

**CITY OF RIVERBANK**

**ORDINANCE NO. 2021-002**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,  
CALIFORNIA, APPROVING A FIRST AMENDMENT TO THE DEVELOPMENT  
AGREEMENT BY AND BETWEEN THE CITY OF RIVERBANK AND PACAFI  
COOPERATIVE, INC., A CALIFORNIA COOPERATIVE CORPORATION  
DOING BUSINESS AS FLAVORS**

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**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**, in accordance with City Council Ordinance No. 2018-001, on or about January 9, 2018, City and Developers, entered into a development agreement (“Development Agreement”) that allowed Developer to operate a cannabis dispensary business (the “Project”); and

**WHEREAS**, pursuant to Government Code Section 65868, City and Developer may amend the Development Agreement after notice of the amendment has been provided and the City Planning Commission and City Council hold public hearings regarding the Amendment; and

**WHEREAS**, City and Developer seek to enter into an amendment to the Development Agreement pursuant to state law and the Riverbank Municipal Code to update Developer’s public benefit obligations and extend the term of the Development Agreement (“First Amendment”); 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 20, 2021, to consider the Development Agreement and make recommendations to the City Council; and

**WHEREAS**, on May 11, 2021, the City Council held a duly noticed public hearing to consider this ordinance for the Development Agreement First Amendment and held a duly noticed public meeting on May 25, 2021, to consider its adoption; and

**WHEREAS**, the City and Developer intend to enter into the First Amendment pursuant to State law and the Riverbank Municipal Code; and

**WHEREAS**, the City Council, based on its independent review and analysis of staff’s recommendations, oral and written testimony, and

consideration and deliberation of the record as a whole, finds and declares 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 First Amendment:

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 First Amendment to the Development Agreement by and between Pacafi Cooperative, Inc., a California cooperative corporation doing business as Flavors, and the City of Riverbank for the development of the Project, and instructs the City Manager to execute the First Amendment to 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 on April 28, 2021, in the Riverbank News, a newspaper

of general circulation; and notices of the public hearing on the proposed Development Agreement were mailed on April 28, 2021, 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. Severability.** 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 (06/25/2021), 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 by title only and introduced at a regular meeting of the City Council of the City of Riverbank on 05/11/2021. 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 11<sup>th</sup> day of May, 2021; motioned by Councilmember District 3 Cal Campbell, seconded by Vice Mayor (CM-D1) Luis Uribe; moved said ordinance by a City Council vote of 5-0:

**AYES:**           **Councilmember District 4 Darlene Barber-Martinez,**  
                          **Councilmember District 3 Cal Campbell**  
                          **Councilmember District 2 Rachel Hernandez**  
                          **Vice Mayor (CM-D1) Luis Uribe**  
                          **Mayor Richard D. O'Brien**

**NAYS:**           **None**

**ABSENT: None**

**ABSTAINED: None**

**ATTEST:**

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**Annabelle H. Aguilar, CMC**  
**City Clerk**

**APPROVED:**

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**Richard D. O'Brien**  
**Mayor**

**APPROVED AS TO FORM:**

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**Tom P. Hallinan**  
**City Attorney**