

CITY OF RIVERBANK

ORDINANCE NO. 2019-004

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF RIVERBANK AND WESTERN PACIFIC HOLDINGS, INC.**

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; and

WHEREAS, the Riverbank City Attorney and City staff have negotiated a Development Agreement with Western Pacific Holdings, Inc. (WPH), to provide WPH with a vested right to develop approximately 58 acres, in the area designated as MU-1 in the Crossroads West Specific Plan ("CWSP") area, in accordance with the land use regulations and other policies of the CWSP (the "MU-1 Project"); and

WHEREAS, the Development Agreement provides a vested right for WPH to improve, develop, and use real property for the MU-1 Project in compliance with the CWSP and applicable land use regulations defined in the Development Agreement; and

WHEREAS, an Environmental Impact Report ("EIR") and Mitigation Monitoring and Reporting Program ("MMRP") has been prepared pursuant to the California Environmental Quality Act, which analyzes development of the MU-1 Property in accordance with the land use regulations in the Crossroads West Specific Plan ("CWSP"); and

WHEREAS, the Planning Commission has reviewed the MMRP and identified which mitigation measures are applicable to the MU-1 Project (the "MU-1 MMRP"), and the MU-1 MMRP has been attached and incorporated into the Development Agreement; and

WHEREAS, based on the requirement for the Development Agreement to conform to the CWSP and applicable City policies, the Planning Commission finds that the impacts related to the MU-1 Property as proposed therein were sufficiently analyzed in the CWSP EIR, and mitigated, where feasible or applicable as outlined in the MU-1 MMRP, and City further finds that further environmental review is not warranted under CEQA; and

WHEREAS, the Planning Commission held a duly noticed public hearing on February 13, 2019, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on March 19, 2019, to consider the Development Agreement; and

WHEREAS, the City Council of the City finds, based on its independent review and analysis of staff's recommendations, oral and written testimony, and the record as a whole, 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 the Crossroads West Specific Plan; and

b. Will provide significant benefits to the public, (i) through greater retail, commercial and restaurant amenities, employment opportunities, and potentially new housing units, and (ii) through the MU-1 MMRP incorporated into the Development Agreement, therefore the Development Agreement will not be detrimental to the health, safety, and general welfare of City residents and the general public; and

c. Includes a detailed Phasing Plan and therefore not adversely affect the orderly development of property or the preservation of property values; and

d. Is consistent with the provisions of Government Code sections 65864 through 65869.5; and

e. Contains a legal description of the property.

NOW, THEREFORE, THE CITY OF RIVERBANK CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Riverbank approves the Development Agreement by and between Western Pacific Holdings, Inc. and the City of Riverbank for the development of the MU-1 Project. The City Council instructs the City Manager to execute the Development Agreement, subject to any final or technical revisions 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 on

March 6, 2019; and notices of the public hearing on the proposed Development Agreement were mailed on March 7, 2019, 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 MU-1 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.*), and all applicable mitigation to the MU-1 Project will be implemented through the MU-1 MMRP attached to the Development Agreement.

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 (04/26/2019), provided it is published pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a special meeting of the City Council of the City of Riverbank on March 19, 2019. Said ordinance was given a second reading by title only and adopted.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on the 26th day of March, 2019; motioned by Councilmember District 1 Luis Uribe, seconded by Councilmember District 3 Cal Campbell; moved said ordinance by a City Council roll call vote of 5-0:

AYES: Campbell, Fosi, Uribe, Barber-Martinez, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAINED: None

ATTEST:

(ORIGINAL DOCUMENT ON FILE WITH THE CITY CLERK)

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Darlene Barber-Martinez
Vice Mayor

APPROVED AS TO FORM:

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Tom P. Hallinan, City Attorney