalized.</td>
</tr>
<tr>
<td>Land – 6</td>
<td>The City will draft an implementing ordinance for the Clustered Rural Residential land use designation consistent with the policies presented in the General Plan.</td>
<td>X</td>
<td>CDD</td>
<td>No Action in 2018.</td>
</tr>
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<td></td>
<td>Update the General Plan using data to be made available by the DWR and the Central Valley Flood Protection Board.</td>
<td>X</td>
<td>CDD</td>
<td>The update to the General Plan Safety Element occurred in 2015 as it relates to SB5 (2007) and 200-year floodplain protection. No action in 2018.</td>
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<tr>
<td>CIRC – 1</td>
<td>Develop and implement a Bicycle Master Plan.</td>
<td>X</td>
<td>CDD</td>
<td>The Community Development Department currently utilizes StanCOG’s Non-Motorized Transportation Master Plan to determine the best areas for bicycle infrastructure and improvements. The City’s own Bicycle Master Plan has been and continues to be a priority as funds become available.</td>
</tr>
<tr>
<td>CIRC – 2</td>
<td>As a part of implementation of the City’s bicycle master plan, the City will work with local irrigation districts, the County, local railroad concerns, other property owners, and other agencies and interested parties to acquire and/or use existing easements and rights-of-way for development of off-street pedestrian and bicycle pathways.</td>
<td>X</td>
<td>CDD</td>
<td>The Community Development Department has been in discussion with BNSF and Sierra Northern Railway to utilize some Right-of-Way for off-street pedestrian and bicycle pathways along Patterson Road. Through these discussions, the City is working on developing a safe, efficient multi-modal system for Patterson Road. The City is currently collecting funds to complete a Non-Motorized Master Plan, and plans to complete the non-motorized plan by the end of 2019.</td>
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<td>CIRC – 3</td>
<td>Develop a Travel Demand Management ordinance that requires large employers to provide incentives for employees to commute via transit, bicycle, on foot or by carpool rather than the SOV commute</td>
</tr>
<tr>
<td>CIRC – 4</td>
<td>Revise street improvement standards to be consistent with this Circulation Element, including consideration on equal footing of all locally available forms of travel.</td>
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<tr>
<td>CIRC – 5</td>
<td>Coordinate with relevant transit providers and include, as appropriate, transit improvements in the Capital Improvements Plan (CIP).</td>
</tr>
<tr>
<td>CIRC – 6</td>
<td>The City will actively pursue State and Federal funding for developing, improving, and enhancing bicycle and pedestrian routes in the existing developed City.</td>
</tr>
<tr>
<td>CIRC – 7</td>
<td>Develop and implement a Parking Master Plan to coordinate and manage parking in the City.</td>
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CIRC – 8

Work with surrounding jurisdictions, the County, and StanCOG to develop regional solutions to regional vehicular transportation issues.

X

CDD, PW, ENG

City Council, Planning Commission and Community Development Department will continue to work with the County and StanCOG to develop regional solutions to regional vehicular transportation.

**Community Character and Design Element**

DESIGN – 1

Establish distinctive crosswalks at major street intersections and other locations expected to generate significant pedestrian traffic in the existing City, as funding allows.

X

F, CDD

Utilizing CMAC and Safe Routes to School funds, the City is currently re-designing the Patterson Road and Roselle Avenue intersection to improve circulation and overall safety for non-motorized travelers, including students on bicycles.

In 2018, the city continued to collect funding for their Non-Motorized Master Plan. Additionally the City is in the design phases of a Complete Street located at the intersection of Callander Avenue and Santa Fe Street. Last, the City completed a sidewalk project along the southern edge of Patterson Road between First Street and Terminal Avenue.

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<td>DESIGN – 2</td>
<td>Where appropriate opportunities and sufficient right-of-way exists, the City will modify wide streets into boulevards with landscaped medians or landscaped strips between the roadway and sidewalks to visually and functionally enhance streets for pedestrian use.</td>
<td>X</td>
<td>CDD, ENG, PW</td>
<td>The City developed standard street widths to include landscaped medians and landscaped strips between roadways for minor and major collectors and minor arterials in 2016. No Action in 2018. The City continues to enforce the standards adopted in 2016.</td>
</tr>
</tbody>
</table>
DESIGN – 3  The City will establish design standards and parking requirements for accessory dwelling units. X CDD In 2017 the City adopted reduced parking standards for accessory dwelling units. No Action in 2018.

DESIGN – 4  Pursue improvements downtown that reduce effective Downtown street widths in relationship to building height and bulk, while allowing for automobile movements. 2015 CDD The Downtown Specific Plan was adopted in 2015. No Action in 2018. The City continues Implementation Actions to enforce the Downtown Specific Plan.

DESIGN – 5  Prepare comprehensive streetscape plans for Patterson Road, Atchison Street/Highway 108, 1st Street, Claribel Road, Oakdale Road, Roselle Avenue, and Claus Road. 2015 CDD, ENG A Streetscape plan for Patterson Road, east of Roselle Avenue is currently being developed to include Complete Streets Principles, including a Bicycle Path adjacent to the BNSF/Sierra Railroad. Other Streets and intersections will be improved as funds become available.

Further in 2018, the City commenced the design of a Complete Street at the intersection of Callander Avenue and Santa Fe Street.
<table>
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<tr>
<th>DESIGN – 6</th>
<th>The City will define the edges, focal points, and landmarks of the Downtown. The City will establish gateways to Riverbank.</th>
<th>X</th>
<th>CDD</th>
<th>The Downtown Specific Plan identifies “gateways to Downtown” as 108/Patterson Road to the west and Atchison Street/Highway 108 to the east. Additionally, the revised DTSP expanded the east gateway, along Atchison Street.</th>
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<tr>
<td>DESIGN – 7</td>
<td>Adopt development standards that minimize environmental impacts of development through an appropriate balance of regulations and incentives</td>
<td>X</td>
<td>CDD</td>
<td>The City continues to minimize environmental impacts of development through the implementation and oversight of the California Environmental Quality Act (CEQA) where mitigation is assessed on projects that may have a significant impact on the environment. Further, the City has a relationship with the appropriate State and Federal environmental agencies allowing them to comment and assess appropriate mitigation on development projects. The City also works with developers to ensure that mitigation is practical and feasible for their development plans.</td>
</tr>
<tr>
<td>DESIGN – 8</td>
<td>Projects shall provide artwork by a qualified artisan(s) within their developments as approved by the Director of Community Development</td>
<td>X</td>
<td>CDD</td>
<td>The Community Development Department, Planning Commission and City Council continue to consider artwork by qualified artisan(s) within development projects. This will continue to be approved by the Community Development Director. In 2018, the City Manager developed a program with Riverbank High School to paint utility boxes with murals for a stipend.</td>
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**Economic Development Element**

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<tr>
<td>ED – 1</td>
<td>Continue to dedicate staff resources to economic development activities, and identify ways to improve upon existing initiatives</td>
</tr>
<tr>
<td>ED – 2</td>
<td>Continue to identify funding resources, and apply for those resources for which the City of Riverbank qualifies</td>
</tr>
<tr>
<td>ED – 3</td>
<td>Continue to leverage redevelopment funds to develop programs and initiatives that improve the physical environment and business climate within the project area</td>
</tr>
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<td>ED – 4</td>
<td>Work with Modesto Junior College, Stanislaus Alliance Worknet, other public agencies, and private job training providers to develop and refine job training programs that meet the needs of private industry and prospective businesses seeking to locate in Riverbank</td>
<td>X</td>
<td>EDD</td>
<td>In 2018 City staff met with Stanislaus Alliance Worknet, renamed Opportunity Stanislaus, to identify existing businesses that could use their help in applying for programs.</td>
</tr>
<tr>
<td>ED – 5</td>
<td>Identify opportunities to locate job training sites in Riverbank. Most of the existing job training and business assistance resources are based in Modesto. If a major facility development or expansion can be attracted to Riverbank, opportunities should be explored to base any resultant job training activities within Riverbank</td>
<td>X</td>
<td>EDD, CDD</td>
<td>No action necessary. The Community Development Department will explore options for job training in Riverbank as opportunities arise when new expansion or development occurs.</td>
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<tr>
<td>ED – 6</td>
<td>Implement a business outreach program that identified home-based businesses operating in Riverbank</td>
<td>X</td>
<td>EDD</td>
<td>No action in 2018.</td>
</tr>
<tr>
<td>ED – 7</td>
<td>Implement a business outreach program that prioritizes businesses and/or industry sectors that constitute the most prominent sources for jobs and fiscal revenue in Riverbank</td>
<td>X</td>
<td>EDD</td>
<td>No action in 2018.</td>
</tr>
<tr>
<td>Ed – 8</td>
<td>Assign City staff and personnel from appropriate agencies to a “rapid response” team that will respond to changes in the job training and workforce development needs for large employers in Riverbank</td>
<td>X</td>
<td>All Depts.</td>
<td>No Action in 2018.</td>
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### Ed – 9
Develop specific marketing messages for different industry sectors, based on Riverbank’s strengths, market position, and future growth opportunities

**Timeframe**
- On-going

**Dept/Agency**
- EDD

**Status of Implementation**
- X

**Notes**
- In 2017, the City created an Oppsites page to promote the sale and development of vacant and underutilized parcels in the city.
- In 2018, the City continued to update the Oppsites page.

### ED – 10
Refine business attraction targets to include business-to-business suppliers. Business suppliers would potentially include material distributors, services providers, and component manufacturing.

**Timeframe**
- On-going

**Dept/Agency**
- EDD

**Status of Implementation**
- X

**Notes**
- No action in 2018.

### ED – 11
Systematically track available land, and available building vacancies. Continually update the information and identify the most efficient and cost-effective methods for distributing the information, including web-based systems.

**Timeframe**
- On-going

**Dept/Agency**
- CDD

**Status of Implementation**
- X

**Notes**
- The Community Development Department utilizes the County’s Geographical Information Systems (GIS) to track available land (vacant land).

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### Action Number | Implementation Action | Timeframe | Dept/Agency | Status of Implementation
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ED – 12 | The City should contract with a sales tax accounting firm to provide customized and quarterly updated audits of the City’s sales tax receipts | X | EDD | No Action in 2018.

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<td>ED – 13</td>
<td>Dedicate staff resources to tracking employment and payroll trends, in order to monitor progress toward community goals for economic development</td>
<td>X</td>
<td>EDD</td>
<td>No Action in 2018.</td>
</tr>
<tr>
<td>ED – 14</td>
<td>Implement a residential survey that includes information on where Riverbank residents work and their occupations</td>
<td>X</td>
<td>EDD</td>
<td>No Action in 2018.</td>
</tr>
<tr>
<td>Ed – 15</td>
<td>Facilitate the formation of business district committees, and assist those districts that wish to further explore the benefits and implementation steps for the creation of a Business Improvement District</td>
<td>X</td>
<td>EDD</td>
<td>No action in 2018 due to a lack of interest by businesses.</td>
</tr>
<tr>
<td>ED – 16</td>
<td>Proactively use the business outreach process to identify priorities for business climate improvement</td>
<td>X</td>
<td>EDD</td>
<td>No Action in 2018.</td>
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<tr>
<td>ED – 17</td>
<td>Include the redevelopment agency in any efforts to improve the local business climate within the redevelopment district</td>
<td>X</td>
<td>EDD, CDD</td>
<td>There has not been any work done to include the redevelopment agency due to the demise of redevelopment.</td>
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- P&R Parks and Recreation
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| ED – 18 | Initiate a hotel/lodging feasibility study to identify the types, numbers, and appropriate locations of lodging facilities that Riverbank could attract. | X | EDD | No Action in 2018 on a feasibility study but city staff contacted known hotel developers and provided them with information on building in Riverbank |
| ED – 19 | Prioritize business attraction initiatives in the categories identified in Goal ED-6. | X | EDD | In late 2015 the City adopted a Grease Interceptor Loan Program and a Conditional Waiver to Install Grease Interceptors Program to encourage restaurants to locate in the downtown. In 2018, the City Council began a deferring system development fees from building permit issuance to building permit final. |
| ED – 20 | Identify options and preferred alternatives for rail spur locations and potential relocations, particularly as they pertain to the reuse of the Riverbank Army Munitions site. | X | CC, LRA | The Riverbank Industrial Complex Specific Plan (Former Army Ammunition Plant) was adopted by City Council in March of 2013. The Plan identified options in regards to the rail spurs in and out of the Riverbank RAAP. |
| ED – 21 | Initiate a retail leakage study in order to identify retail and other local-serving attraction opportunities that remain, and project the future growth in household retail demand and supportable establishments. | X | EDD | No Action in 2018. |
| ED – 22 | Initiate a feasibility study that identifies market opportunities for entertainment and recreational uses in Riverbank, particularly as they apply to creating an arts district in downtown Riverbank. | X | EDD | No Action in 2018. |

<p>| Agency Codes |
| City of Riverbank &amp; Local | PW Public Works Dept | F Finance Department | EDH Economic Development and Housing |
| CC | CM | PC | CDD | ENG | LRA |
| City Council | City Manager | Planning Commission | Community Development Department | Engineering Department | Local Redevelopment Agency |
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| StanCOG Stanislaus Council Of Governments | SC Stanislaus County | DOT Caltrans | MID Modesto Irrigation District | CEPA California Environmental Protection Agency | SJVAPCD San Joaquin Valley Air Pollution Control District |</p>
<table>
<thead>
<tr>
<th>Action Number</th>
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<tbody>
<tr>
<td>ED – 23</td>
<td></td>
<td>X</td>
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<tr>
<td>ED – 24</td>
<td></td>
<td>X</td>
<td>P&amp;R, F, EDD</td>
</tr>
<tr>
<td>ED – 26</td>
<td></td>
<td>X</td>
<td>CDD</td>
</tr>
<tr>
<td>ED – 27</td>
<td></td>
<td>X</td>
<td>CDD</td>
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</table>

**Agency Codes**

<table>
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<tr>
<th>City of Riverbank &amp; Local</th>
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</tr>
</thead>
<tbody>
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<tr>
<td>Action Number</td>
<td>Implementation Action</td>
</tr>
<tr>
<td>---------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>CONS-1</td>
<td>1) Require development projects and subdivisions be consistent with, and implement land use planning and greenhouse gas emission reduction measures developed pursuant to the regional Sustainable Community Strategy. 2) Develop a Sustainable Agricultural Strategy to minimize the agricultural production loss to urban development</td>
</tr>
<tr>
<td>CONS – 2</td>
<td>Adopt a “right-to-farm” ordinance 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 problems typically associated with new residents on the City fringe.</td>
</tr>
<tr>
<td>CONS – 3</td>
<td>Seek funding to assist private owners in the preservation of buildings and site of historic importance</td>
</tr>
</tbody>
</table>

**Agency Codes**

**City of Riverbank & Local**

| CC  | City Council                  | PW Public Works Dept |
| CM  | City Manager                 | F Finance Department |
| PC  | Planning Commission          | EDH Economic Development and Housing |
| CDD | Community Development Department | P&R Parks and Recreation |
| ENG | Engineering Department       | EDD Economic Development Department |
| LRA | Local Redevelopment Agency  |                          |

**Regional, State, Federal and Private**

<p>| StanCOG Stanislaus Council Of Governments |
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<th>Implementation Action</th>
<th>Timeframe</th>
<th>Dept/Agency</th>
<th>Status of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAFE – 1</td>
<td>Work with the Department of the Army to ensure successful clean-up and reuse of the decommissioned Riverbank Ammunition Plant</td>
<td>X</td>
<td>CDD, PW, EDD</td>
<td>The Riverbank RAAP was selected for closure as part of the Base Realignment and Closure (BRAC) plan of 2008. The Local Redevelopment Agency continues to work with the Department of the Army and the Federal Environmental Protection Agency to ensure the successful clean-up and reuse of the plant. In November of 2013, the Riverbank Industrial Complex Specific Plan was adopted by City Council. In 2017 PCB clean-up was completed at the site. In 2018, Land transfers between the Department of the Army to the City of Riverbank continue and the City continues to negotiate a contract with a Master Developer to develop the existing and remaining parcels of the site.</td>
</tr>
</tbody>
</table>

**Agency Codes**

**City of Riverbank & Local**
- CC City Council
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<th>Dept/Agency</th>
<th>Status of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAFE – 3</td>
<td>Will coordinate with public safety service providers serving the City to ensure proper training and disaster preparedness and periodic testing of equipment and facilities</td>
<td>X</td>
<td></td>
<td>No Action in 2018.</td>
</tr>
<tr>
<td>SAFE – 4</td>
<td>Support the purchase and maintenance of proper emergency communication systems and equipment and other necessary tools dealing with emergencies.</td>
<td>X</td>
<td></td>
<td>No Action in 2018.</td>
</tr>
</tbody>
</table>

**Noise Element**

<table>
<thead>
<tr>
<th>Action Number</th>
<th>Implementation Action</th>
<th>Timeframe</th>
<th>Dept/Agency</th>
<th>Status of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOISE – 1</td>
<td>Update implementing ordinances related to noise consistent with the policies of this element and City redevelopment and revitalization planning</td>
<td>X</td>
<td>CC, PC, CDD</td>
<td>This action has not been implemented due to the demise of Redevelopment. The Community Development Department, City Council and Planning Commission will continue to implement the Noise element on a project-by-project basis, ensuring that specific projects do not affect adjacent land uses that may be sensitive, such as schools and residential.</td>
</tr>
<tr>
<td>Action Number</td>
<td>Implementation Action</td>
<td>Timeframe</td>
<td>Dept/Agency</td>
<td>Status of Implementation</td>
</tr>
<tr>
<td>---------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>-----------------</td>
<td>-------------</td>
<td>-----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>NOISE – 2</td>
<td>Ensure that personnel charged with enforcing such ordinances are properly trained and equipped for on-site measurement techniques and other necessary tasks</td>
<td>X</td>
<td>CDD</td>
<td>Depending on the Project, a Noise Analysis may be commissioned to ensure that the project is consistent with the Noise Element of the General Plan and any applicable Ordinances. This may be done in-house or by an outside consultant.</td>
</tr>
<tr>
<td>NOISE – 3</td>
<td>Coordinate with StanCOG and Caltrans to ensure transportation planning and improvement programs are consistent with this element</td>
<td>X</td>
<td>CC, PC, CDD</td>
<td>The City Council, Planning Commission and Community Development Department will continue to work with StanCOG and Caltrans to ensure transportation planning and programs are consistent with the Noise Element.</td>
</tr>
<tr>
<td>PUBLIC – 1</td>
<td>Coordinate with area reclamation districts, Stanislaus County, the City of Modesto, and other agencies and jurisdictions for planning and coordinating drainage programs and policies on an area wide and regional basis</td>
<td>X</td>
<td>CDD</td>
<td>The City continues to participate in the Storm Drainage partnership with multiple local agencies to address state requirements for storm water.</td>
</tr>
<tr>
<td>PUBLIC – 2</td>
<td>Develop a park master plan that describes the standards, design, land requirements, locations, planning, and funding to support the City’s existing and future park system</td>
<td>X</td>
<td>P&amp;R</td>
<td>In 2018 the Parks and Recreation Director updated the exhibits to draft a parks master plan when funding becomes available. The Parks and Recreation Director expects to complete the Parks Master Plan by the end of 2019.</td>
</tr>
</tbody>
</table>

**Public Services and Facilities Element**

**Action Number** | Implementation Action | Timeframe       | Dept/Agency | Status of Implementation                                                                 |
|------------------|-----------------------|-----------------|-------------|-----------------------------------------------------------------------------------------|

**Agency Codes**

**City of Riverbank & Local**

<table>
<thead>
<tr>
<th>Agency</th>
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<tbody>
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**Regional, State, Federal and Private**

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<table>
<thead>
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</tr>
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<tbody>
<tr>
<td>StanCOG</td>
<td>Stanislaus Council Of Governments</td>
</tr>
<tr>
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<td>Finance Department</td>
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<tbody>
<tr>
<td>DOT</td>
<td>Caltrans</td>
</tr>
<tr>
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<td>Modesto Irrigation District</td>
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<tr>
<td>SJVAPCD</td>
<td>San Joaquin Valley Air Pollution Control District</td>
</tr>
</tbody>
</table>

112
PUBLIC – 3  Update the water, wastewater, and stormwater drainage master plans at least every five years to ensure the appropriate level of service is maintained as the City grows, and to ensure that appropriate projects include a capital improvements planning and can be funded  Complet e, 2015  CDD  The City’s 2010 Urban Water Management Plan was adopted by City Council on January 27, 2015.

PUBLIC – 4  Coordinate with the United States Postal Service and other public agencies serving Riverbank, regarding needs for expansion, satellite locations, and other issues related to land use planning  X  CDD  No Action in 2018.

### Air Quality Element

**AIR – 1**  Develop a program to reduce daily emissions of nitrogen oxides  X  CDD  No Action in 2018. The City continues to consult with the San Joaquin Valley Air Pollution Control District (SJVAPCD) whom enforces federal air quality standards.

**AIR – 2**  Develop a local greenhouse gas reduction program  X  CDD  No Action in 2018. The City continues to consult with the SJVAPCD whom enforces federal greenhouse gas reduction programs.

<table>
<thead>
<tr>
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<th>Status of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>X</td>
<td>CDD</td>
<td>No Action in 2018.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>X</td>
<td>CDD</td>
<td>No Action in 2018.</td>
</tr>
</tbody>
</table>

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- **Regional, State, Federal and Private**
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113
### AIR – 3
Pursue and use State and Federal funds earmarked for bicycle and transit improvements, transit-oriented planning and development, and other planning and improvement grant programs intended to encourage alternatives to automobile transportation

<table>
<thead>
<tr>
<th>Action Number</th>
<th>Implementation Action</th>
<th>Timeframe</th>
<th>Dept/Agency</th>
<th>Status of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIR – 3</td>
<td>X</td>
<td>CDD, EDD, F</td>
<td>The City continues to pursue and use State and Federal funds earmarked for the programs listed in AIR-3.</td>
<td></td>
</tr>
</tbody>
</table>

### AIR – 4
Coordinate with local irrigation districts, the County, Caltrans, and other interested parties to develop bikeways and pedestrian paths along canals, abandoned railroad lines, and other easements and rights-of-ways

<table>
<thead>
<tr>
<th>Action Number</th>
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</tr>
</thead>
<tbody>
<tr>
<td>AIR – 4</td>
<td>X</td>
<td>CDD, P&amp;R</td>
<td>The Community Development Department has been in discussion with Hetch-Hetchy Water and Power to develop a dog park or multi-use path on SFPUC Right-of-Way. Further in 2018 Staff continued to work towards the completion of the Crossroads West Specific Plan which included working with multiple local agencies to allow for bikeways and pedestrian paths along canals, abandoned railroad lines, and other easement/right-of-ways.</td>
<td></td>
</tr>
</tbody>
</table>

### AIR – 5
Develop planning strategies and supportive ordinances addressing Downtown Riverbank and West Riverbank

<table>
<thead>
<tr>
<th>Action Number</th>
<th>Implementation Action</th>
<th>Timeframe</th>
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<th>Status of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIR – 5</td>
<td>X</td>
<td>CDD</td>
<td>In 2018, the City continued to work on the Crossroads West Specific Plan, which would annex the land directly west of Oakdale Road southerly of the Modesto Irrigation District Main Canal. The City plans to adopt and annex the Plan Area by the summer of 2019.</td>
<td></td>
</tr>
</tbody>
</table>

### AIR – 6
In planning and budgeting for transportation infrastructure, before considering constructing more roadway capacity, the City of Riverbank will consider measures to increase the capacity of the existing road network

<table>
<thead>
<tr>
<th>Action Number</th>
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<th>Timeframe</th>
<th>Dept/Agency</th>
<th>Status of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIR – 6</td>
<td>X</td>
<td>CC, PC, CDD, P, PW, ENG</td>
<td>The Community Development Department, Public Works Department and Engineering will continue to consider measures to increase the capacity of the existing road network prior to considering constructing more roadway capacity. City Staff is currently revising the City’s Standard Street Widths, which will incorporate DOT’s directive of Complete Streets and LID Standards (MS4 Requirements).</td>
<td></td>
</tr>
</tbody>
</table>

#### Agency Codes

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<tr>
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<td></td>
<td>SJVAPCD San Joaquin Valley Air Pollution Control District</td>
</tr>
<tr>
<td>AIR – 7</td>
<td>Coordinate with transit providers on the portion of long-range transit plans serving Riverbank and accommodate necessary facilities such as bus pull-outs, bus shelters, information kiosks, street furniture, lighting, etc.</td>
</tr>
<tr>
<td>AIR – 8</td>
<td>Require project proponents to prepare health risk assessments in accordance with Air District-recommended procedures as part of environmental review when the proposed industrial process has associated air emissions that have been designated by the State as a toxic air contaminant or, similarly, by the federal government as a hazardous air pollutant</td>
</tr>
</tbody>
</table>
2018 General Plan Annual Progress Report
Exhibit B: Housing Element Annual Progress Report – 2018
Reported Data – January 1, 2018 – December 31, 2018
### General Information

<table>
<thead>
<tr>
<th>Jurisdiction Name</th>
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<tbody>
<tr>
<td>Reporting Calendar Year</td>
<td>2018</td>
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</tbody>
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### Contact Information

<table>
<thead>
<tr>
<th>First Name</th>
<th>Roman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Name</td>
<td>Acosta</td>
</tr>
<tr>
<td>Title</td>
<td>Contract Planner</td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:Roman@bandersonplanning.com">Roman@bandersonplanning.com</a></td>
</tr>
<tr>
<td>Phone</td>
<td>(209) 599-8377</td>
</tr>
</tbody>
</table>

### Mailing Address

<table>
<thead>
<tr>
<th>Street Address</th>
<th>6707 Third Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>City</td>
<td>Riverbank</td>
</tr>
<tr>
<td>Zipcode</td>
<td>95367</td>
</tr>
</tbody>
</table>

### Submittal Instructions

Housing Element Annual Progress Reports (APRs) forms and tables must be submitted to HCD and the Governor’s Office of Planning and Research (OPR) on or before April 1 of each year for the prior calendar year; submit separate reports directly to both HCD and OPR pursuant to Government Code section 65400. There are two options for submitting APRs:

1. **Online Annual Progress Reporting System (Preferred)** - This enters your information directly into HCD’s database limiting the risk of errors. If you would like to use the online system, email APR@hcd.ca.gov and HCD will send you the login information for your jurisdiction. Please note: Using the online system only provides the information to HCD. The APR must still be submitted to OPR. Their email address is opr.apr@opr.ca.gov.

2. **Email** - If you prefer to submit via email, you can complete the excel Annual Progress Report forms and submit to HCD at APR@hcd.ca.gov and to OPR at opr.apr@opr.ca.gov. Please send the Excel workbook, not a scanned or PDF copy of the tables.
<table>
<thead>
<tr>
<th>Project Identifier</th>
<th>Unit Types</th>
<th>Proposed Units - Affordability by Household Incomes</th>
<th>Total Approved Units by Project</th>
<th>Total Disapproved Units by Project</th>
<th>Streamlining</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Category</td>
<td>Very Low</td>
<td>Low</td>
<td>Moderate</td>
<td>Above</td>
<td>Total Proposed Units by Project</td>
<td>Total Approved Units by Project</td>
</tr>
<tr>
<td>Pre APN</td>
<td>Current APN</td>
<td>Street Address</td>
<td>Project Name*</td>
<td>Local Jurisdiction Tracking #*</td>
<td>Tenure</td>
<td>Date Application Submitted</td>
</tr>
<tr>
<td>Trails at Bruinville</td>
<td>18-0001</td>
<td>SFD</td>
<td>O</td>
<td>11/5/2018</td>
<td>217</td>
<td>217</td>
</tr>
<tr>
<td>Machado Small Lot VTM</td>
<td>18-0013</td>
<td>SFD</td>
<td>O</td>
<td>12/19/2018</td>
<td>128</td>
<td>128</td>
</tr>
</tbody>
</table>

Notes:
- Trails at Bruinville has not yet been approved.
- Machado Small Lot VTM has not yet been approved.
### Table A2

**Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units**

<table>
<thead>
<tr>
<th>Project Identifier</th>
<th>Unit Types</th>
<th>Affordability by Household Incomes - Completed Entitlement</th>
<th>Affordability by Household Incomes - Building Permits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Priority APN</td>
<td>Current APN</td>
<td>Street Address</td>
<td>Project Name</td>
</tr>
<tr>
<td>Prior: Start Data Entry Below</td>
<td>074-018-056</td>
<td>2100 Leo Court</td>
<td>Infill</td>
</tr>
<tr>
<td>Current APN</td>
<td>Street Address</td>
<td>Project Name</td>
<td>Low-Income Non Deed Restricted</td>
</tr>
<tr>
<td>------------</td>
<td>----------------------</td>
<td>--------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>074-018-056</td>
<td>2100 Leo Court</td>
<td>Infill</td>
<td></td>
</tr>
<tr>
<td>132-048-022</td>
<td>3960 Sierra Street</td>
<td>Infill</td>
<td></td>
</tr>
<tr>
<td>132-065-010</td>
<td>6019 Preakness</td>
<td>Infill</td>
<td></td>
</tr>
<tr>
<td>Emwasp Estates</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Diamond Bar West</td>
<td></td>
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</tr>
</tbody>
</table>

### Affordability by Household Incomes

#### Building Permits

- **Very Low-Income Non Deed Restricted**: 1
- **Very Low-Income Deed Restricted**: 1
- **Low-Income Non Deed Restricted**: 1
- **Low-Income Deed Restricted**: 1
- **Moderate-Income Non Deed Restricted**: 1
- **Moderate-Income Deed Restricted**: 1
- **Above Moderate-Income**: 1

#### Certificates of Occupancy

- **Very Low-Income Non Deed Restricted**: 7
- **Very Low-Income Deed Restricted**: 7
- **Low-Income Non Deed Restricted**: 7
- **Low-Income Deed Restricted**: 7
- **Moderate-Income Non Deed Restricted**: 7
- **Moderate-Income Deed Restricted**: 7
- **Above Moderate-Income**: 7

### Notes

- Certificates of Occupancy or other forms of readiness (see instructions)
- Date Issued
- # of Units Issued
<table>
<thead>
<tr>
<th>Current APN</th>
<th>Street Address</th>
<th>Project Name*</th>
<th>How many of the units were Extremely Low Income?*</th>
<th>New Project APPROVED using GC 65913.49(2)? (SB 35 Streamlining)</th>
<th>Infill Units? Y/N*</th>
<th>Assistance Programs for Each Development (see instructions)</th>
<th>Dead Restriction Type (see instructions)</th>
<th>For units affordable without financial assistance or deed restrictions, explain how the locality determined the units were affordable (see instructions)</th>
<th>Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000)*</th>
<th>Number of Demolished or Destroyed Units*</th>
<th>Demolished or Destroyed Units Owner or Renter*</th>
<th>Notes*</th>
</tr>
</thead>
<tbody>
<tr>
<td>074-018-056</td>
<td>2100 Leo Court</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>132-048-022</td>
<td>3960 Sierra Street</td>
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<td>132-065-010</td>
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<td>Elmwood Estates</td>
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</tbody>
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*Note: Y = Yes, N = No
### Table B
Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

<table>
<thead>
<tr>
<th>Income Level</th>
<th>RHNA Allocation by Income Level</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>Total Units to Date (all years)</th>
<th>Total Remaining RHNA by Income Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Low</td>
<td>Deed Restricted</td>
<td>321</td>
<td></td>
<td>33</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>33</td>
<td>288</td>
</tr>
<tr>
<td></td>
<td>Non-Deed Restricted</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Low</td>
<td>Deed Restricted</td>
<td>206</td>
<td></td>
<td>38</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>38</td>
<td>169</td>
</tr>
<tr>
<td></td>
<td>Non-Deed Restricted</td>
<td></td>
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<td></td>
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<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Moderate</td>
<td>Deed Restricted</td>
<td>217</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>217</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Non-Deed Restricted</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Above Moderate</td>
<td>Deed Restricted</td>
<td>536</td>
<td>52</td>
<td>13</td>
<td>40</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td>105</td>
<td>431</td>
</tr>
<tr>
<td></td>
<td>Non-Deed Restricted</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Total RHNA</td>
<td></td>
<td>1280</td>
<td>52</td>
<td>71</td>
<td>13</td>
<td>40</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>176</td>
<td>1104</td>
</tr>
</tbody>
</table>

Note: units serving extremely low-income households are included in the very low-income permitted units totals
Cells in grey contain auto-calculation formulas
<table>
<thead>
<tr>
<th>Name of Program</th>
<th>Objective</th>
<th>Timeframe in H.E</th>
<th>Status of Program Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program 1.1a</td>
<td>The City shall revise, as needed, the amount of land designated for various residential uses in conjunction with the amount of and types of housing produced in the previous year to determine if any changes in the General Plan and Zoning Ordinance may be needed to meet the City's Housing Needs.</td>
<td>2014-2023</td>
<td>The City has sufficient land within their Sphere of Influence to accommodate the City’s Housing needs. No action in 2018.</td>
</tr>
<tr>
<td>Program 1.1b</td>
<td>Annexation and Prezoned of the Crosroads West Specific Plan Area.</td>
<td>By End of Year 2017</td>
<td>In 2018, the City worked with the Crossroads Specific Plan Developers to move the Crossroads West Specific Plan Area Annexation forward. The City anticipates the Crossroads West Specific Plan Area to be annexed into the City by the Summer of 2019.</td>
</tr>
<tr>
<td>Program 1.2a; Program 1.2b</td>
<td>Track changes in land availability and accomplishments in multi-family development in order to determine if further rezoning is necessary to better facilitate high-density developments.</td>
<td>On-Going</td>
<td>In 2018, the City continues to participate in ‘Oppsites’, which showcases vacant and/or underutilized sites within the City. The City has been responsive to inquiries regarding these sites, and will continue to participate throughout the cycle. Further, there were no Rezones or General Plan Amendment in 2018; therefore, the City does not need to rezone to facilitate high-density developments.</td>
</tr>
<tr>
<td>Program 2.1a</td>
<td>Seek assistance from non-profit developers to develop homes for lower-income families.</td>
<td>On-Going</td>
<td>The City continually is responsive to inquiries regarding affordable housing development.</td>
</tr>
<tr>
<td>Program 2.1b</td>
<td>Continue to assist developers in the development of extremely low, very low, and low income housing in the grant preparation process to help fund their developments.</td>
<td>On-Going</td>
<td>The City did not receive any Application for affordable housing in 2018. Further, the City did not receive any grants for affordable housing in 2018.</td>
</tr>
<tr>
<td>Program 2.1c; Program 2.1d</td>
<td>Encourage developers to include second dwelling units in new subdivisions.</td>
<td>On-Going</td>
<td>All Applicants of new development applications receive a copy of the City's Accessory Dwelling Unit regulations. Further, the Planning and Building Manager mentions the regulations at meetings held early in the design process with said developers.</td>
</tr>
<tr>
<td>Program 2.1e; Program 2.1f</td>
<td>Housing for Farmworkers</td>
<td>On-Going</td>
<td>The City continues to update their exhibit of areas available for farmworker housing. Further, the City continues to be responsive to all inquiries regarding farmworker housing.</td>
</tr>
<tr>
<td>Program 2.1g; Program 2.1h</td>
<td>2.1g: Updates to the R-1 and R-2 Zoning Districts to include Transitional and Supportive Housing; 2.1h: Amend Zoning Ordinance to comply with Health and Safety Code 17021.5 and 17021.6 and allow farmworker housing in the R-1 Zoning District.</td>
<td>12/31/2017</td>
<td>These items were completed in 2017.</td>
</tr>
<tr>
<td>Program 2.1i</td>
<td>The City shall refer residents to the Valley Mountain Regional Center for housing and services available to persons with developmental disabilities.</td>
<td>On-Going</td>
<td>As needed, the City will refer residents to the Valley Mountain Regional Center. The City has not yet pursued State and Federal monies for direct support of housing construction and rehabilitation specifically targeted for housing for persons with developmental disabilities.</td>
</tr>
<tr>
<td>Program 2.1j</td>
<td>The City shall encourage housing development within the General Plan Infill Opportunity Area and specifically, sites designated Mixed Use.</td>
<td>On-Going</td>
<td>As development applications are received, the City will encourage and provide opportunities for development within the Infill Area of Opportunity Area. Further, in 2018, the City continued to update their profile on Oppsites.com, which features areas of the City that are undeveloped or underutilized. Many of the sites listed are infill areas of opportunity.</td>
</tr>
<tr>
<td>Program 2.1k</td>
<td>Participation in the Stanislaus County and Support Service Collaborative and the Continuum of Care to help address homeless needs in Riverbank and Stanislaus County.</td>
<td>On-Going</td>
<td>The City of Riverbank continues to participate in the Stanislaus County Housing and Support Collaboration and the Continuum of Care to help address homeless needs in Riverbank and Stanislaus County.</td>
</tr>
<tr>
<td>Program 2.2a; Program 2.2b</td>
<td>No net loss of Housing Units within the Downtown Specific Plan Area. Work with developers and Non-Profit Providers on the implementation of Downtown Specific Plan.</td>
<td>On-Going</td>
<td>The City continues to work with developers seeking to redevelop property within the Downtown Specific Plan Area. Further, the City continues to encourage two to one replacement of any existing housing units displaced by redevelopment projects in Downtown Area. In 2018, there were no projects within the Downtown Specific Plan Area that displaced any housing units.</td>
</tr>
<tr>
<td>Program</td>
<td>Description</td>
<td>Status</td>
<td>Notes</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td>--------</td>
<td>-------</td>
</tr>
<tr>
<td>2.2c</td>
<td>The City shall encourage the development of new housing of upper stories and mixed-use buildings in the Downtown Core area of the Specific Plan.</td>
<td>On-Going</td>
<td>In 2018, the City worked with various developers interested in the Downtown Specific Plan Area and encouraged mixed-use development with the City.</td>
</tr>
<tr>
<td>3.1a</td>
<td>Continue to promote the use of Planned Development zones for developers who wish to deviate from setback, parking, or other standards which may limit their ability to develop at a desired density.</td>
<td>On-Going</td>
<td>The City continues to work with developers who seek to use Planned Development Zones to deviate from City Standards to create a more economically feasible project. The City received a Planned Development Application for the development of 217 single family homes and continues to work with the developer to finalize the Project. Construction on said project is projected for the Summer of 2019.</td>
</tr>
<tr>
<td>3.1b</td>
<td>Waive fees for General Plan Amendments which increase density.</td>
<td>On-Going</td>
<td>The City did not receive any General Plan Amendment Applications in 2018.</td>
</tr>
<tr>
<td>3.1c</td>
<td>Utilize computer software to help fast-track building permits, saving both developer and staff time.</td>
<td>On-Going</td>
<td>In 2018, the City met with various consultants who utilize software that expedites the building permit and plan review process. The City plans to make a decision on an update to current permitting software in 2019.</td>
</tr>
<tr>
<td>3.1d</td>
<td>Parking as a development constraint</td>
<td>On-Going</td>
<td>The City continues to work with developers who state that parking standards are a constraint for development.</td>
</tr>
<tr>
<td>3.1e</td>
<td>System development fee deferral</td>
<td>3/31/2016</td>
<td>This program was completed in 2016.</td>
</tr>
<tr>
<td>4.1a-c</td>
<td>Continue to actively seek State and Federal Funding for the rehabilitation of homes.</td>
<td>On-Going</td>
<td>The City did not successfully fund rehabilitation of homes in 2018. The City is hopeful that the program can be successful in 2019.</td>
</tr>
<tr>
<td>4.2a</td>
<td>Discourage land division of sites currently zoned high-density residential</td>
<td>On-Going</td>
<td>No units in 2018 were at risk of being converted from affordable to market rate in 2018.</td>
</tr>
<tr>
<td>4.2b</td>
<td>Monitor any units which may be deemed at-risk for conversion into market-rate housing.</td>
<td>On-Going</td>
<td>No units in 2018 were at risk of being converted from affordable to market rate in 2018.</td>
</tr>
<tr>
<td>5.1a-b</td>
<td>Continue to promote equal housing for ALL persons</td>
<td>On-Going</td>
<td>The City continues to disseminate information in a variety of ways regarding rehabilitation and first-time homebuyer programs. The City also continues to maintain information on State and Federal fair housing laws at City Hall South. Any discussion with the public where a victim of housing discrimination is identified is referred to the appropriate agency for assistance.</td>
</tr>
<tr>
<td>5.1b</td>
<td>Maintain the draft General Plan Housing Element Review on the City’s Website. Develop an evaluation matrix to determine the consistency between the Housing Element policies and programs and other Elements of the General Plan.</td>
<td>On-Going</td>
<td>The 2018 Housing Element Annual Progress Report will be posted on the City website. In addition, the Planning Commission and City Council will review the Annual Progress Report at regularly scheduled public hearings. Staff continues to develop a consistency matrix.</td>
</tr>
<tr>
<td>6.1a-c</td>
<td>Continue to implement state energy-efficient standards</td>
<td>On-Going</td>
<td>The City enforces the California Building Code which implements state standards.</td>
</tr>
</tbody>
</table>
Jurisdiction: Riverbank
Reporting Year: 2018 (Jan. 1 - Dec. 31)

### Entitled Units Summary

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Current Year</th>
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<tbody>
<tr>
<td>Very Low</td>
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<tr>
<td>Deed Restricted</td>
<td>0</td>
</tr>
<tr>
<td>Non-Deed Restricted</td>
<td>0</td>
</tr>
<tr>
<td>Low</td>
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<tr>
<td>Deed Restricted</td>
<td>0</td>
</tr>
<tr>
<td>Non-Deed Restricted</td>
<td>0</td>
</tr>
<tr>
<td>Moderate</td>
<td></td>
</tr>
<tr>
<td>Deed Restricted</td>
<td>0</td>
</tr>
<tr>
<td>Non-Deed Restricted</td>
<td>0</td>
</tr>
<tr>
<td>Above Moderate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0</td>
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</table>

Total Units: 0

Note: units serving extremely low-income households are included in the very low-income permitted units totals

### Submitted Applications Summary

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<thead>
<tr>
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<tbody>
<tr>
<td>Total Housing Applications Submitted:</td>
<td>2</td>
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<tr>
<td>Number of Proposed Units in All Applications Received:</td>
<td>345</td>
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<tr>
<td>Total Housing Units Approved:</td>
<td>0</td>
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<tr>
<td>Total Housing Units Disapproved:</td>
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### Use of SB 35 Streamlining Provisions

<p>| | |</p>
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Number of Applications for Streamlining</td>
<td>0</td>
</tr>
<tr>
<td>Number of Streamlining Applications Approved</td>
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<tr>
<td>Total Developments Approved with Streamlining</td>
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<tr>
<td>Total Units Constructed with Streamlining</td>
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### Units Constructed - SB 35 Streamlining Permits

<table>
<thead>
<tr>
<th>Income</th>
<th>Rental</th>
<th>Ownership</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Very Low</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Low</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Moderate</td>
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<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Above Moderate</td>
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<td>0</td>
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</tr>
<tr>
<td>Total</td>
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<td>0</td>
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Cells in grey contain auto-calculation formulas