

CITY OF RIVERBANK

ORDINANCE NO. 2020-011

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK
APPROVING DEVELOPMENT AGREEMENT 03-2019 BY AND BETWEEN
THE CITY OF RIVERBANK AND DT CALIFORNIA, LLC, DOING BUSINESS
AS AERIZ**

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, DT California, LLC, a limited liability company doing business as “Aeriz” submitted an application to the City for consideration of a development agreement to operate a cannabis facility with cultivation, manufacturing, distribution, and limited retail operations (the “Project”); and

WHEREAS, DT California, LLC 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, DT California, LLC has agreed to purchase that certain real property located at 2906 Santa Fe Street in the City of Riverbank, Assessor’s Parcel Numbers 132-034-012, 132-023-020, and 132-034-017 which DT California, LLC intends to develop the Project; and

WHEREAS, City and DT California, LLC 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 15332 (a-e) of Article 19 of the California Code of Regulations applicable to in-fill development projects; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 1, 2020, to consider the Development Agreement and make recommendations to the City Council; and

WHEREAS, on September 22, 2020, and October 13, 2020, 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
- c. Will 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 a Development Agreement by and between DT California, LLC., a limited liability corporation doing business as Aeriz, 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.*). Phases 1 and 2 of the Project are categorically exempt from CEQA pursuant to Section 15332 (a-e) of Title 14 of the California Code of Regulations applicable to in-fill development projects. Phase 3 will receive additional CEQA analysis before development.

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 (, 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 regular meeting of the City Council of the City of Riverbank on September 22, 2020. 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 13th day of October, 2020; motioned by Councilmember District 2 Cindy Fosi, seconded by Councilmember District 3 Cal Campbell; moved said ordinance by a City Council vote of 5-0:

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

ATTEST:

APPROVED:

(THE ORIGINAL DOCUMENT IS ON FILE WITH THE CITY CLERK)

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

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Tom P. Hallinan
City Attorney