



CITY COUNCIL REGULAR MEETING AGENDA AUGUST 20, 2019

CLOSED SESSION: 6:00P.M. – 7:00 P.M.
OPEN SESSION: 7:00 P.M.

Notice is hereby given that the City Council will hold a Regular Meeting on August 20, 2019, at the City Council Chambers, 1416 C Street, Livingston, California. Persons with disabilities who may need assistance should contact the Deputy City Clerk at least 24 hours prior to this meeting at (209) 394-8041, Ext. 121. Any writings or documents pertaining to an Open Session item provided to a majority of the members of the legislative body less than 72 hours prior to the meeting shall be made available for public inspection at Livingston City Hall, 1416 C Street. The Open Session will begin at 7:00 p.m. the Closed Session will be held in accordance with the state law prior to the Open Session beginning at 6:00 p.m. The Closed Session will be held at the City Council Chambers Located at 1416 C Street. The agenda shall be as follows:

CLOSED SESSION

1. Call to Order
2. Roll Call

CLOSED SESSION

A "Closed" or "Executive" Session of the City Council may be held in accordance with state law which may include, but is not limited to, the following types of items: personnel matters, labor negotiations, security matters, providing instructions to real property negotiators, conference with legal counsel regarding pending litigation. The Closed Session will be held in the City Council Chambers located at 1416 C Street, Livingston, California. Any public comment on Closed Session items will be taken before the Closed Session. Any required announcements or discussion of Closed Session items or actions following the Closed Session will be made in the City Council Chambers, 1416 C Street, Livingston, California.

1. Conference with Labor Negotiator
(Government Code Section 54957.6)
Labor Negotiator: Jose Antonio Ramirez, City Manager
Employee Organizations: OE3 - Police Supervisory Employees Association.
OE3 - Management/Confidential Bargaining Unit
OE3 - Livingston Police Officer Association
OE3 - Clerical
AFSCME – Public Works and Parks Unit
All Represented and Unrepresented City Employees
2. Conference with Legal Counsel – Potential Litigation
(Government Code Section 54956.9(d)(2))
Number of Cases: 1

REGULAR MEETING

CALL TO ORDER

Next Resolution No.: 2019-47
Next Ordinance No.: 640

Pledge of Allegiance.

Roll Call.

Closed Session Announcements.

Changes to the Agenda.

AWARDS, PRESENTATIONS, PROCLAMATIONS

1. PowerPoint Presentation by John Ceccoli - 2019/2020 Merced County Regional Homeless Plan.

ANNOUNCEMENTS AND REPORTS

Supervisor Rodrigo Espinoza Announcements and Reports.

City Staff Announcements and Reports.

City Manager Announcements and Reports.

City Council Members' Announcements and Reports.

Mayor's Announcements and Reports.

CITIZEN COMMENTS

This section of the agenda allows members of the public to address the City Council on any item NOT otherwise on the agenda. Members of the public, when recognized by the Mayor, should come forward to the lectern, and identify themselves. Comments are normally limited to three (3) minutes. In accordance with State Open Meeting Laws, no action will be taken by the City Council this evening. For items which are on the agenda this evening members of the public will be provided an opportunity to address the City Council as each item is brought up for discussion.

CONSENT AGENDA

Items on the Consent Calendar are considered routine or non-controversial and will be enacted by one vote, unless separate action is requested by the City Manager or City Council Member. There will be no separate discussion of these items unless members of the City Council or City Manager request that specific items be removed.

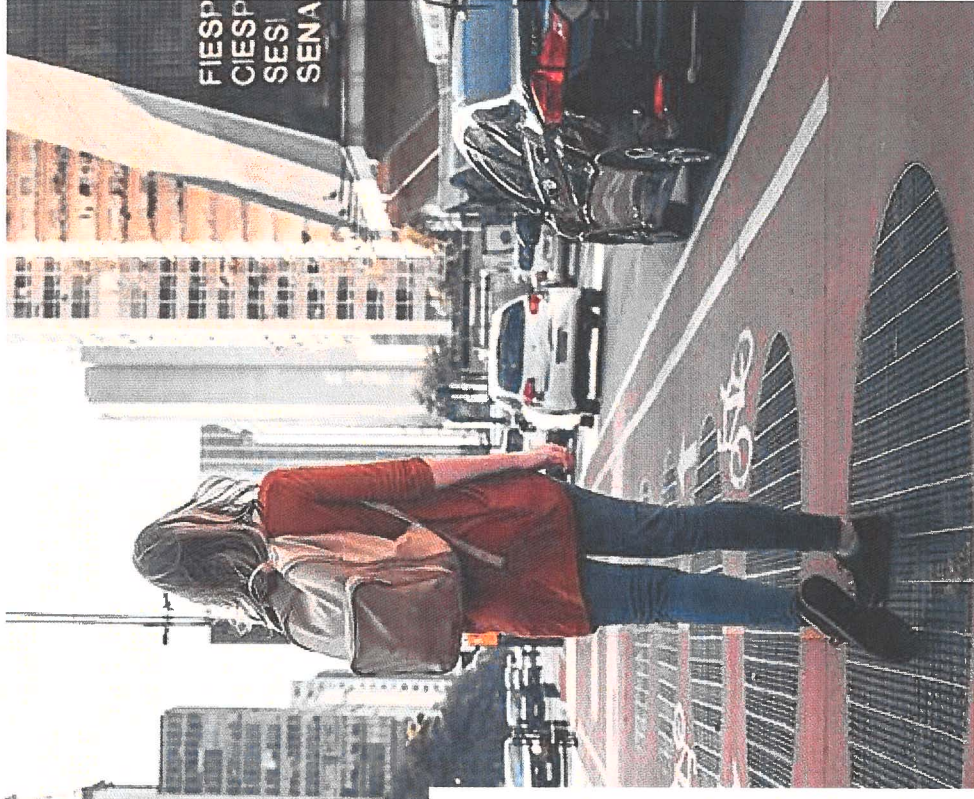
2. Approval of Warrant Register Dated August 6, 2019.
3. Approval of Warrant Register Dated August 15, 2019.
4. Denial of Claim for Damages from Salvino John Amaya.
5. Resolution Authorizing the City Manager to File a Regional Surface Transportation Program (RSTP) Estimated Exchange Fund Claim Form for Fiscal Year 2018/2019.
6. Resolution Approving the Annual Local Transportation Fund (LTF) Claim to be filed with the Merced County Association of Governments (MCAG) for Fiscal Year 2019/2020.
7. A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding between the City of Livingston and the Livingston Supervisory Employees Unit.
8. A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding Between the City of Livingston and the Livingston Management and Confidential Employees Association.
9. A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding between the City of Livingston and the AFSCME Local 2703, District Council 57 on Behalf of the Public Works and Parks Employees Unit.
10. A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding Between the City of Livingston and the Livingston Police Officers' Association Unit.

DISCUSSION AND POTENTIAL ACTION ITEMS

11. Resolution of the City Council of the City of Livingston Approving a Three Year Contract with F & M Bank for Banking Services.
12. Resolution Authorizing the City Manager to Execute an Out Of Boundary Service Agreement with Livingston Farmers Association for Water Services and Authoring the City to Submit an Out of Boundary Service Application to LAFCO for the Provision of Potable Water from the City to the Eucalyptus Avenue Project (APNS 143-020-007-000 & 143-020-021-000).

13. Resolution Approving a Fire Suppression Services Liability Agreement between the City of Livingston and Merced County and Authorizing the City Manager to Execute the Agreement.
14. Resolution Approving an Amendment to an Agreement with Gouveia Engineering, Inc. to extend the Agreement for an additional three (3) years, and Authorizing the City Manager to Execute Amendment.

ADJOURNMENT



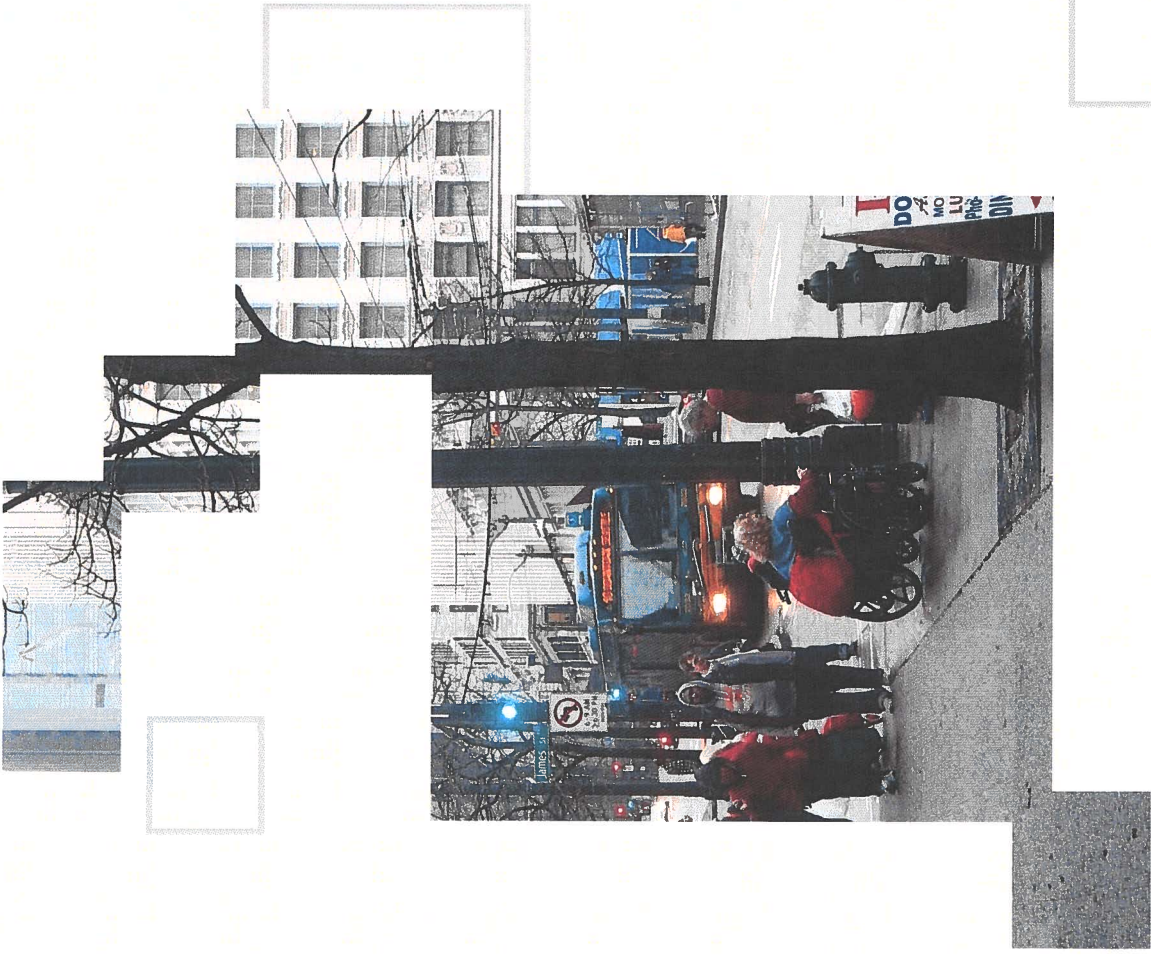
2019/2020 Merced County Regional Homeless Plan

Overview

- Regional Plan Concepts
- CoC, County, and Cities Collaborative
- Potential Facilities to Support the Plan
- Next Steps

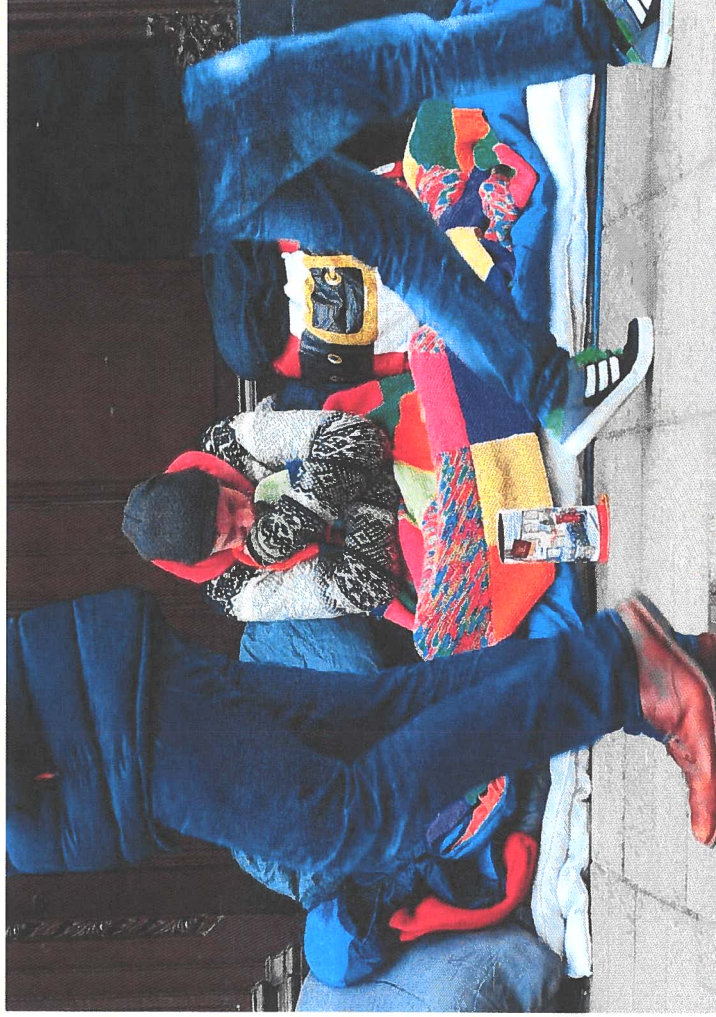
Regional Plan : Purpose and Principles

- Measurable objectives
- Strategic and Efficient use of State and Federal funds
- Client-focused Best Practices



Regional Plan: Key Objectives

- Outreach and Engagement
- Housing Resources:
 - Housing First
 - Navigation Center
 - Interim Housing
 - Permanent Housing
 - Long-Term Supportive Housing



Regional Plan: System Support and Proposed Action

- Identify and categorize all available funding for services across agencies
- Develop multi-agency teams to engage individuals experiencing homelessness
- Develop a housing inventory or registry program to aid in expediting placements
- Update the Coordinated Entry System (CES) and Homeless Management Information System (HMIS) to enhance assessments tools and better collect data
- Implement a Homeless Court aimed at addressing chronic cases
- Enhance case management efforts to achieve independence



Potential Facilities

City of Atwater

- Distributive housing model (2 Homes) 6-9 beds
- Rehabilitation fund- 30 beds
- Estimated capital investment of \$100,000
- Annual operating budget of \$500,000
- Total impact: 36-39 beds

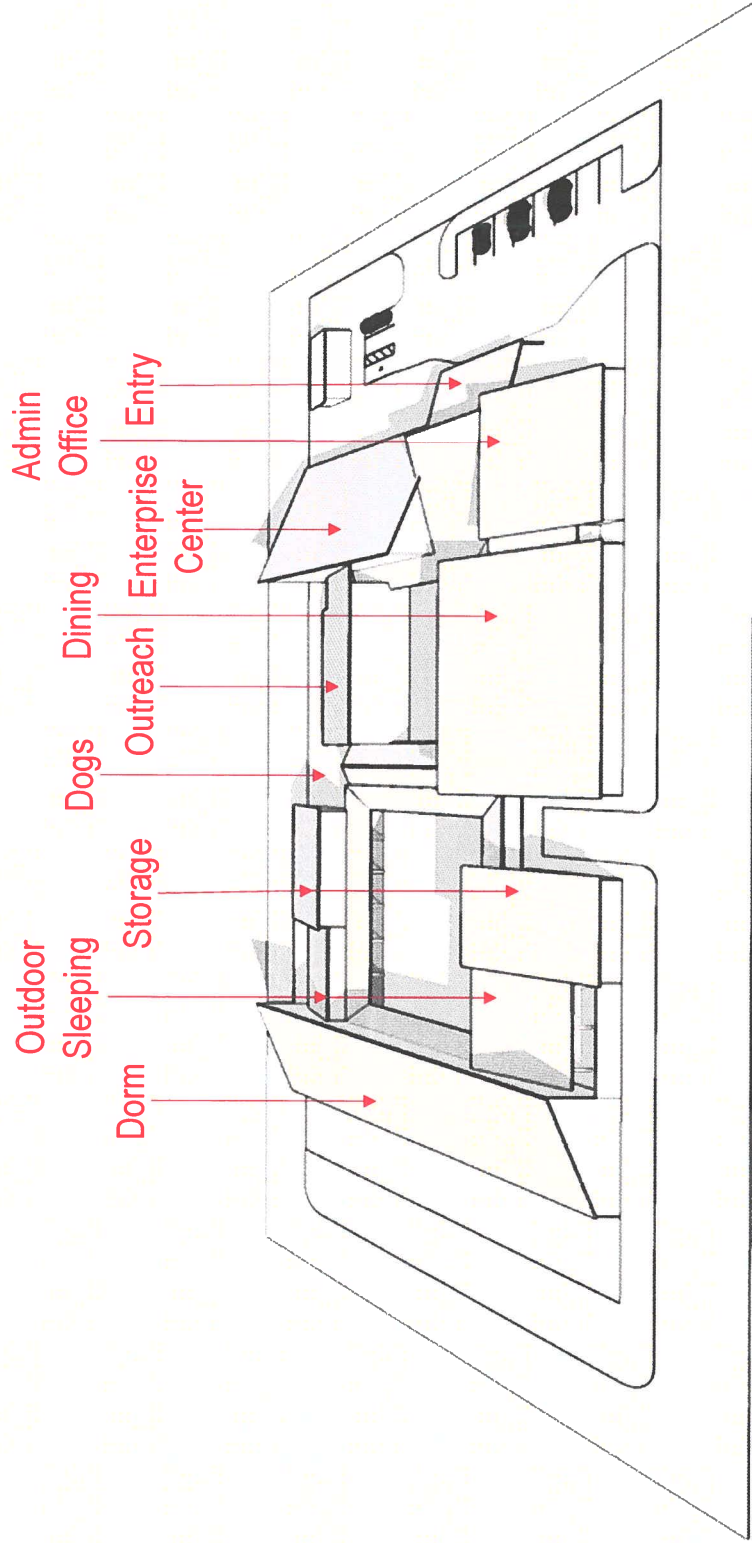
City of Los Banos

- Distributive housing model (2 Homes) 6-9 beds
- Explore Congregate Shelter Site – 25 to 35 beds
- Estimated capital investment of \$500,000
- Annual operating budget of \$600,000
- Total impact: 31-44 beds

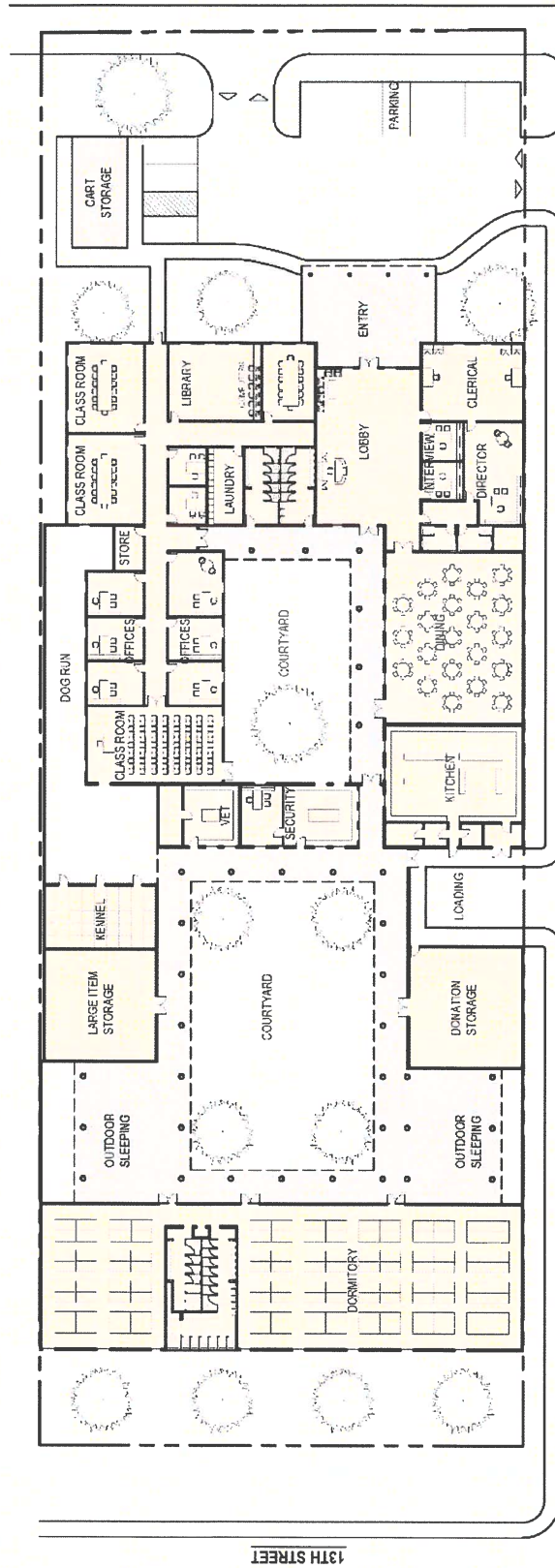
City of Merced

- Navigation Center to provide 96-192 beds and supportive services
- Enterprise Center to provide intervention services
- Estimated capital investment of \$5,735,000
- Annual operating budget of \$2,500,000
- Total impact: 96-192 beds

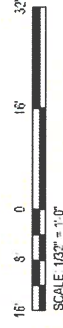
Navigation Center



Navigation Center – Floor Plan



SITE PLAN / FLOOR PLAN
SCALE: 1/32" = 1'-0"



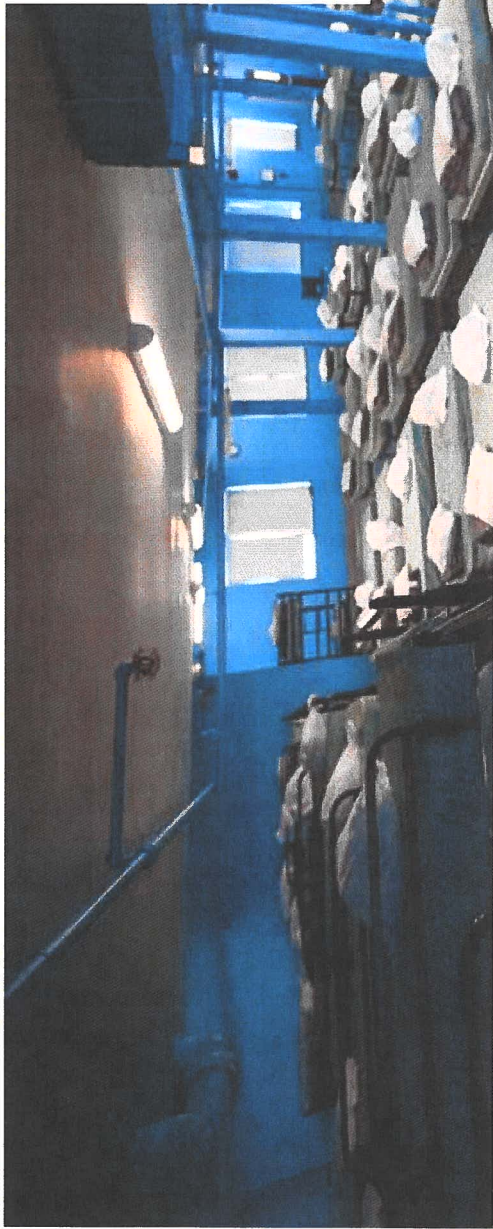
Communities County-Wide

- Distributive housing model (six homes) - 18-27 beds
- Rehabilitation Fund – 16 to 19 beds
- Estimated capital investment of \$200,000
- Annual operating budget of \$750,000
- Total impact: 34-46 beds

Proposed Facilities Summary

Jurisdiction	Number of Beds	Capital Expense	Operating Expense
City of Merced	96-192	\$5,735,000	\$2,500,000
City of Los Banos	31-44	\$500,000	\$600,000
City of Atwater	36-39	\$100,000	\$500,000
Communities County-Wide	34-46	\$200,000	\$750,000
Total	197-321	\$6,535,000	\$4,350,000

Next Steps



STAFF REPORT

AGENDA ITEM: Approval of Warrant Register dated August 6, 2019
MEETING DATE: August 6, 2019
PREPARED BY: Nancy Fuentes, Sr. Account Clerk
REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

Approve warrant register dated August 6, 2019

DISCUSSION:

In accordance with Section 37202 of the Government Code of the State of California there is presented here with a summary of the demands against the City of Livingston covering obligations to be paid during the period of:

July 30, 2019 – August 6, 2019

Each demand has been audited and I hereby certify to their accuracy and that there are sufficient funds for their payment as of this date.

**IT IS HEREBY RECOMMENDED THE CITY COUNCIL
APPROVE THE REGISTER OF DEMANDS AS FOLLOWS:**

GENERAL WARRANTS.....\$	377,476.40	#93477-93564
PAYROLL WARRANTS.....\$		
TOTAL WARRANTS.....\$	377,476.40	
TOTAL WIRE TRANSACTIOS.....\$		

ATTACHMENTS:

Accounts payable checks by date, summary by check number register.

Accounts Payable

Checks by Date - Summary by Check Date

User: nfuentes
Printed: 8/6/2019 4:30 PM



City of Livingston
1416 C Street
Livingston, CA 95334

Check No	Vendor No	Vendor Name	Check Date	Check Amount
93497	SPRINGBR	ACCELA, INC. #774375	08/06/2019	524.70
93498	UB*01841	PIARA DHALIWAL	08/06/2019	6.57
93499	UB*01839	JARED GREIN	08/06/2019	212.31
93500	HINDER	Hinderliter De LLamas & Assoc.	08/06/2019	2,660.20
93501	HOMEDP	Home Depot Credit Services	08/06/2019	1,193.30
93502	MISSION	Mission Linen Supply	08/06/2019	159.04
93503	NORT	Northstar Chemical	08/06/2019	3,003.31
93504	RTC Con	RTC Construction Management, Inc.	08/06/2019	146,917.50
93505	UB*01840	ROMAN SALAZAR	08/06/2019	76.49
93506	officect	The Office City	08/06/2019	108.09
93507	LIVFARM	Valley Farm Supply Stores Inc.	08/06/2019	1,800.60
93508	A&APORTA	A & A Portables Inc.	08/06/2019	633.69
93509	SPRINGBR	ACCELA, INC. #774375	08/06/2019	1,196.00
93510	AguiRamo	Ramon Aguilar	08/06/2019	41.00
93511	Alert-O	Alert-O-Lite Inc.	08/06/2019	872.21
93512	ALHAMBR/	Alhambra & Sierra Springs	08/06/2019	298.88
93513	ALLIEDW	Allied West Printing	08/06/2019	476.19
93514	calnet	AT&T	08/06/2019	169.00
93515	Bakersup	Baker Supplies and Repairs	08/06/2019	85.00
93516	belkorp	Belkorp Ag, LLC	08/06/2019	1,699.02
93517	BONANDRT	Bonander Truck	08/06/2019	51.67
93518	bsk	BSK Associates	08/06/2019	520.00
93519	BSN	BSN Sports, LLC	08/06/2019	6,271.84
93520	CALTRAFF	Cal-Traffic	08/06/2019	225.42
93521	CVC	Central Valley Concrete Inc.	08/06/2019	1,083.43
93522	chiefsup	Chief Supply Corp.	08/06/2019	305.09
93523	MOVING	ComTech21	08/06/2019	75.08
93524	cooling	Cooling Shedd Air Conditioning	08/06/2019	1,014.41
93525	cwea	CWEA Renewal	08/06/2019	94.00
93526	EcheVane	Vanessa Belen Echevarria	08/06/2019	367.50
93527	ELITEUNI	ELITE UNIFORM	08/06/2019	444.39
93528	EZAUTO	EZ Auto Supply - Napa	08/06/2019	452.05
93529	Fernlili	Lilia Fernandez	08/06/2019	250.00
93530	FORSTA	FORSTA FILTERS INC.	08/06/2019	1,732.62
93531	Four Sta	Four Star Body and Frame	08/06/2019	250.00
93532	frankmar	Marcelina Franklin	08/06/2019	150.00
93533	frontier	Frontier	08/06/2019	4,321.18
93534	Fuentmas	Martha Fuentes	08/06/2019	150.00
93535	FuentesS	Susana Fuentes	08/06/2019	60.00
93536	GARJOSE	JOSE GARCIA	08/06/2019	150.00
93537	GARTON	Garton Tractor Inc.	08/06/2019	272.30
93538	GARZA	Garza Tire & Wheel Inc.	08/06/2019	1,940.24
93539	GILTON	Gilton Solid Waste	08/06/2019	82,002.18
93540	GreatAme	GreatAmerica Financial Svcs.	08/06/2019	116.79
93541	HALP	Jennifer Halpin	08/06/2019	1,615.00
93542	hdl	Hdl Coren & Cone	08/06/2019	1,375.00
93543	Hewlett	Hewlett-Packard Financial Services Co.	08/06/2019	1,133.84

Check No	Vendor No	Vendor Name	Check Date	Check Amount
93544	hillumbr	Hilmar Lumber	08/06/2019	407.20
93545	hilmarr	Hilmar Ready Mix Rockery	08/06/2019	395.98
93546	HLP	HLP, Inc	08/06/2019	4,137.60
93547	HOFFMAN	Hoffman Security, Inc.	08/06/2019	155.95
93548	hopkinst	Hopkins Technical Products, Inc.	08/06/2019	2,437.33
93549	Imagesou	Image Source	08/06/2019	1,622.38
93550	jlanal	J L Analytical Services Inc.	08/06/2019	267.00
93551	JMP	JMP Office Technologies	08/06/2019	183.35
93552	johnson	Johnson Plumbing, Inc.	08/06/2019	108.50
93553	kimball	Kimball Midwest	08/06/2019	209.14
93554	language	Language Line Services	08/06/2019	268.84
93555	LohmanS	Susie Lohman	08/06/2019	150.00
93556	MISSION	Mission Linen Supply	08/06/2019	108.51
93557	natltoxi	National Toxicology Laboratories, Inc.	08/06/2019	15.00
93558	NORT	Northstar Chemical	08/06/2019	6,791.98
93559	Officede	Office Depot	08/06/2019	235.52
93560	oreillya	O'Reilly Automotive Store Inc.	08/06/2019	118.37
93561	PGE	Pacific Gas & Electric Company	08/06/2019	60,049.29
93562	ramire	Alvaro Ramirez	08/06/2019	349.00
93563	TRUIZ	Tony Ruiz	08/06/2019	4,800.00
93564	chevprod	WEX BANK	08/06/2019	322.98
Total for 8/6/2019:				351,691.05
Report Total (68 checks):				351,691.05

STAFF REPORT

AGENDA ITEM: Approval of Warrant Register dated August 14, 2019
MEETING DATE: August 20, 2019
PREPARED BY: Nancy Fuentes, Sr. Account Clerk
REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

Approve warrant register dated August 14, 2019

DISCUSSION:

In accordance with Section 37202 of the Government Code of the State of California there is presented here with a summary of the demands against the City of Livingston covering obligations to be paid during the period of:

August 06, 2019 – August 20, 2019

Each demand has been audited and I hereby certify to their accuracy and that there are sufficient funds for their payment as of this date.

**IT IS HEREBY RECOMMENDED THE CITY COUNCIL
APPROVE THE REGISTER OF DEMANDS AS FOLLOWS:**

GENERAL WARRANTS.....\$	151,453.91	#93568-93645
PAYROLL WARRANTS.....\$	354,632.34	#41097-41162
TOTAL WARRANTS.....\$	506,086.25	
TOTAL WIRE TRANSACTIOS.....\$	93,708.54	

ATTACHMENTS:

Accounts payable checks by date, summary by check number register.

Accounts Payable

Checks by Date - Summary by Check Date

User: nfuentes
 Printed: 8/14/2019 4:04 PM



City of Livingston
 1416 C Street
 Livingston, CA 95334

Check No	Vendor No	Vendor Name	Check Date	Check Amount
93565	AandP	A and P Construction	08/08/2019	43,240.00
93566	munimain	Municipal Maintenance Equip.	08/08/2019	375.00
93567	cabuild	California Building	08/08/2019	230.40
Total for 8/8/2019:				43,845.40
93568	A&APORTA	A & A Portables Inc.	08/20/2019	276.10
93569	abs	ABS Direct, Inc.	08/20/2019	1,090.25
93570	agserv	Agserv Western Sales Inc.	08/20/2019	14.87
93571	UB*01842	MARGARITA AGUILAR	08/20/2019	175.00
93572	Alert-O	Alert-O-Lite Inc.	08/20/2019	1,274.55
93573	AMEREXPR	American Express	08/20/2019	243.14
93574	AvilaVan	Vanessa Avila	08/20/2019	150.00
93575	BKTech	BK Technologies, Inc.	08/20/2019	15.12
93576	BravoVe	Veronica Bravo	08/20/2019	150.00
93577	bsk	BSK Associates	08/20/2019	900.00
93578	CabezasJ	Jorge Cabezas	08/20/2019	150.00
93579	CALJUST	Calif. Dept of Justice	08/20/2019	512.00
93580	casmog	California Smog & Repair	08/20/2019	169.18
93581	cityliv	City of Livingston c/o L & L Dist. Irrigation	08/20/2019	20,631.50
93582	depfores	Department of Forestry and Fire Protection	08/20/2019	786.03
93583	ewingirr	Ewing Irrigation Products Inc.	08/20/2019	2,009.12
93584	ferguson	Ferguson Enterprises Inc.	08/20/2019	13.51
93585	FONG	Ray Fong	08/20/2019	104.93
93586	GARTON	Garton Tractor Inc.	08/20/2019	17,490.01
93587	GARZA	Garza Tire & Wheel Inc.	08/20/2019	27.50
93588	GILTON	Gilton Solid Waste	08/20/2019	1,155.58
93589	guardall	Guardian Alliance Investigators, LLC	08/20/2019	2,600.00
93590	HOFFMAN	Hoffman Security, Inc.	08/20/2019	34.95
93591	hopkinst	Hopkins Technical Products, Inc.	08/20/2019	98.76
93592	HOWK	Howk Systems	08/20/2019	176.94
93593	INSHP	In-Shape Health Clubs, Inc	08/20/2019	145.00
93594	J&F	J & F AG Welding Shop	08/20/2019	210.00
93595	jlanal	J L Analytical Services Inc.	08/20/2019	259.00
93596	larue	La Rue Communications	08/20/2019	1,061.00
93597	LIEBERT	Liebert Cassidy Whitmore	08/20/2019	1,806.00
93598	MejMaria	Maria Mejia	08/20/2019	150.00
93599	MISSION	Mission Linen Supply	08/20/2019	695.44
93600	modestow	Modesto Welding Products	08/20/2019	14.00
93601	munimain	Municipal Maintenance Equip.	08/20/2019	45.30
93602	NORT	Northstar Chemical	08/20/2019	1,390.76
93603	Officede	Office Depot	08/20/2019	60.17
93604	oreillya	O'Reilly Automotive Store Inc.	08/20/2019	118.27
93605	PGE	Pacific Gas & Electric Company	08/20/2019	479.05
93606	PARAMOUN	Paramount Pest Control Inc.	08/20/2019	268.00
93607	platt	Platt Electric Supply	08/20/2019	269.92
93608	PREMIER	Premier Access Dental	08/20/2019	2,604.30

Check No	Vendor No	Vendor Name	Check Date	Check Amount
93609	pricefor	Price Ford of Turlock	08/20/2019	540.00
93610	RAND	Randik Paper	08/20/2019	340.63
93611	RAYCOIND	Rayco Industrial Supply	08/20/2019	3,002.13
93612	IKONFIN	Ricoh USA Inc.	08/20/2019	502.14
93613	RuizAlej	Alejandra Ruiz	08/20/2019	40.00
93614	saenz	Saenz Pest Control Inc.	08/20/2019	125.00
93615	SAFETY	Safety-Kleen Corporation	08/20/2019	350.19
93616	sjvapcd	San Joaquin Valley APCD	08/20/2019	98.00
93617	Silicon	Silicon Constellations	08/20/2019	23,372.95
93618	SMITHCHE	Smith Chevrolet Cadillac, Inc.	08/20/2019	14.76
93619	NEXTEL	Sprint	08/20/2019	152.45
93620	St. Fran	St. Francis Electric, LLC.	08/20/2019	380.00
93621	SWRCB2	State Water Resource Control Board	08/20/2019	45.00
93622	TBA	TBA Auto Parts	08/20/2019	346.43
93623	TOTLCOM	TOTLCOM	08/20/2019	484.50
93624	USBANK1	U.S. Bank Equipment Finance	08/20/2019	1,068.29
93625	USA	Underground Service Alert	08/20/2019	702.60
93626	UNITEDRN	United Rentals, Inc.	08/20/2019	71.66
93627	unum	Unum	08/20/2019	3,065.66
93628	USABLUE	USA Blue Book	08/20/2019	425.59
93629	VALLCOFF	VALLEY COFFEE	08/20/2019	63.50
93630	LIVFARM	Valley Farm Supply Stores Inc.	08/20/2019	1,196.01
93631	VERIZON	Verizon Wireless	08/20/2019	1,537.84
93632	VISION	Vision Service Plan - CA	08/20/2019	792.70
93633	BRESHEAR	W.H. Breshears, Inc.	08/20/2019	3,117.95
93634	WARD	Ward Enterprises	08/20/2019	162.42
93635	WATCHGUA	WATCHGUARD VIDEO	08/20/2019	517.21
93636	xerox	Xerox Financial Services	08/20/2019	127.03
93637	ZEEMED	Zee Medical Service Co., Inc.	08/20/2019	37.58
93638	BESTELEC	Best Electric	08/20/2019	4,142.39
93639	casnog	California Smog & Repair	08/20/2019	31.75
93640	cooling	Cooling Shedd Air Conditioning	08/20/2019	222.00
93641	kamps	Kamps Propane	08/20/2019	6.47
93642	NORT	Northstar Chemical	08/20/2019	243.99
93643	PGE	Pacific Gas & Electric Company	08/20/2019	328.13
93644	sjvapcd	San Joaquin Valley APCD	08/20/2019	9.30
93645	ZEEMED	Zee Medical Service Co., Inc.	08/20/2019	119.01
Total for 8/20/2019:				107,608.51
Report Total (81 checks):				151,453.91

Clearing House

Distribution Report

User: Danna
 Printed: 08/08/2019 - 11:16AM
 Batch: 00001.08.2019



City of Livingston
 1416 C Street
 Livingston, CA 95334

Account Number	Debit	Credit	Account Description
1100-000-0020	0.00	87,117.22	Cash in Bank
1100-000-1010	87,117.22	0.00	Vouchers Payable
	<u>87,117.22</u>	<u>87,117.22</u>	
1200-000-0020	0.00	220.57	Cash in Bank
1200-000-1010	220.57	0.00	Vouchers Payable
	<u>220.57</u>	<u>220.57</u>	
2100-000-0020	0.00	2,365.94	Cash in Bank
2100-000-1010	2,365.94	0.00	Vouchers Payable
	<u>2,365.94</u>	<u>2,365.94</u>	
2101-000-0020	0.00	2,372.41	Cash in Bank
2101-000-1010	2,372.41	0.00	Vouchers Payable
	<u>2,372.41</u>	<u>2,372.41</u>	
2103-000-0020	0.00	1,632.40	Cash in Bank
2103-000-1010	1,632.40	0.00	Vouchers Payable
	<u>1,632.40</u>	<u>1,632.40</u>	
	<u><u>93,708.54</u></u>	<u><u>93,708.54</u></u>	
Report Totals:	93,708.54	93,708.54	

STAFF REPORT

AGENDA ITEM: Denial of Claim for Damages from Salvino John Amaya

MEETING DATE: August 20, 2019

PREPARED BY: Danna Rasmussen, Human Resources Coordinator

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

Staff recommends that the City Council (1) deny the claim for damages from Salvino John Amaya; (2) submit the claim to AIMS, the City's insurance adjustors for review and processing; and (3) direct staff to send a letter to the claimant advising of the City's denial of the claim.

BACKGROUND:

On July 18, 2019, the City received a claim from Salvino John Amaya alleging a variety of charges stemming from an incident on January 19, 2019, involving the Livingston Police Department.

DISCUSSION:

Mr. Amaya alleges that a Livingston Police Officer bruised his left shoulder with a flash light during a traffic stop.

FISCAL IMPACT:

Unknown at this time. Total costs to the City will be determined after review by the AIMS office.

ATTACHMENTS:

Claim Form.



CITY OF LIVINGSTON

CLAIM FORM - Amended
FORM B

RECEIVED
JUL 18 2019

(Please Type or Print)

CLAIM AGAINST Livingston Police Dept CITY OF LIVINGSTON
(Name of Entity)

Claimant's name: Salvino John Amaya

SS#: [REDACTED] DOB: 7-2-1983 Gender: Male Female

Claimant's address: 2200 Fern St, Merced, CA 95348

Phone #: 209-209-1841

Address where notices about claim are to be sent, if different from above: 2200 Fern St
Merced, CA 95348

Date of incident/accident: 1-19-19 @ 2338hrs

Date injuries, damages, or losses were discovered: 1-19-19 date @ 2338; left shoulder

Location of incident/accident: Livingston CA 95348, corner of main st & Davis st

What did entity or employee do to cause this loss, damage, or injury? illegal detained, civil rights violation; personal injury to left shoulder.
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? Livingston
Police Dept: officer Gordon - badge #27

What specific injuries, damages, or losses did claimant receive? left shoulder pain, bruising,
and removal from work (civil rights violation)
Medical bills pain & stress; amputation.
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of \$10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)] \$100,000

How was this amount calculated (please itemize)? Yes, personal injury & civil rights violation

(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 7-18-19 Signature: [Signature]

If signed by representative: Representative's Name Kelsey Gardner & Ramirez, attorneys at law Address [REDACTED]

Telephone # Merced, CA 95348

Relationship to Claimant [REDACTED]

STAFF REPORT

AGENDA ITEM: Resolution Authorizing the City Manager to File a Regional Surface Transportation Program (RSTP) Estimated Exchange Fund Claim Form for Fiscal Year 2018/2019.

MEETING DATE: August 20, 2019

PREPARED BY: Happy Bains, Sr. Accountant

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 2019-_____, a Resolution of the City Council of Livingston Authorizing the City Manager to file the standard Regional Surface Transportation Program (RSTP) Estimated Exchange Fund Claim Form for Fiscal Year 2018/2019.

BACKGROUND:

Caltrans Headquarters annually releases an RSTP Exchange apportionment figure to California Metropolitan Planning (MPO's). The Merced County Association of Governments is the designated MPO for Merced County.

Each year, Merced County Association of Governments (MCAG) staff process the necessary paperwork through the California Department of Transportation (Caltrans) to exchange RSTP funds allocated to Merced County. The City of Livingston has an RSTP Exchange Fund apportionment amount available to claim in the amount of \$166,380 for the Fiscal Year 2018/2019. The Resolution and claim form before you are necessary to finalize the City's request for its share of the funds.

DISCUSSION:

Amount of funds to be received and to be used for construction of street improvements for the Winton Parkway Widening Project at State Route 99.

FISCAL IMPACT:

Estimated revenues allocated to the City in the amount of \$166,380.

ATTACHMENTS:

1. Resolution No. 2019-
2. Claim Form for RSTP Funds

RESOLUTION NO. _____
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
AUTHORIZING THE CITY MANAGER TO FILE A REGIONAL SURFACE
TRANSPORTATION PROGRAM (RSTP) EXCHANGE PROGRAM FUND CLAIM
FORM FOR FISCAL YEAR 2018/2019

WHEREAS, the Merced County Association of Governments (MCAG) and the California Department of Transportation (Caltrans) have entered into a Standard Agreement contract to exchange unobligated balances of federal Regional Surface Transportation Program (RSTP) funds with non-federal State Highway Account funds; and

WHEREAS, Caltrans Division of Programming releases a 5-year ESTIMATE of RSTP Exchange Program apportionments for inclusion in the Federal Transportation Improvement Program (FTIP) Programming document every 2-years to California Metropolitan Planning Organizations (MPOs);

WHEREAS, MCAG is the designated MPO for Merced County;

WHEREAS, the Annual RSTP Exchange Program fund apportionment is an estimate and subject to change during the fiscal year (FY) due to many Federal Surface Transportation Bill variables including the annual appropriations act as well as other Congressional action (i.e. rescissions);

WHEREAS, a FINAL RSTP Exchange apportionment amount is published at the end of the FY 18/19 and can be different than the ESTIMATE RSTP Exchange apportionment figure;

WHEREAS, Annually, Caltrans sends MCAG a Standard Agreement contract that includes an RSTP Exchange Program apportionment figure;

WHEREAS, MCAG applies a RSTP population based distribution formula using current Department of Finance (DOF) population estimates (May 2019) to the RSTP apportionment to determine the amount of RSTP Exchange funds to be distribution to MCAG member jurisdictions;

WHEREAS, the City of Livingston has an ESTIMATE RSTP Exchange Program fund apportionment amount available to claim in FY 18/19 is **\$166,380**;

WHEREAS, payment of the ESTIMATE RSTP Exchange fund claim will be subject to all conditions specified in the fully executed standard contract agreement between MCAG and Caltrans, as well as the MCAG RSTP Exchange Claim form requirements: Projects to be funded with this claim are only those projects that are defined under Sections 133(b) and 133(c) of Title 23, United States Code and Article XIX of the California State Constitution, implemented in accordance with the requirements of Section 182.6(d)(1) of the Streets and Highways Code.

WHEREAS, if the FINAL RSTP Exchange apportionment figure is higher for FY 18/19 than the ESTIMATE RSTP Exchange apportionment figure, Caltrans would have to revise the RSTP Exchange Standard Agreement contract with the higher RSTP figure before MCAG could instruct the Merced County Auditor Controller's Officer to distribute a greater amount of RSTP Exchange Program funds to member agencies, than identified in this resolution;

WHEREAS, if the FINAL RSTP Exchange apportionment figure is lower for FY 18/19 than the ESTIMATE RSTP Exchange apportionment amount, Caltrans does not have to revise the RSTP Exchange contract with the lower amount before MCAG could recalculate the available RSTP Exchange Program funds using the same population-based formula and then instruct the Merced County Auditor Controller’s Officer to distribute the lower FY 18/19 FINAL RSTP Exchange Program fund amount to member agencies;

WHEREAS, the City of Livingston has established special gas tax street improvement fund as a requirement to receive the RSTP Exchange Program funds; and

WHEREAS, it is deemed in the best interest of the City of Livingston that the City Manager is authorized to sign the FY 18/19 RSTP Exchange Program fund claim form and to submit said claim form to MCAG for processing.

NOW THEREFORE, be it resolved that the City Manager of Livingston is authorized and directed to sign and file the above described FY 18/19 RSTP Exchange Program fund claim on behalf of the City of Livingston in the amount of **\$166,380**.

PASSED AND ADOPTED by the City Council for the City of Livingston at a regular meeting held on _____, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:
- APPROVED:

Gurpal Samra, Mayor of The City of Livingston

ATTEST:

Monica Cisneros, Deputy City Clerk of The City of Livingston

**Claim to the Merced County Association of Governments
 for Regional Surface Transportation Program (RSTP) Funds in Exchange for
 State Highway Account Funds FY 2018/2019**

Claimant: **City of Livingston**

FY 18/19 Claim Amount: **\$166,380**

Claim Guidelines:

Projects outlined in the table below to be funded with this claim are only those projects that are defined under Sections 133(b) and 133(c) of Title 23, United States Code and Article XIX of the California State Constitution, implemented in accordance with the requirements of Section 182.6(d)(1) of the Streets and Highways Code.

Claim Instructions:

1. List (print or type) each **INDIVIDUAL** project to be funded with this claim.
2. List the amount of funds to be used for each project.
3. If the project is not a capacity expanding project and is exempt from the air quality conformance analysis check the “Exempt” box. (☒)
4. If the project is a capacity expanding project and the “build” alternative of the air quality conformance analysis has been completed for the project as required check the “Air Quality” box. (☒)

Project	Cost of Project	Air Quality	Exempt
1. The project consists of constructing a Winton Parkway Widening Project at State Route 99 Southwest On Ramp-City of Livingston. Project consist of widening the northbound Winton Parkway travel way to remove the existing construction and provide dedicated right turn lane to access the State Route 99 Southbound On Ramp.	\$166,380	<input type="checkbox"/>	X
2.	\$	<input type="checkbox"/>	<input type="checkbox"/>
3.	\$	<input type="checkbox"/>	<input type="checkbox"/>

It is understood by this claimant (**City of Livingston**) that payment of this claim is subject to approval by the MCAG Governing Board and must be in accordance with the MCAG and Caltrans Agreement. Said monies (and the interest earned on such monies subsequent to allocation) will be used only for those purposes for which the claim is approved.

The undersigned claimant, by accepting these funds agrees to establish a special account for the purpose of depositing funds received from MCAG pursuant to this agreement:

- a. For cities, within their Special Gas Tax Street Improvement Fund; or
- b. For the county, within their County Road Fund

The undersigned claimant, by accepting these funds, agrees to grant the State of California auditors access to their books and records for the purpose of verifying that funds paid hereunder are properly accounted for and proceeds are expended in accordance with the terms of this agreement. All documents will be available for inspection by authorized Caltrans agents at any time during the project development and for a four-year period from the date of completion of the project, or one year after the audit is completed or waived by Caltrans, whichever is later.

If the undersigned claimant fails to use funds received hereunder in accordance with the terms of the agreement, the claimant agrees to return the exchange funds to MCAG for credit to the special account described above.

Further, the Chief Financial Officer of the claimant certifies that the financial information contained herein, is reasonable and accurate to the best of his/her knowledge.

Authorized Representative:



Signature

Jose Antonio Ramirez

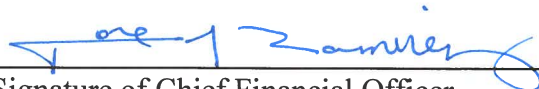
Print Name

City Manager

Title

8-9-19

Date



Signature of Chief Financial Officer

Jose Antonio Ramirez

Print Name

STAFF REPORT

AGENDA ITEM: Resolution Approving the Annual Local Transportation Fund (LTF) Claim to be filed with the Merced County Association of Governments (MCAG) for Fiscal Year 2019/2020.

MEETING DATE: August 20, 2019

PREPARED BY: Happy Bains, Sr. Accountant

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

Staff recommends that the Council adopt Resolution No. 2019-___, approving the Annual Local Transportation Fund (LTF) claim and file claim with the Merced County Association of Governments for Fiscal Year 2019-2020 on behalf of the City of Livingston.

BACKGROUND:

The City of Livingston (City) may claim Local Transportation Funds (LTF) from the Merced County Association of Governments (MCAG) for Fiscal Year 2019-2020. The MCAG Governing Board approved the LTF Apportionment Schedule on Thursday, June 20, 2019. The amount available to claim by the City of Livingston is \$32,518.

DISCUSSION:

The City shall submit a claim form and authorized resolution to MCAG by September 30, 2019, in order to claim the funds for Fiscal Year 2019-2020. These monies are designated first for identified transit needs, after which any balance may be expended for non-transit uses such as street and roads. The City plans to use the funds for the Winton Parkway Improvements project at Highway 99 Southbound on ramp.

FISCAL IMPACT:

There will be no fiscal impact.

ATTACHMENTS:

1. Resolution No. 2019-
2. Claim Form

RESOLUTION NO. 2019-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING THE ANNUAL LOCAL TRANSPORTATION FUND (LTF) CLAIM TO
BE FILED WITH THE MERCED COUNTY ASSOCIATION OF GOVERNMENTS
(MCAG) FOR FISCAL YEAR 2019-2020**

WHEREAS, under the Transportation Development Act (TDA) of 1971, Local Transportation Fund (LTF) monies are available to cities for public transportation, construction and maintenance of local streets and roads, and for pedestrian or bicycle facilities under certain conditions; and

WHEREAS, the City of Livingston meets all requirements to qualify for said apportionment allocated through the Merced County Association of Governments (MCAG), as the designated local transportation and planning agency; and

WHEREAS, the annual allocations of LTF monies to each jurisdiction have been calculated by population; and

WHEREAS, the City of Livingston has LTF monies available to claim in the amount of **\$32,518** for Fiscal Year **2019-2020**; and

WHEREAS, the City's proposed expenditures of LTF monies are in conformity with the Regional Transportation Plan as prepared by MCAG; and

WHEREAS, the City has submitted a certified fiscal audit within 180 days after the end of the fiscal year, except where an extension (90-day maximum) was granted by MCAG.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livingston does hereby authorize the filing of the annual LTF claim for Fiscal Year **2019-2020** in the amount of **\$32,518**.

BE IT FURTHER RESOLVED that it is deemed in the best interest of the City of Livingston that the City Manager be authorized to sign the LTF claim form for Fiscal Year **2019-2020**, and to submit said claim to MCAG for processing.

Passed and adopted this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gurpal Samra, Mayor
of the City of Livingston

ATTEST:

I, hereby certify that the forgoing resolution was regularly introduced, passed and adopted at a regular meeting of the City Council of the City of Livingston this ____ day of _____, 2019.

Monica Cisneros, Deputy City Clerk
of the City of Livingston

LTF STREETS & ROADS CLAIM 2019-2020

Claimant: City of Livingston

Project Title, Location and Description (may use additional paper)

Winton Parkway Improvements at State Route 99 Southbound On-Ramp – City of Livingston. The project primarily consists of widening the northbound Winton Parkway travel way to remove the existing constriction and provide a dedicated right turn only lane to access the State Route 99 Southbound On-Ramp.

Project Cost by Funding Source

LTF (FY19/20)	<u>\$32,518</u>
LTF (FY18/19)	<u>\$52,338</u>
LTF (FY17/18)	<u>\$38,318</u>
LTF (FY16/17)	<u>\$137,094</u>
General Fund	<u>\$0.00</u>
Other	<u>\$500,000</u>
TOTAL	<u>\$760,268</u>

1. For entities with a population of more than 5,000, is the claim for streets and roads (exclusive of capital requirements for major new facilities) less than 50% of the total streets and roads expenditures?

Yes No

2. Is the project in conformity with the MCAG Regional Transportation Plan?

Yes No

Prepared by:


Signature

Jose Antonio Ramirez
Type name


**LOCAL TRANSPORTATION FUND CLAIM
FY 2019-2020**

Claimant: City of Livingston

Type of Claim:	Amount of Claim:
<u> x </u> STREETS & ROADS	\$ <u>32,518</u>
<u> </u> PEDESTRIAN & BICYCLE FACILITIES	\$ <u> </u>
<u> </u> OTHER (indicate purpose & TDA Section number _____)	\$ <u> </u>
TOTAL	\$ <u>32,518</u>

It is understood by this claimant that payment of the claim is subject to approval by MCAG, to such monies being on hand and available for distribution, and to the provision that such monies (and the interest earned on such monies subsequent to allocation) will be used only for those purposes for which the claim is approved and in accordance with the terms of the allocation instructions.

Further, the Chief Financial Officer of the claimant certifies that the financial information contained herein, is reasonable and accurate to the best of my knowledge.

Authorized Representative: 
Signature

Jose Antonio Ramirez
Print or type name

City Manager
Title

8-9-19
Date


Signature of Chief Financial Officer

STAFF REPORT

AGENDA ITEM: A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding between the City of Livingston and the Livingston Supervisory Employees Unit

MEETING DATE: August 20, 2019

PREPARED BY: Danna Rasmussen, Human Resources Coordinator

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

City Council review and approve the Memorandum of Understanding for the City of Livingston Supervisory Employees Unit.

BACKGROUND:

The City Manager has negotiated additional compensation and benefits, at the direction of City Council, and the bargaining unit known as the Livingston Supervisory Employees Unit has accepted and agreed to the proposed additional compensation and benefits.

DISCUSSION:

Compensation and Benefits negotiated include the following:

1. Effective July 1, 2018 the City of Livingston will pay a 3.2% base salary adjustment.
Effective July 1, 2019 the City of Livingston will pay a 3.2% base salary adjustment.
Effective July 1, 2020 the City of Livingston will pay a 3.2% base salary adjustment.
2. Salary Schedule Adjustments; There will be a minimum of 5% increase from Police Corporal, pay Step E to Police Sergeant pay Step A. There will be a minimum of 5% increase from Police Corporal with Degree, pay Step E to Police Sergeant with Degree, pay Step A. There will be a minimum of 5% pay increase from Police Sergeant with Degree, pay Step E to Police Captain, pay step A. Retro pay will be a one-time only of 3 months for these salary schedule adjustments.
3. Work Schedule: All members will be assigned to a 4/10 work schedule based on a 4 days on and 3 days off work plan. The Department will make every effort to implement the designated schedule change on the first of the month. Based on a bi-annual six month rotation, shift change will occur on the following dates: March 1st and September 1st of each year.
4. Training: Members will be allowed one POST approved training of their choice each year for professional development.

5. Clothing Allowance: Clothing allowance will increase by \$25.00 a quarter, therefore association members will receive a total of \$500 per year in uniform allowance to be paid quarterly.
6. Effective July 1, 2018 the language regarding Funeral Leave will change to include employees shall be allowed a leave of absence with full pay for 40 hours five (5) work days due to the death of a member of the employees' immediate family.
7. Effective upon execution of this agreement, Livingston Supervisory Police Unit Classic members will pay one percent (1%) of the Employee contribution to PERS for a total of five (5%) percent. Effective July 1, 2019, Livingston Supervisory Police Unit Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of six (6%) percent. Effective July 1, 2020, Livingston Supervisory Police Unit Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of seven (7%) percent.
8. The terms of this Memorandum of Understanding shall become effective July 1, 2018, and continue in effect until June 30, 2021 unless modified, changed, or otherwise altered by force of law or by mutual agreement between the parties of this agreement.
9. All pay increases are retroactive to July 1, 2018.

FISCAL IMPACT:

Approval from City Council to allow staff to make the necessary budget adjustments.

ATTACHMENTS:

1. Resolution No. 2019-___, A Resolution of the City Council of the City of Livingston Approving a Memorandum of Understanding between the City of Livingston and the Livingston Supervisory Police Unit
2. Livingston Supervisory Police Unit MOU

RESOLUTION NO. 2019-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LIVINGSTON AND
THE LIVINGSTON SUPERVISORY EMPLOYEES UNIT**

WHEREAS, the City of Livingston, through its City Manager, has negotiated new terms which will alter or change the existing Memorandum of Understanding, as it applies to the Livingston Supervisory Employees Unit; and

WHEREAS, the terms of the Memorandum of Understanding between the City of Livingston and the Livingston Supervisory Employees Unit are effective July 1, 2018 through June 30, 2021; and

WHEREAS, the attached revised Memorandum of Understanding (“MOU”) makes the following changes:

1. Approves modifications to MOU section 6.8: Salary/wage increases as follows;
 - A) 3.2% salary/wage increase effective July 1, 2018.
 - B) 3.2% salary/wage increase effective July 1, 2019.
 - C) 3.2% salary/wage increase effective July 1, 2020.
2. Adds language to MOU section 6.7: Salary Schedule Adjustments; There will be a minimum of 5% increase from Police Corporal, pay Step E to Police Sergeant pay Step A. There will be a minimum of 5% increase from Police Corporal with Degree, pay Step E to Police Sergeant with Degree, pay Step A. There will be a minimum of 5% pay increase from Police Sergeant with Degree, pay Step E to Police Captain, pay step A. Retro pay will be a one-time only of 3 months for these salary schedule adjustments.
3. Adds language to MOU section 12.1: Work Schedule. All members will be assigned to a 4/10 work schedule based on a 4 days on and 3 days off work plan. The Department will make every effort to implement the designated schedule change on the first of the month. Based on a bi-annual six month rotation, shift change will occur on the following dates: March 1st and September 1st of each year.
4. Adds language to MOU section 12.6: Training/Informational Meetings/Court Pay; Members will be allowed one POST approved training of their choice each year for professional development.
5. Effective July 1, 2018 clothing allowance will increase by \$25.00 paid quarterly for a total of \$500 per year.

Resolution No. 2019-

6. Effective upon execution of this agreement, Livingston Supervisory Employee Classic members will pay one percent (1%) of the Employee contribution to PERS for a total of five (5%) percent. Effective July 1, 2019, Livingston Supervisory Employee Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of six (6%) percent. Effective July 1, 2020, Livingston Supervisory Employee Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of seven (7%) percent.
7. Approves modifications to MOU section 15.4: Funeral Leave, employee shall be allowed a leave of absence with full pay for up to 40 hours (5) work days due to the death of a member of employees immediate family.

WHEREAS, the City Council now desires to formally approve those changes in the Memorandum of Understanding as has been negotiated and approved by the parties.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livingston that it hereby approves a three (3) year Memorandum of Understanding between the City of Livingston and the Livingston Supervisory Employees Unit, in a form approved by the City Attorney, for the period of July 1, 2018 through June 30, 2021.

Passed and adopted this 20th day of August, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Gurpal Samra, Mayor
of the City of Livingston

ATTEST:

I, hereby certify that the foregoing Resolution was regularly introduced, passed, and adopted at a regular meeting of the City Council of the City of Livingston this 20th day of August, 2019.

Monica Cisneros, Deputy City Clerk
of the City of Livingston

**CITY OF LIVINGSTON
PROPOSED TERMS AND CONDITIONS
OF EMPLOYMENT FOR
SUPERVISORY EMPLOYEES ASSOCIATION**

July 1, 2018 – June 30, 2021

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SECTION 1. RECOGNITION

1.1 Employee Recognition

It is recognized that within the various departments of the City, there are employees that are classified as Supervisory Employees. It is further recognized that due to the diversity of the job descriptions within the Supervisory classifications, the employees who are presently labeled as Supervisory need further descriptive terminology, so that they shall be classified appropriately.

The classification of the Supervisory Employees shall include the following:

Police Captain
Police Lieutenant
Police Sergeant

1.2 Association Recognition

It is understood that within Supervisory classifications there are employees who have the intent of forming a recognized Employee Association pursuant to the City's Personnel Rules and Regulations. It is further understood that said employees shall comply to the above named Rules and Regulations. The procedure shall not be started until mutual agreement is established on the terms of this contract and both the City and the Supervisory employees, or their representative, have signed this document.

1.3 Dues Deduction

The Association may have the regular dues of its members within the representation unit deducted from the employees' paychecks under procedures prescribed by the City for such deductions. Dues deducted shall be made only upon signed authorization from the employee.

In the event that some form of Association security other than that provided above shall become permissive for public employees under competent enabling legislation, the parties shall then meet and confer with respect to the provisions of this subsection.

SECTION 2. CITY RIGHTS

It is understood and agreed that the City retains its powers and authority to direct, manage and control all affairs of the City to the full extent of the law. It is agreed that this Memorandum of Understanding is not in force or effect until ratified and approved by resolution adopted by the City Council of the City of Livingston.

SECTION 3. EMPLOYEE RESPONSIBILITIES

The employer-employee relationship creates mutual responsibilities. Reasonable rules and regulations are necessary to the proper functioning of any city. Observance of all rules, regulations and this Memorandum is essential.

SECTION 4. EMPLOYEE RIGHTS/OFFICIAL REPRESENTATION

4.1 No Discrimination

The City agrees not to discriminate against any employee because of membership in the Association. The Association agrees not to discriminate against any employee for non-membership in the Association. Association activities shall not interfere with the normal operation of the City. See Section 4.1 of Personnel Rules and Regulations.

4.2 Access to Personnel Files

An employee or an employee's representative both upon written authorization from the employee shall have access to the employee's personnel file. Nothing shall be placed in an employee's personnel file until he/she has seen it.

4.3 Communication with Employees

The Association shall be provided suitable space on bulletin boards at each work location for posting notices concerning official Association business.

4.4 Official Representation

The Association shall be entitled to two representatives for the employees, who shall restrict their activities to the handling of grievances, and shall be allowed a reasonable amount of time for this purpose. The City Manager will be notified in writing of the names of the persons so designated.

4.5 Advance Notice

The Association shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet and confer with the City Manager prior to adoption.

4.6 Employee Classification Inclusion/Exclusion

It is recognized that the employees that are within the Supervisory categories have different job classifications and functions. It is further recognized that each employee in his/her classification must comply with his/her assigned department rules, regulations and needs and, therefore, all items regulatory as well as beneficiary, do not and should not affect all employees the same. Because of the diversity, whenever there is a need to show separation of classification for proper and fair employee rights, the section in question shall show the classification inclusion or exclusion within the section.

SECTION 5. CONFLICT OF MEMORANDUM AND RESOLUTION

It is understood and agreed that there exists within the City, Personnel Rules and Regulations.

SECTION 6. SALARY PLAN

6.1 Salary Plan Administration - See Section 3 of Personnel Rules and Regulations.

6.2 Salary Plan Administration, Advancement Within Salary Range

See Section 3 of Personnel Rules and Regulations.

6.3 Salary Plan Administration, Salary Step After Promotion/Demotion

See Section 3 of Personnel Rules and Regulations.

6.4 Temporary Upgrading

An employee assigned by the City Manager or his/her designee to perform the duties of a higher-paid classification shall receive an increase of five percent (5%) for all hours so worked from the first hour of the eleventh working day provided, however, that the rate paid shall not exceed the top step of the assigned classification nor be less than the first step of the classification. If the employee works in the classification for ten consecutive working days, the pay of the higher classification is retroactive to the first day.

6.5 Salary Plan, Pay Periods

See Section 3.3 of Personnel Rules and Regulations.

6.6 Increases During Term of this Memorandum of Understanding

For those employees within the bargaining unit, the Livingston Police Supervisory Unit shall receive a base salary adjustment on such dates as listed below.

Effective July 1, 2018, 3.2% base salary adjustment.

Retroactive to July 1, 2018.

Effective July 1, 2019, 3.2% base salary adjustment.

Effective July 1, 2020, 3.2% base salary adjustment.

6.7 Salary Schedule Adjustments

- A) There will be a minimum of 5% increase from Police Corporal, pay Step E to Police Sergeant pay Step A.
- B) There will be a minimum of 5% increase from Police Corporal with Degree, pay Step E to Police Sergeant with Degree, pay Step A.
- C) There will be a minimum of 5% pay increase from Police Sergeant with Degree, pay Step E to Police Captain, pay step A.

During the term of this contract there will be a one-time retro of 3 months only for these salary schedule adjustments.

SECTION 7. PROBATION PERIOD

See Section 5.5 of Personnel Rules and Regulations.

SECTION 8. SENIORITY

See Section 6.3 of Personnel Rules and Regulations.

SECTION 9. TRANSFER AND PROMOTION LISTS

9.1 Transfer - See Section 3.10 of Personnel Rules and Regulations.

9.2 Promotion - See Sections 5.3 and 5.4 of Personnel Rules and Regulations.

9.3 Time Off for Examination

Promotional examinations scheduled by the City during an employee's regular working hours may be taken without any loss in compensation.

SECTION 10. EVALUATIONS AND JOB DESCRIPTIONS

10.1 Evaluations - See Section 8.1 of Personnel Rules and Regulations.

10.2 Job Descriptions

The City will meet and confer with the Unit in order to develop job descriptions to the classifications in this Unit if there are significant changes.

SECTION 11. LAYOFFS AND OUTSIDE EMPLOYMENT

11.1 Layoff

When it becomes necessary to reduce the City's work force, employees shall be "laid off" on the basis of their seniority within the classification. See Section 6.1 of Personnel Rules and Regulations.

11.2 Order of Layoff - See Section 6.1 of Personnel Rules and Regulations.

11.3 Notice of Layoff

Before an employee is laid off, the employee and the Association shall be notified in writing of such contemplated layoff at least thirty (30) working days prior to the effective date of the layoff.

11.4 Recall - See Section 6.2 of Personnel Rules and Regulations.

11.5 Outside Employment - See Section 14.1 of Personnel Rules and Regulations.

Off-duty employment will be approved subject to:

- A. An absence of interference with the full and efficient performance of duty at all times.
- B. The absence of a demonstrative conflict of interest between outside employment and City employment.
- C. Outside employment must be covered under State Workers' Compensation Insurance or a comparable insurance policy covering industrial accidents and injuries, said coverage to be approved by the City Manager.
- D. Outside employment will not create any liability against the City of Livingston.

11.6 Resignation - See Section 7.1 of Personnel Rules and Regulations.

11.7 Reinstatement

A permanent employee who has resigned in good standing may be allowed to reapply for a vacant position, but will be required to participate in oral interview process if there is one.

SECTION 12. HOURS OF WORK, OVERTIME, PREMIUM PAY

12.1 Work Schedule

All members will be assigned to a 4/10 work schedule based on a 4 days on and 3 days off work plan. The Department will make every effort to implement the designated schedule change on the first of the month. Based on a bi-annual six month rotation, shift change will occur on the following dates: March 1st and September 1st of each year.

12.2 Hours of Work

Hours of work shall be determined by the employee's Department Head according to the work load and the requirements of the employee's assigned department. All employees shall be scheduled to work on a regular work day and each work day shall have a regular starting and quitting time. The work week shall consist of 40 hours in any seven (7) day period, unless the employee's classification within his/her department necessitates the employee working a special shift.

12.3 Court-Stand-By

Association members will receive (2) hours of overtime or Compensatory Time Off, when requested for court stand-by status. Association members will receive a minimum of (3) hours over time or Compensatory Time Off, when appearing in court.

12.4 Breaks

Employees are entitled to two fifteen (15) minute breaks per work day. The breaks may be taken during the first four hours and second four hours of the work day. In addition, each employee is entitled to one (1) hour lunch break during his/her work day.

12.5 Attendance

Employees shall be required to contact their Department Head or his/her designee sixty (60) minutes in advance of being late and explain the reason for the tardiness and what time he/she expects to arrive. If an employee is to be absent, he/she must call or discuss the reason beforehand with the Department Head. The employee is responsible for being ready for his/her assigned duty at the start of his/her shift and continue through the shift to the quitting time of the shift in the same state.

12.6 Training/Informational Meetings/Court Pay

Members of the Livingston Supervisory Employees Unit will be allowed one POST approved training of their choice each year for professional development, based upon available coverage under patrol.

Necessary training and/or informational meetings may be scheduled by the employee's Department Head. The meetings are to ensure all employees the necessary knowledge so that he/she may fulfill the needs of his/her position. At the discretion of the Department Head, the meetings may be reimbursable by allowing Compensatory Time Off exchanged at the same rate of time spent at the meeting.

Employees required to attend Court as a witness arising out of and in the course of his/her employment during his/her normal working hours shall be deemed to be on duty. All time spent in Court pursuant to this section that is in excess of the employee's normal working time shall be reimbursed at the rate described in Section 12.2.

12.7 Mileage Allowance

An employee who is required to provide transportation for the performance of his/her job shall be compensated at a rate set by the City Council for all City employees. An exception to this would be if an employee attended a work oriented function that was reimbursable at a higher rate under another authority. An example of the above would be POST reimbursable conferences and training schools. Mileage allowance would not be reimbursable at any rate unless prior approval was given to the employee by his/her Department Head.

12.8 Clothing Allowance

Association members will receive \$500 per year in uniform allowance to be paid quarterly. When an Association member is required to wear the "Class B" uniform the City will pay for sixteen (16) cleanings per quarter. A "cleaning" is defined as the cleaning of one set of shirt and pants. Cleaning of coats, sweaters, hats, etc. are defined

as separate cleanings applied against an employee's quarterly cleaning allowance.

12.9 Overtime/CTO

Association members agree to eliminate Administrative Leave in exchange for Compensatory Time off (CTO) or overtime pay. Association members will be allowed to accumulate a maximum of 80 hours of CTO earned at a rate of 1.5 times actual overtime worked. Hours worked in excess of the 80 hours will be paid at a rate of 1.5 times actual overtime worked.

SECTION 13. INCENTIVE PAY

13.1 Education Incentive:

Full-time Supervisory Employees are urged to continue their in service formal education. Upon the recommendation of the employee's Department Head, the City Manager may authorize City reimbursement of 50% of the cost of such education if the education and training is job related in the discretion of the City Manager. Cost of education shall only include tuition, books and supplies, not to exceed \$300.00 expense to the City per year.

Members of this bargaining group shall receive a 5% salary adjustment upon completion of an Associate of Arts Degree.

Association member who obtain either an Intermediate or Advanced Certification from POST shall receive a 5% increase in salary. This salary increase shall not be in addition to salary adjustments associated with obtaining college degrees.

13.2 Deferred Compensation:

Association members with five (5) years continued service as of April 1, 1998, shall be eligible to receive up to \$100.00 per month in deferred compensation provided by the City as a match to the level of deferred compensation contribution provided by individual Association members. City match is limited to one year.

13.3 Computer Purchase:

The City will implement an interest free loan to assist Association members with the purchase of personal computers and software as approved by the City.

SECTION 14. BILINGUAL PAY INCENTIVE

The City will pay \$300.00 per year, payable quarterly (\$75.00 per quarter). A test will be developed to determine the qualifications and will be mutually agreed upon by the City and the Supervisory Employees Association. If a recipient of the Bilingual Pay Incentive refuses to translate, bilingual pay will be terminated immediately.

SECTION 15. HOLIDAYS

15.1 Holiday Pay

Association members in lieu of observing holidays will be compensated per holiday, currently there are 12 official holidays. Association members will be compensated at straight time for each holiday, not to exceed eight (8) hours for any one-day. By August 1 of each calendar year, members will receive a separate check for the total number of hours represented by the total number of holidays. (12 holidays x 8 hours = 96 hours). Should a member leave the City's employ during the year, the members final paycheck will reflect a reimbursement to the City for those holidays that have not yet been reached.

15.2 Recognized Holidays

If a holiday falls on a Sunday, the following Monday shall be observed and when a holiday falls on a Saturday, the preceding Friday shall be observed.

- A. Day Before New Year's Day
- B. New Year's Day - January 1st
- C. Martin Luther King, Jr.'s Birthday – January 18th
- D. President's Day - Third Monday in February
- E. Memorial Day - Last Monday in May
- F. Independence Day - July 4th
- G. Labor Day - First Monday in September
- H. Veterans' Day - November 11th
- I. Thanksgiving Day - Fourth Thursday in November
- J. Day After Thanksgiving
- K. Day Before Christmas Day:
- L. Christmas Day - December 25th
- M. Two (2) Floating Holidays

15.3 *Holidays During Vacation

In the event any of the holidays specified in Subsection 15.2 occur while an employee is on vacation, the holiday shall not be charged to vacation.

* Some employees of this Unit may work the 6 & 3 schedule and will receive compensation for all authorized holidays as a normal part of the work schedule.

SECTION 16. VACATION

16.1 Vacation Leave

Annual vacation leave is to enable each eligible employee to return to his/her job mentally refreshed. The purpose of vacation is to insure the employee's continued efficiency by allowing periods of rest and relaxation. Therefore, vacation shall be taken in units of one week or more except that the Department Head may allow an employee to take vacation in units of less than one (1) week when he deems it to be in the best interest of the City. Vacation shall only be allowed in increments of one (1) or more whole days. Only one week of an employee's vacation may be split.

Notwithstanding the foregoing, employees who have accrued 240 hours of vacation, but are unable to take vacation because of the staffing needs of the Department, will have one year to use vacation hours over 240. If, at the end of that year, said employees are still unable to take vacation due to staffing needs, City will pay off all hours in excess of 240. If the employee makes no effort to take vacation during the year following his or her accumulation of 240 hours, and is unable to justify the failure to request vacation, the employee may lose said hours in excess of 240, at the discretion of the City Manager, said discretion not to be exercised arbitrarily. If any employee fails to utilize vacation hours over 240 within two years of his accumulation of 240 hours, he or she may lose the right to accumulate additional hours until he or she has reduced the vacation balance to 240, unless said failure to use vacation hours was due to the Department's refusal to allow said use.

16.2 Vacation Allowance

Vacation shall vest upon the first day of employment. Thereafter, in accordance with the following schedule:

<u>Length of Service</u>	<u>Vacation Earned</u>
1 - 2 years	10 days
3 - 4 years	15 days
5-14 years	20 days
15 year on	25 days

Employee will have the option to sell back up to 80 hours total of unused vacation either in December or June annually.

16.3 Scheduling/Police Employees

The Supervisory employee shall request in writing his preferred dates of vacation at least six (6) months in advance to the Chief of Police or his designee Command Officer. The times during the year at which time an employee may take his/her vacation shall be determined by the Chief of Police with the regards of the City. If the requirements of the City are such that an employee cannot take part or all of his/her vacation in a particular calendar year, such vacation shall be taken during the following calendar year or paid for at the discretion of the Chief of Police.

16.4 Pay Upon Termination

An employee shall be paid for any unused vacation time on the termination of his/her employment. The employee shall be paid at the rate of pay in effect at the time of his/her termination.

16.5 Accrual

Employees may accrue a maximum of 240 hours of vacation allowance. Employees will not receive any compensation for vacation hours in excess of 240 hours unless employee has requested and has been refused a vacation 30 days prior to exceeding 240 hours accumulated vacation. If the employee has been refused a vacation, he/she must schedule a vacation as soon as working conditions will allow.

16.6 Longevity Incentive

Employees shall be eligible for additional weeks of vacation based on longevity. The time shown shall be for one additional week in each of the mentioned years only:

- 10th yr = 1 week of vacation for that year
- 20th yr = 1 week of vacation for that year
- 25th yr = 1 week of vacation for that year
- 30th yr = 1 week of vacation for that year

16.7 Seniority

In the selection of vacation time, preference shall be given to senior employees where vacation requests of employees conflict.

SECTION 17. LEAVE PROVISIONS

17.1 Sick Leave

Sick leave accumulation shall commence the first day of employment at a rate of one day per month. The taking of sick leave shall commence upon the completion of one month of employment. Sick leave may be accumulated without limit. Sick leave shall be paid at time of retirement at 100 to a maximum of 1560 hours. Any additional hours will be credited toward retirement.

When absence is for more than three (3) working days, the employee shall file a physician's certificate or personal affidavit with the immediate supervisor stating the cause and reason for the absence. The City may request a physician's verification of illness before paying any sick leave.

Unused sick leave shall be accumulated at the rate of ninety-six (96) hours a year.

An employee shall be able to use sick leave with pay when illness of a member of the employee's immediate household necessitates such absence. Some verification of personal sick leave is required. If an employee is absent on paid sick leave and a holiday occurs during such absence, the employee shall receive holiday pay for such

holiday and such pay shall not be charged against the employee's sick leave credit.

In the event an employee terminates employment with the City, fifty percent (50%) of unused sick leave shall be paid upon termination of employment.

The maximum accrual of sick leave for any employee will be 1560 hours, for purposes of cashing out only. An employee may accumulate sick leave hours in addition to 1560, for purposes of using said hours in the event of illness, but in no event will the City be responsible for cashing out an employee for hours in addition to 1560. Sick leave accumulated in excess of 1560 hours may be utilized for retirement credit. In the event that Workers' Compensation payments cover all or part of the period during which sick leave is paid, the sum of the two shall not exceed the sick leave benefit payable for said period, and the unused portion of accumulated sick leave will continue to be credited to the employee.

17.2 Industrial Disability Leave

Any permanent employee of the City who has suffered any disability arising out of and in the course of employment, as defined by the Workers' Compensation Laws of the State of California, shall be entitled to disability leave while so disabled without a loss of compensation for the period of such disability to a maximum of sixty (60) days. Such disability leave with pay shall be renewable in sixty (60) day increments by the City Manager for a period of one (1) year, subject to examination confirmation of the continuing disability by a physician selected by the City every sixty (60) days.

During the period the employee is paid by the City, the employee shall assign or endorse to the City any benefits received as a result of Workers' Compensation Insurance coverage. The City reserves the right to withhold payment of any disability benefits until such time as it is determined whether or not the illness or injury is covered by Workers' Compensation.

The benefits of Sick Leave and Disability Leave shall be mutually exclusive at any one time, and no Disability Leave may be used for the purposes specified under Subsection 16.1, Sick Leave, and no sick leave benefits may be used for the purposes specified under this Subsection 16.2, Disability Leave.

Employees shall accrue vacation credit during an Industrial Disability Leave which does not exceed thirty (30) days of absence. Employees shall not accrue vacation credit after they have been on Industrial Disability Leave for a total of thirty (30) days in one (1) year, unless the disability is incurred pursuant to the employee's job performance.

17.3 Limited Duty

Upon the advice of his/her physician, an employee may request and may be granted transfer to less strenuous or hazardous duties within their classification which the employee is qualified to perform for a period not to exceed one (1) year for non-work related injuries or illnesses, or in the case of work related injuries or illnesses, for the full recovery or rehabilitation period.

17.4 Funeral Leave

Employee shall be allowed a leave of absence with full pay for up to 40 hours (5) work days due to the death of a member of employee's immediate family. For purposes of this provision, immediate family shall include spouse, domestic partner, child (including legally adopted child), parent, grandparent, grandchild, step-parent, stepchild, sibling, step-sibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law of the eligible employee. Requests for bereavement leave for persons not listed above may be granted at the discretion of the City Manager of his/her designee. Time off for funeral or bereavement leave must be taken within time of service of the immediate family member.

17.5 Leave of Absence

Upon written request a leave of absence without pay may be granted to any permanent employee for a period not to exceed six (6) months for the following reasons:

1. Illness or disability not covered by sick leave.
2. Education or training which will benefit the employee, but that which is not paid by the employer.
3. Personal reasons: In the event of unusual or special circumstances, a leave of absence may be extended (not to exceed a total of 12 months) if recommended by the Department Head and approved by the City Manager.

A request for leave of absence without pay shall be made in writing to the Department Head stating the reasons for such request. For leaves of absences in excess of five (5) days, the Department Head shall submit the request with their recommendation to the City Manager.

All accumulated leave time shall be exhausted prior to having been granted a leave of absence without pay. Any employee who does not return to work on the subsequent work day after the date of expiration, shall be considered terminated.

The employee, while on authorized leave of absence, will not be eligible for accruing vacation and /or holidays.

17.6 Maternity Leave

A pregnant employee holding a permanent position shall be entitled to a leave of absence for up to one hundred twenty (120) days. This leave shall commence upon certification from the employee's attending physician that she is no longer capable of performing the duties of her position.

Upon the advice of her physician, the employee may request a temporary transfer to a less strenuous or hazardous position carrying the same or lower salary which she is qualified to perform. However, nothing herein shall result in the displacement or transfer

of other employees in permanent positions or the performance of unnecessary work.

Where it is the opinion of the Department Head that the employee should be placed on leave sooner than prescribed by her physician due to her inability to effectively or safely perform the duties of her regular position or of one to which she has been, or could otherwise be, temporarily transferred, the employee may be required to undergo examination by a second physician. The cost of this examination shall be paid by the City and shall not be ordered without prior approval of the City Manager.

During the first six (6) weeks of any such leave, the employee shall be entitled to utilize accrued sick leave benefits on the same basis as other employees who are temporarily disabled due to a non-industrial illness or injury.

After the first six (6) weeks of such leave, the employee shall be entitled to utilize accrued vacation. While the pregnant employee is on a paid leave status, service credits shall continue to accrue and the City shall continue payments toward group insurance and retirement coverage. Upon expiration of the approved leave, the employee shall be reinstated to her former position. Prior to the employee being reinstated, the Department Head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

An employee may, based upon medical factors, request that her leave be extended beyond one hundred twenty (120) days and shall submit a supporting statement from her physician. The Department Head, with the approval of the appointing authority, may extend the leave for up to an additional thirty (30) days.

17.7 Military Leave

Military leave shall be granted in accordance with the provisions of State law. All employees entitled to military leave shall give the City Manager an opportunity within the limits of military regulations to determine when such leave shall be taken.

17.8 State Disability Insurance

Employee shall pay full premium for State Disability Insurance.

SECTION 18. HEALTH AND WELFARE PLANS

18.1 Medical-Dental-Long Term Disability and Life Insurance

Effective February 1, 2006, for those employees known as the Livingston Police Officers Association, the City of Livingston will pay all premiums associated with the cost of providing dental, vision, long term disability and life insurance for full-time employees and their eligible dependents.

Also effective February 1, 2006, the City of Livingston will assume full control over the benefit plans offered to the employees, including the selection and retention of any and all agencies involved in providing and maintaining medical, dental, vision, long term disability and life insurance benefits. The City agrees to continue to provide

comparable or better benefit plans for the employees as long as the financial condition of the City is such that it can afford to cover the cost of providing the benefits.

All employees covered by this Agreement shall be covered by a \$100,000.00 life insurance plan with premiums to be paid by the City.

Effective July 1, 2015, the City of Livingston shall contribute the following amounts monthly toward the total premium for medical plans; the employee is responsible for the balance of the premium cost, if any.

City Monthly Contribution Cap:

	July 1, 2015		July 1, 2016	
	<u>PPO</u>	<u>EPO</u>	<u>PPO</u>	<u>EPO</u>
Employee Only	\$ 506.98	\$ 575.16	\$ 531.98	\$ 600.16
Employee + One	\$1013.96	\$1150.31	\$1063.96	\$1200.31
Family	\$1318.17	\$1495.41	\$1393.17	\$1570.41
	July 1, 2017		Jan. 1, 2018	
	<u>PPO</u>	<u>EPO</u>	<u>PPO</u>	<u>EPO</u>
Employee Only	\$ 556.98	\$ 625.16	\$ 581.98	\$ 650.16
Employee + One	\$1113.96	\$1250.31	\$1163.96	\$1300.31
Family	\$1468.17	\$1645.41	\$1543.17	\$1720.41

Bargaining unit members who opt out of participating in the group medical plans sponsored by the City, and who provide proof of their medical coverage in a group plan, will receive \$400 per month, or must be used in a deferred compensation plan of the employee's choice. Any Federal/State laws/policies/guidelines conflicting with this incentive program should supersede this section of the MOU and incentive may be subject to termination.

18.2 Medical Examinations

The City, at its option, may require a physical examination of each employee upon his/her entry into employment and of each employee at least once a year during the term of this agreement. Annual physical examinations shall be the same for all employees. Any expense in connection with the physical examination will be borne by the City. However, this is not to be considered as meaning that the City will pay for the treatment of any physical ailments which may be discovered by such examination. Examinations must be conducted at a location chosen by the City.

18.3 Retirement – Classic Members

The City will pay the cost of the employees' 7% contribution to PERS. The 7% employee contribution made in behalf of the employee by the City will remain in the

employee's account. The employee may remove the contribution made in his/her behalf by the City at such time as the employee terminates from PERS or retires. However, the portion of the employee's contribution made by the City in behalf of the employee will be taxable in the year they are removed from PERS. The City will notify each employee annually of the amount deposited in his or her behalf during the previous twelve (12) months.

The City of Livingston shall amend the City's contract with the Public Employees' Retirement System (PERS) to provide the following additional benefit as provided by Section 20042 of the Government Code:

The period for determining the average monthly pay rate when calculating retirement benefits will change from the 36 highest paid consecutive months to the 12 highest paid consecutive months. (Applicable only to members retiring or whose death occurs after the effective date of the contract amendment.)

Effective upon execution of this agreement Livingston Police Supervisory Unit, Classic members will pay one percent (1%) of the Employee contribution to PERS for a total of 5%.

Effective July 1, 2019; Livingston Police Supervisory Unit Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of 6%.

Effective July 1, 2020; Livingston Police Supervisory Unit Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of 7%.

Retirement: - New Members

All employees hired on or after January 1, 2013, who are considered "new members" under the Public Employees Pension Reform Act (PEPRA) will be provided a CalPERS benefit formula of 2% at 62 for Miscellaneous and 2% at 57 for Safety.

In addition, "new members" shall be subject to the contribution requirements in Section 7522.30(a) and (c) of the PEPRA. Accordingly, "new members" shall pay 50% of the normal costs of their pension benefit and the City shall not pay any of the required employee contribution for "new members."

18.4 Post Retirement Benefits

For all employees employed by the City as of July 1, 1989 only who retire from the City's employment under the Public Employees' Retirement System currently in effect other than disability retirement, the City will continue to pay the premiums for health and dental care coverage in an amount equal to the amount paid if the employee was still employed by the City.

In disability cases, dependent medical and dental coverage will continue until death of the

retired employee or until dependents no longer are qualified as dependents under the current medical and dental plan.

18.5 False Arrest Insurance/Police Supervisory Employees

The City will provide the Police Supervisory Employees with False Arrest Insurance in conjunction with the City's General Liability policies.

18.6 Long-Term Disability

City will provide each employee covered under this Memorandum of Understanding with Long-Term Disability coverage at the City's expense.

18.7 American with Disabilities Act

Because the ADA requires accommodations for individuals protected under the Act and because these accommodations must be determined on an individual, case-by-case basis, the parties agree that the provisions of this Agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotion, granting permanency, transfer, and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

Supervisory employees recognize that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. Supervisory employees will be notified of these proposed accommodations prior to implementation by the City.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure.

Prior to disregarding any provisions of the Agreement in order to undertake required accommodations for an individual protected by the Act, the City will provide Supervisory employees with written notice of its intent to disregard the provision, and will allow Supervisory employees the opportunity to discuss options to disregarding the Agreement. However, as the City has a legal obligation to undertake required accommodations, such action shall not be subject to bargaining with the Supervisory employees.

SECTION 19. SAFETY

19.1 Observance of Safety Rules and Regulations/Public Service Employees

Both the City and the Association shall expend every effort to ensure that work is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations.

Each employee covered by this Memorandum agrees to comply with all safety rules and regulations in effect and any subsequent rules and regulations that may be adopted.

Employees further agree that they will report all accidents and safety hazards to the appropriate management official immediately. Any employee having knowledge of, or who is a witness to an accident shall, if requested, give full and truthful testimony as to same.

An employee may refuse a dangerous work assignment if one or all of the following conditions exist and he/she immediately notifies his/her supervisor of the condition(s):

1. He/she has a reasonable belief, based on what he/she knows at the time, that there is a real imminent danger of death or serious physical injury. If he/she has good reasons that other reasonable people would recognize, he/she may refuse the task even if it is later found that there was no imminent danger.
2. If he/she has asked his/her employer to eliminate the danger and the employer has failed to do so.
3. The danger is so imminent that it cannot be eliminated quickly enough through normal OSHA enforcement procedures.

19.2 Safety Equipment

Protective clothing or any type of protective device required in employee's work will be furnished to the employee by the City at no cost to the employee. All employees shall use City supplied safety equipment only for the purpose and use specified under applicable safety rules and regulations. All special Police equipment required for use by employees as determined by the Chief of Police will be furnished without charge. Each employee will be responsible for proper care of such equipment and will be required to replace such equipment in case of loss or negligent destruction of same.

The City agrees to purchase one (1) pair of Work Boots every two (2) years (\$200 value). Reimbursement will be made upon execution of this agreement. They will be worn as needed by the employees.

SECTION 20. DISCIPLINE AND DISCHARGE

See Section 9 of Personnel Rules and Regulations.

SECTION 21. GRIEVANCE PROCEDURE

See Section 10 of Personnel Rules and Regulations.

SECTION 22. MODIFICATION OF AGREEMENT

No changes in this Memorandum of Understanding or interpretations thereof will be recognized, unless agreed to by the City Manager and the Association unless a financial disaster results in a significant loss of revenue to the City which shall allow the City to open the contract unilaterally.

SECTION 23. NEW WORK

In the event the City introduces new work which the Association believes does not fall within any of the existing classifications, the City and the Association shall, upon written request, meet and confer with respect to the assignment or classification of such work.

SECTION 24. PAST PRACTICES AND EXISTING MEMORANDA OF UNDERSTANDING

This Memorandum of Understanding shall supersede all existing and prior Memoranda of Understanding between the City and the Association, resolutions and ordinances which are in conflict with this agreement.

SECTION 25. RESOLUTION OF IMPASSE

See Section 11.16 of Personnel Rules and Regulations.

SECTION 26. SEPARABILITY OF PROVISIONS

Should any section, clause or provision of the Memorandum of Understanding be declared illegal and unenforceable by a final judgment of a Court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Memorandum of Understanding. In the event of such invalidation, the parties agree to meet and confer immediately concerning substitute provisions for the provisions rendered, or declared illegal.

SECTION 27 TERM OF MEMORANDUM

This Memorandum of Understanding, upon approval of the City Council, shall remain in effect for those employees employed in the classifications which comprise the Association Bargaining Unit for the period beginning July 1, 2018 and ending June 30, 2021. The City may unilaterally open this agreement in the event a financial disaster results in a significant loss of revenue to the city ninety (90) days prior to the termination of this Memorandum of Understanding, the Association will notify the City if it wishes to modify the agreement. In the event that such notice is given, negotiations shall begin as soon as possible after the notice. This agreement shall remain in full force and be effective during the periods of negotiations and until Notice of Termination of this agreement is provided to the other party.

City of Livingston - Employer

Operating Engineers Local Union No. 3 of
The International Union of Operating
Engineers.

By: _____
Jose Antonio Ramirez, Date
City Manager

By: _____
Association Representative Date

For Operating Engineers Local Union No. 3
of the International Union of Operating Engineers, AFL-CIO

Russ Burns
Business Manager

Date

Dan Reding
President

Date

Pete Figueiredo
Vice-President

Date

James K. Sullivan
Recording-Corresponding Secretary

Date

Rick Davis
Director, Public Employee Division

Date

Darren Semore
Business Representative

Date

STAFF REPORT

AGENDA ITEM: **A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding between the City of Livingston and the Management and Confidential Employees Association**

MEETING DATE: **August 20, 2019**

PREPARED BY: **Danna Rasmussen, Human Resources Coordinator**

REVIEWED BY: **Jose Antonio Ramirez, City Manager**

RECOMMENDATION:

City Council review and approve the Memorandum of Understanding for the City of Livingston Management and Confidential Employees Association.

BACKGROUND:

The City Manager has negotiated additional compensation and benefits, at the direction of City Council, and the bargaining unit known as the Management and Confidential Employees Association has accepted and agreed to the proposed additional compensation and benefits.

DISCUSSION:

Compensation and Benefits negotiated include the following:

1. Effective July 1, 2018 increase Bilingual pay to \$600 per fiscal year.
2. Effective July 1, 2018 the City of Livingston will pay a 6.5% base salary adjustment. Effective July 1, 2019 the City of Livingston will pay a 2.5% base salary adjustment. Effective July 1, 2020 the City of Livingston will pay a 2.5% base salary adjustment.
3. Make the following salary adjustments to the following positions; Communications/Records Manager 5% increase, Administrative Services Manager 5% increase, Public Works Superintendent 5% increase. Retro back to July 1, 2018.
4. Effective July 1, 2018 Career Service Pay will be added to the MOU to include a one-time payment to be paid to unit members when completion of the 5th, 10th, 15th, 20th and 25th years of service has been reached.
3. Effective July 1, 2018 the language regarding Funeral Leave will change to include employees shall be allowed a leave of absence with full pay for 40 hours five (5) work days due to the death of a member of the employees' immediate family.
4. Effective upon execution of this agreement, Management and Confidential Employees Association Classic members will pay one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2019, Management and Confidential Employees Association Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2020, Management and Confidential Employees Association Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

5. Unit members who opt out of the medical plan and provide proof of coverage through another source or spousal coverage has increased by \$100 to equal \$500 a month.
6. Medical Monthly CAP has changed to match all other bargaining groups.
7. Safety Equipment, language has been added to include that the city agrees to purchase one (1) pair of Red Wing work boots with steel shanks through a purchase order not to exceed \$170 once a year. Also, to include one (1) new jacket during the term of the agreement. These purchases are only for the Public Works Superintendent classification.
6. The terms of this Memorandum of Understanding shall become effective July 1, 2018, and continue in effect until June 30, 2021 unless modified, changed, or otherwise altered by force of law or by mutual agreement between the parties of this agreement.
7. All pay increases are retroactive to July 1, 2018.

FISCAL IMPACT:

Approval from City Council to allow staff to make the necessary budget adjustments.

ATTACHMENTS:

1. Resolution No. 2019-___, A Resolution of the City Council of the City of Livingston Approving a Memorandum of Understanding between the City of Livingston and the Management and Confidential Employees Association
2. Management and Confidential Employees Association MOU

RESOLUTION NO. 2019-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LIVINGSTON AND
THE LIVINGSTON MANAGEMENT AND CONFIDENTIAL
EMPLOYEES ASSOCIATION**

WHEREAS, the City of Livingston, through its City Manager, has negotiated new terms which will alter or change the existing Memorandum of Understanding, as it applies to the Livingston Management and Confidential Employees Association; and

WHEREAS, the terms of the Memorandum of Understanding between the City of Livingston and the Livingston Management and Confidential Employees Association are effective July 1, 2018 through June 30, 2021; and

WHEREAS, the attached revised Memorandum of Understanding (“MOU”) makes the following changes:

1. Approves modifications to MOU section 6.8: Salary/wage increases as follows;
 - A) 6.5% salary/wage increase effective July 1, 2018.
 - B) 2.5% salary/wage increase effective July 1, 2019.
 - C) 2.5% salary/wage increase effective July 1, 2020.
2. Adds language to MOU section 6.11 Salary Adjustments for the following positions; Communications/Records Manager, 5%; Administrative Services Manager, 5%; Public Works Superintendent, 5%. Retroactive pay to July 1, 2018
3. Change language to MOU section 13.3: Bilingual Pay. Increase bilingual pay to \$600 per fiscal year.
4. Add language to MOU section 15.5.1: Career Service Pay. Upon reaching such career milestones with the City of Livingston members of the Management and Confidential Employees Unit will receive a one-time payment of as listed below at the end of such completed year of service. 5 years \$100, 10 years \$200, 15 years \$300, 20 years \$400, 25 years \$500.

Resolution No. 2019-

5. Change language to MOU section 17.1: Increase amount to \$500 paid monthly to unit members who have medical coverage through another source or spouse. This amount will be paid in cash or can be paid toward a deferred compensation plan of employee's choice. City Monthly Contribution CAP, will change to match all other bargaining groups.
6. Effective upon execution of this agreement, Livingston Management and Confidential Classic members will pay one percent (1%) of the Employee contribution to PERS. Effective July 1, 2019, Livingston Management and Confidential Classic members will pay an additional one percent (1%) of the Employee contribution to PERS. Effective July 1, 2020, Livingston Management and Confidential Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.
7. Add language to MOU section 18.3: Safety Equipment, to add that the city agrees to purchase one (1) pair of Red Wing work boots with steel shanks through a purchase order not to exceed \$170 once a year. The City will provide one (1) new jacket during the term of the agreement for the Public Works Superintendent classification only.
7. Approves modifications to MOU section 16.4: Funeral Leave, employee shall be allowed a leave of absence with full pay for up to 40 hours (5) work days due to the death of a member of employees immediate family.

WHEREAS, the City Council now desires to formally approve those changes in the Memorandum of Understanding as has been negotiated and approved by the parties.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livingston that it hereby approves a three (3) year Memorandum of Understanding between the City of Livingston and the Livingston Management and Confidential Employees Association, in a form approved by the City Attorney, for the period of July 1, 2018 through June 30, 2021.

Passed and adopted this 20th day of August, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gurpal Samra, Mayor
of the City of Livingston

ATTEST:

I, hereby certify that the foregoing Resolution was regularly introduced, passed, and adopted at a regular meeting of the City Council of the City of Livingston this 20th day of August, 2019.

Monica Cisneros, Deputy City Clerk
of the City of Livingston

**CITY OF LIVINGSTON
MANAGEMENT AND CONFIDENTIAL EMPLOYEES
ASSOCIATION**

JULY 1, 2018 – JUNE 30, 2021

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SECTION 1. RECOGNITION

1.1 Employee Recognition

It is recognized that within the various departments of the City, there are employees that are classified as Confidential and Management employees. It is further recognized that due to the diversity of the job descriptions within the Confidential and Management classifications, the employees who are presently labeled as Confidential and Management, need further descriptive terminology, so that they shall be classified appropriately.

The classification of the Confidential and Management employees shall include the following:

Management: Accountant
Commander
Community Development Director
Public Works Superintendent
Public Works Technician
Recreation Superintendent
Street Supervisor
Water Supervisor

Confidential: Communications / Records Manager
Administrative Services Manager
Executive Assistant/Deputy City Clerk
Senior Accountant
Human Resources Coordinator

1.2 Association Recognition

It is understood that within the Management and Confidential classifications there are employees who have the intent of forming a recognized Employee Association pursuant to the City's Personnel Rules and Regulations. It is further understood that said employees shall not be started until mutual agreement is established on the terms of this contract and both the City and the Management and Confidential Employees, or their representative, have signed this document.

1.3 Dues Deduction

The Association may have the regular dues of its members within the representation unit deducted from the employees' paychecks under procedures prescribed by the City for such deductions. Dues deducted shall be made only upon signed authorization from the employee.

In the event that some form of Association security other than that provided above shall become permissive for public employees under competent enabling legislation, the parties shall then meet and confer with respect to the provisions of this subsection.

SECTION 2. CITY RIGHTS

It is understood and agreed that the City retains its powers and authority to direct, manage and control all affairs of the City to the full extent of the law.

It is agreed that this Memorandum of Understanding is not in force or effect until ratified and approved by resolution adopted by the City Council of the City of Livingston.

SECTION 3. EMPLOYEE RESPONSIBILITIES

The employer-employee relationship created mutual responsibilities. Reasonable rules and regulations are necessary to the proper functioning of any city. Observance of all rules, regulations and this Memorandum is essential.

SECTION 4. EMPLOYEE RIGHTS/OFFICIAL REPRESENTATION

4.1 No Discrimination

The City agrees not to discriminate against any employee because of membership in the Association. The Association agrees not to discriminate against any employee for non-membership in the Association. Association activities shall not interfere with the normal operation of the City. See Section 4.1 of Personnel Rules and Regulations.

4.2 Access to Personnel Files

An employee or an employee's representative both upon written authorization from the employee shall have access to the employee's personnel file. Nothing shall be placed in an employee's personnel file until he/she has seen it.

4.3 Communication with Employees

The Association shall be provided suitable space on bulletin boards at each work location for posting notices concerning official Association business.

4.4 Official Representation

The Association shall be entitled to two representatives for the employees, who shall restrict their activities to the handling of grievances, and shall be allowed a reasonable amount of time for this purpose. The City Manager will be notified in writing of the names of the persons so designated.

4.5 Advance Notice

The Association shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet and confer with the City manager prior to adoption.

4.6 Employee Classification Inclusion/Exclusion

It is recognized that the employees that are within the Management and Confidential categories have different job classification and functions. It is further recognized that each employee in his/her classification must comply with his/her assigned department rules, regulations and needs and, therefore, all items regulatory as well as beneficiary, do not and should not affect all employees the same. Because of the diversity, whenever there is a need to show separation of classification for proper and fair employee rights, the section in question shall show the classification inclusion or exclusion within the section.

SECTION 5. CONFLICT OF MEMORANDUM AND RESOLUTION

It is understood and agreed that there exists within the City, Personnel Rules and Regulations.

SECTION 6. SALARY PLAN

6.1 Increases During Term of this Memorandum of Understanding

During the term of this agreement, both the City and the bargaining unit agree to a opener for COLA's as follows: To use the Merced County CPI to determine any COLA's. Future COLA's will be subject to the meet and confer process annually only after the State of California has adopted its budget.

6.2 Salary Plan Administration

See Section 3 of Personnel Rules and Regulations.

6.3 Salary Plan Administration, Advancement Within Salary Range

See Section 3 of Personnel Rules and Regulations.

6.4 Salary Plan Administration, Salary Step After Promotion/Demotion

See Section 3 of Personnel Rules and Regulations.

6.5 Temporary Upgrading

An employee assigned by the City Manager or his/her designee to perform the duties of a higher-paid classification shall receive an increase of five percent (5%) for all hours so worked from the first hour of the eleventh working day provided, however, that the rate paid shall not exceed the top step of the assigned classification not be less than the first step of the classification. If the employee works in the classification for ten consecutive working days, the pay of the higher classification is retroactive to the first day.

6.6 Salary Plan, Pay Periods

See Section 3.3 of Personnel Rules and Regulations.

6.7 Increases During Term of this Memorandum of Understanding

For those employees within the bargaining unit, the Livingston Management and Confidential Employees Association shall receive a base salary adjustment on such dates as listed below.

Effective July 1, 2018, 6.5% base salary adjustment.
Effective July 1, 2019, 2.5% base salary adjustment.
Effective July 1, 2020, 2.5% base salary adjustment.

All salary adjustments are retroactive to July 1, 2018.

6.8 Salary Adjustments for the Following Positions

Communications/Records Manager – 5%
Administrative Services Manager – 5%
Public Works Superintendent – 5%

All salary adjustments for the above positions are retroactive to July 1, 2018.

SECTION 7. PROBATION PERIOD

See Section 5.5 of Personnel Rules and Regulations.

SECTION 8. SENIORITY

See Section 6.3 of Personnel Rules and Regulations.

SECTION 9. TRANSFER AND PROMOTION LISTS

9.1 Transfer

See Section 3.10 of Personnel Rules and Regulations.

9.2 Promotion

See Sections 5.3 and 5.4 of Personnel Rules and Regulations.

9.3 Time Off for Examination

Promotional examinations scheduled by the City during an employee's regular working hours may be taken without any loss in compensation.

SECTION 10. EVALUATION AND JOB DESCRIPTIONS

10.1 Evaluations

See Section 8.1 of Personnel Rules and Regulations.

10.2 Job Descriptions

The City will meet and confer with the Unit in order to develop job descriptions to the classifications in this Unit if there are significant changes.

SECTION 11. LAYOFFS AND OUTSIDE EMPLOYMENT

11.1 Layoff

When it becomes necessary to reduce the City's work force, employees shall be "laid off" on the basis of their seniority within the classification. See Section 6.1 of Personnel Rules and Regulations.

11.2 Order of Layoff

See Section 6.1 of Personnel Rules and Regulations.

11.3 Notice of Layoff

Before an employee is laid off, the employee and the Association shall be notified in writing of such contemplated layoff at least thirty (30) working days prior to the effective date of the layoff.

11.4 Recall

See Section 6.2 of Personnel Rules and Regulations.

11.5 Outside Employment

See Section 14.1 of Personnel Rules and Regulations.

Off-duty employment will be approved subject to:

- A. An absence of interference with the full and efficient performance of duty at all times.
- B. The absence of a demonstrative conflict of interest between outside employment and City employment.
- C. Outside employment must be covered under State Workers' Compensation Insurance or a comparable insurance policy covering industrial accidents and injuries, said coverage to be approved by the City Manager.
- D. Outside employment will not create any liability against the City of Livingston.

11.6 Resignation

See Section 7.1 of Personnel Rules and Regulations.

11.7 Reinstatement

A permanent employee who has resigned in good standing will be considered for reinstatement to a vacant position of the same classification as the previous position within a period of two (2) years from the effective date of resignation. Reinstatement shall be made at the salary step last received by the returning employee.

SECTION 12. HOURS OF WORK, OVERTIME, PREMIUM PAY

12.1 Hours of Work

Hours of work shall be determined by the employee's Department Head according to the work load and the requirements of the employee's assigned department. All employees shall be scheduled to work on a regular work day and each work day shall have a regular starting and quitting time. The work week shall consist of 40 hours in any seven (7) day period, unless the employee's classification within his/her department necessitates the employee working a special shift.

12.2 Administrative Leave/Overtime/C.T.O.

All Management and Confidential employees shall receive eight (8) administrative days leave in lieu of compensatory time to reward them for their hours of service in excess of forty hours per week. The eight (8) days must be used within the fiscal year earned. Department Heads within the Management and Confidential employees shall receive twelve (12) administrative days leave.

12.3 Breaks

Employees are entitled to two fifteen (15) minute breaks per work day. The breaks may be taken during the first four hours and second four hours of the work day. In addition, each employee is entitled to one (1) hour lunch break during his/her work day.

12.4 Attendance

Employees shall be required to contact their Department Head or his/her designee sixty (60) minutes in advance of being late and explain the reason for the tardiness and what time he/she expects to arrive. If an employee is to absent, he/she must call or discuss the reason beforehand with the Department Head. The employee is responsible for being ready for his/her assigned duty at the start of his/her shift and continue through the shift to the quitting time of the shift in the same state.

12.5 Mileage Allowance

An employee who is required to provide transportation for the performance of his/her job shall be compensated at a rate set by the City Council for all City employees.

An exception to this would be if an employee attended a work oriented function that was reimbursable at a higher rate under another authority. An example of the above would be POST reimbursable conferences and training schools. Mileage

allowance would not be reimbursable at any rate unless prior approval was given to the employee by his/her Department Head.

12.6 Clothing Allowance

The Police Chief and Commander shall receive \$800.00 per year, paid \$200 quarterly, for the maintenance and purchase of uniforms.

SECTION 13. INCENTIVE PAY

Full-time Management and Confidential employees are urged to continue their in service formal education. The City Manager may authorize reimbursement of 50% of the cost of such education. Cost of such education shall only include tuition, books and supplies, not to exceed \$500.00 expense to the City per year per employee.

13.1 Deferred Compensation

Effective January 1, 1998, City will pay up to \$100.00 per month per employee in deferred compensation matching an equal amount contributed by the employee. The City's match to deferred compensation is limited to a one year period beginning January 1 of the effective year. Employees must have five (5) years continued service, effective December 31, 1997, to qualify for this benefit. Members not currently eligible to receive this benefit shall do so upon their fifth anniversary and enjoy the City match for a one year period effective January 1 following their anniversary date.

13.2 Computer Purchase Program

The City will implement an interest free loan to assist Association members with the purchase of personal computers and software as approved by the City.

13.3 Bilingual Pay

All individuals who after having passed a verbal test to determine that they are in fact bilingual, will receive incentive pay at a rate not to exceed \$600 per fiscal year. Distributed on July 1 of each fiscal year.

SECTION 14. HOLIDAYS

14.1 Holiday Pay

Regular full-time employees shall be entitled to observe all authorized holidays at full pay, not to exceed eight (8) hours for any one (1) day.

14.2 Recognized Holidays

If a holiday falls on a Sunday, the following Monday shall be observed and when a holiday falls on a Saturday, the preceding Friday shall be observed.

- A. Day Before New Year's Day
- B. New Year's Day – January 1st
- C. Martin Luther King's Birthday
- D. Washington's Birthday – Third Monday in February
- E. Memorial Day – Last Monday in May
- F. Independence Day – July 4th
- G. Labor Day – First Monday in September
- H. Veteran's Day – November 11th
- I. Thanksgiving Day – Fourth Thursday in November
- J. Day After Thanksgiving
- K. Day Before Christmas Day
- L. Christmas Day – December 25th
- M. Floating Holiday – (2)

14.3 Work Performed on a Holiday

Any regular full-time non-management employee who is required to work on any of the holidays specified in Subsection 14.2, shall receive regular pay for holidays plus one and one-half (1 ½) times regular pay for hours worked on a holiday.

14.4 Holidays During Vacation

In the event any of the holidays specified in Subsection 14.2 occur while an employee is on vacation, the holiday shall not be charged to vacation.

SECTION 15. VACATION

15.1 Vacation Leave

Annual vacation leave is to enable each eligible employee to return to his/her job mentally refreshed. The purpose of vacation is to insure the employee's continued efficiency by allowing periods of rest and relaxation. Therefore, vacation shall be taken in units of one week or more except that the Department Head may allow an employee to take vacation in units of less than one (1) week when he deems it to be in the best interest of the City. Vacation shall only be allowed in increments of one (1) or more whole days. Only one week of an employee's vacation may be split.

15.2 Vacation Allowance

Vacation shall vest upon the first day of employment. Thereafter, in accordance with the following schedule:

<u>Length of Service</u>	<u>Vacation Earned</u>
1-2 years	10 days
3-4 years	15 days
5-14 years	20 days
After 15 years	25 days

Employee will have the option to sell back up to 80 hours total of unused vacation either in December or June annually.

15.3 Pay Upon Termination

An employee shall be paid for any unused vacation time on the termination of his/her employment. The employee shall be paid at the rate of pay in effect at the time of his/her termination.

15.4 Accrual

Employees may accrue a maximum of 300 hours of vacation allowance, with the exception of the Commander this position may accrue a maximum vacation allowance of 400 hours. Employees will not receive any compensation for vacation hours in excess of 300 hours unless employee has requested and has been refused a vacation 30 day prior to exceeding 300 hours accumulated vacation. If the employee has been refused a vacation, he/she must schedule a vacation as soon as working conditions will allow. The same applies to the Commander position with vacation hours in excess of 400 hours.

15.5 Longevity Incentive

Employees shall be eligible for additional weeks of vacation based on longevity. The time shown shall be for one additional week in each of the mentioned years only: Completion of employee's 10th, 20th, 25th and 30th year.

15.5.1 Career Service Pay

Upon reaching such career milestones with the City of Livingston members of the Management and Confidential Employees Unit will receive a one-time payment of as listed below at the end of such completed year of service.

5 years	\$100.00
10 years	\$200.00
15 years	\$300.00
20 years	\$400.00
25 years	\$500.00

15.6 Seniority

In the selection of vacation time, preference shall be given to senior employees where vacation requests of employees conflict.

SECTION 16. LEAVE PROVISIONS

16.1 Sick Leave

Sick leave accumulation shall commence the first day of employment at a rate of one day per month. The taking of sick leave shall commence upon the completion of one month of employment. Sick leave may be accumulated without limit. Upon retirement each employee shall receive 100% of unused sick leave in cash.

When absence is for more than three (3) working days, the employee shall file a physician's certificate or personal affidavit with the immediate supervisor stating the cause and reason for the absence. The City may request a physician's verification of illness before paying any sick leave.

Unused sick leave shall be accumulated at the rate of ninety-six (96) hours a year.

An employee shall be able to use sick leave with pay when illness of a member of the employee's immediate household necessitates such absence. Some verification of personal sick leave is required. If an employee is absent on paid sick leave and a holiday occurs during such absence, the employee shall receive holiday pay for such holiday and such pay shall not be charged against the employee's sick leave credit.

In the event an employee terminates employment with the City, fifty percent (50%) of unused sick leave shall be paid upon termination of employment.

Sick leave shall be accumulated to a limit of 1560 hours for cash out purposes only. Sick leave accumulated in excess of 1560 hours may be utilized for retirement credit. Any employee whose accumulated sick leave total exceeded 1560 hours as of July 1, 1992, shall be exempt from the cash out limitation.

In the event that Workers' Compensation payments cover all or part of the period during which sick leave is paid, the sum of the two shall not exceed the sick leave benefit payable for said period, and the unused portion of accumulated sick leave will continue to be credited to the employee.

16.2 Industrial Disability Leave

Any permanent employee of the City who has suffered any disability arising out of and in the course of employment, as defined by the Workers' Compensation Laws of the State of California, shall be entitled to disability leave while so disabled without a loss of compensation for the period of such disability to a maximum of sixty (60) days. Such disability leave with pay shall be renewable in sixty (60) day increments by the City Manager for a period of one (1) year, subject to examination confirmation of the continuing disability by a physician selected by the City every sixty (60) days.

During the period the employee is paid by the City, the employee shall assign or endorse to the City any benefits received as a result of Workers' Compensation Insurance coverage. The City reserves the right to withhold payment of any disability benefits until such time as it is determined whether or not the illness or injury is covered by Workers' Compensation.

The benefits of Sick Leave and Disability Leave shall be mutually exclusive at any one time, and no Disability Leave may be used for the purposes specified under Subsection 16.1, Sick Leave, and no sick leave benefits may be used for the purposes specified under this Subsection 16.2, Disability Leave.

Employees shall accrue vacation credit during an Industrial Disability Leave which does not exceed thirty (30) days of absence. Employees shall not accrue vacation credit after they have been on Industrial Disability Leave for a total of thirty (30) days in one (1) year, unless the disability is incurred pursuant to the employee's job performance.

16.3 Limited Duty

Upon the advice of his/her physician, an employee may request and may be granted transfer to less strenuous or hazardous duties within their classification which the employee is qualified to perform for a period not to exceed one (1) year

for non-work related injuries or illnesses, or in the case of work related injuries or illnesses, for the full recover or rehabilitation period.

16.4 Funeral Leave

Employee shall be allowed a leave of absence with full pay for up to 40 hours (5) work days due to the death of a member of employee's immediate family. For purposes of this provision, immediate family shall include spouse, domestic partner, child (including legally adopted child), parent, grandparent, grandchild, step-parent, stepchild, sibling, step-sibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law of the eligible employee. Requests for bereavement leave for persons not listed above may be granted at the discretion of the City Manager of his/her designee. Time off for funeral or bereavement leave must be taken within time of service of the immediate family member.

16.5 Leave of Absence

The City Manager may grant a permanent employee a leave of absence without pay or benefits not to exceed one (1) year. Request for such leave shall be in writing and may be approved by the City Manager in writing.

16.6 Maternity Leave

A pregnant employee holding a permanent position shall be entitled to a leave of absence for up to one hundred twenty (120) days. This leave shall commence upon certification from the employee's attending physician that she is no longer capable of performing the duties of her position.

Upon the advice of her physician, the employee may request a temporary transfer to a less strenuous or hazardous position carrying the same or lower salary which she is qualified to perform. However, nothing herein shall result in the displacement or transfer of other employees in permanent positions or the performance of unnecessary work.

Where it is the opinion of the Department Head that the employee should be placed on leave sooner than prescribed by her physician due to her inability to effectively or safely perform the duties of her regular position or of one to which she has been, or could otherwise be, temporarily transferred, the employee may be required to undergo examination by a second physician. The cost of this examination shall be paid by the City and shall not be ordered without prior approval of the City Manager.

During the first six (6) weeks of any such leave, the employee shall be entitled to utilize accrued sick leave benefits on the same basis as other employees who are temporarily disabled due to a non-industrial illness or injury.

After the first six (6) weeks of such leave, the employee shall be entitled to utilize accrued vacation. While the pregnant employee is on a paid leave status, service credits shall continue to accrue and the City shall continue payments toward group insurance and retirement coverage.

Upon expiration of the approved leave, the employee shall be reinstated to her former position. Prior to the employee being reinstated, the Department Head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

An employee may, based upon medical factors, request that her leave be extended beyond one hundred twenty (120) days and shall submit a supporting statement from her physician. The Department Head, with the approval of the appointing authority, may extend the leave for up to an additional thirty (30) days.

16.7 Military Leave

Military leave shall be granted in accordance with the provisions of State Law. All employees entitled to military leave shall give the City Manager an opportunity within the limits of military regulations to determine when such leave shall be taken.

16.8 State Disability Insurance

Employee shall pay full premium for State Disability Insurance.

SECTION 17. HEALTH AND WELFARE PLANS

17.1 Medical-Dental-Vision-Long Term Disability and Life Insurance

Effective February 1, 2006, for those employees known as the Livingston Management and Confidential Employees Association, the City of Livingston will pay all premiums associated with the cost of providing medical, dental, vision, long term disability and life insurance for full-time employees and their eligible dependents.

Also effective February 1, 2006, the City of Livingston will assume full control over the benefit plans offered to the employees, including the selection and retention of any and all agencies involved in providing and maintaining medical, dental, vision, long term disability and life insurance benefits. The City agrees to continue to provide comparable or better benefit plans for the employees as long

as the financial condition of the City is such that it can afford to cover the cost of providing the benefits.

Bargaining unit members who opt out of participating in the group medical plans sponsored by the City, and who provide proof of their medical coverage in a group plan, will receive \$500 per month, and allow payment in cash paid monthly or which part must be used in a deferred compensation plan of the employee's choice. This benefit will be effective upon final ratification by both parties (unit and City) for those that qualify. Any Federal/State laws/policies/guidelines conflicting with this incentive program should supersede this section of the MOU and incentive may be subject to termination.

Effective July 1, 2019, the City of Livingston shall contribute the following amounts monthly toward the total premium for medical plans; the employee is responsible for the balance of the premium cost, if any.

City Monthly Contribution Cap:

	<u>PPO</u>	<u>EPO</u>
Employee Only	\$ 581.98	\$ 650.16
Employee + One	\$1163.96	\$1300.31
Family	\$1543.17	\$1720.41

17.2 Medical Examinations

The City, at its option, may require a physical examination of each employee upon his/her entry into employment and of each employee at least once a year during the term of this agreement. Annual physical examinations shall be normally held on the anniversary date of an employee's entry into employment. Standards of each examination shall be the same for all employees. Any expense in connection with the physical examination will be borne by the City. However, this is not to be considered as meaning that the City will pay for the treatment of any physical ailments which may be discovered by such examination. Examinations must be conducted at a location chosen by the City.

17.3 Retirement - Classic Members

The benefit contract in effect between the City of Livingston and Public Employees' Retirement System (PERS) in behalf of eligible permanent full-time employees of this Unit as of July 1, 1989, shall be continued during the term of this Memorandum of Understanding.

The City will contribute the employees' seven percent (7%) payment to PERS. The payment made by the City on behalf of the employee will remain in the employees' account and may be withdrawn by the employee at such time as the employee terminates from participation in PERS or retires. However, money contributed by the City on behalf of the employees will be considered taxable income during the year in which it is withdrawn. The City will furnish all employees an annual statement of the monies deposited in PERS on their behalf.

The City of Livingston shall amend the City's contract with the Public Employees' Retirement System (PERS) to provide the following additional benefit as provided by Section 20042 of the Government Code for the Local Miscellaneous Employees Group only:

The period for determining the average monthly pay rate when calculating retirement benefits will change from the 36 highest paid consecutive months to the 12 highest paid consecutive months. (Applicable only to members retiring or whose death occurs after the effective date of the contract amendment.)

17.3.1 Retirement – Classic Members

Effective upon execution of this agreement, Management and Confidential Employees Association, Classic members will pay one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2019, Management and Confidential Employees Association, Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2020, Management and Confidential Employees Association, Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

17.3.2 Retirement – New Members

All employees hired on or after January 1, 2013, who are considered "new members" under the Public Employees Pension Reform Act (PEPRA) will be provided a CalPERS benefit formula of 2% at 62 for Miscellaneous and 2% at 57 for Safety.

In addition, "new members" shall be subject to the contribution requirements in Section 7522.30(a) and (c) of the PEPRA, and the City shall not pay any of the required employee contribution for "new members."

17.4 Post Retirement Benefits

For all employees employed by the City as of July 1, 1989 only who retire from the City's employment under the Public Employees' Retirement System currently in effect other than disability retirement, the City will continue to pay the premiums for health and dental care coverage in an amount equal to the amount paid if the employee was still employed by the City.

In disability cases, dependent medical and dental coverage will continue until death of the retired employee or until dependents no longer are qualified as dependents under the current medical and dental plan.

17.5 False Arrest Insurance/Police Management

The City will provide the Chief of Police with False Arrest Insurance in conjunction with the City's General Liability policies.

17.6 Long-Term Disability

City will provide each employee covered under this Memorandum of Understanding with Long-Term Disability coverage at the City's expense.

17.7 American with Disabilities Act

Because the ADA required accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual, case by case basis, the parties agree that the provisions of the Agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

The Association recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The Association will be notified of these proposed accommodations prior to implementation by the City.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure.

Prior to disregarding any provision of this Agreement in order to undertake required accommodations for an individual protected by the Act, the City will provide the Association with written notice of its intent to disregard the provision, and will allow the Association the opportunity to discuss options to disregarding

the Agreement. However, as the City has a legal obligation to undertake required accommodations such action shall not be subject to bargaining with the Association.

SECTION 18. SAFETY

18.1 Observance of Safety Rules and Regulations/Public Service Employees

Both the City and the Association shall expend every effort to ensure that work is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations.

Each employee covered by this Memorandum agrees to comply with all safety rules and regulations in effect and any subsequent rules and regulations that may be adopted. Employees further agree that they will report all accidents and safety hazards to the appropriate management official immediately. Any employee having knowledge of, or who is a witness to an accident shall, if requested, give full and truthful testimony as to same.

An employee may refuse a dangerous work assignment if one or all of the following conditions exist and he/she immediately notifies his/her supervisor of the condition(s):

1. He/she has a reasonable belief, based on what he/she knows at the time, at the time, that there is a real imminent danger of death or serious physical injury. If he/she has good reasons that other reasonable people would recognize, he/she may refuse the task even if it is later found that there was no imminent danger.
2. If he/she has asked his/her employer to eliminate the danger and the employer has failed to do so.
3. The danger is so imminent that it cannot be eliminated quickly enough through normal OSHA enforcement procedures.

18.2 Safety Program

The Management-Confidential Safety Committee shall consist of three (3) representatives of the Management-Confidential Unit.

18.3 Safety Equipment

Protective clothing or any type of protective device required in employee's work will be furnished to the employee by the City at not cost to the employee. All employees shall use City supplied safety equipment only for the purpose and use specified under applicable safety rules and regulations.

The City agrees to purchase one (1) pair of Red Wing work boots with steel shanks through a purchase order not to exceed \$170.00 once a year for the Public Works Superintendent. The city will provide one (1) new jacket for the Public Works Superintendent during the term of this agreement.

SECTION 19. DISCIPLINE AND DISCHARGE

See Section 9 of Personnel Rules and Regulations.

SECTION 20. GRIEVANCE PROCEDURE

See Section 10 of Personnel Rules and Regulations.

SECTION 21. MODIFICATION OF AGREEMENT

No changes in this Memorandum of Understanding or interpretations thereof will be recognized, unless agreed to by the City Manager and the Association unless a financial disaster results in a significant loss of revenue to the City which shall allow the City to open the contract unilaterally.

SECTION 22. NEW WORK

In the event the City introduces new work which the Association believes does not fall within any of the existing classifications, the City and the Association shall, upon written request, meet and confer with respect to the assignment or classification of such work.

SECTION 23. PAST PRACTICES AND EXISTING MEMORANDA OF UNDERSTANDING

This Memorandum of Understanding shall supersede all existing and prior Memoranda of Understanding between the City and the Association, resolutions and ordinances which are in conflict with this agreement.

STAFF REPORT

AGENDA ITEM: A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding between the City of Livingston and the AFSCME Local 2703, District Council 57 on behalf of the Public Works and Parks Employees Unit

MEETING DATE: August 20, 2019

PREPARED BY: Danna Rasmussen, Human Resources Coordinator

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

City Council review and approve the Memorandum of Understanding for the City of Livingston AFSCME Local 2703, District Council 57, Public Works and Parks Employees Unit.

BACKGROUND:

The City Manager has negotiated additional compensation and benefits, at the direction of City Council, and the bargaining unit known as the AFSCME Local 2703, District Council 57, Public Works and Parks Employees Unit has accepted and agreed to the proposed additional compensation and benefits.

DISCUSSION:

Compensation and Benefits negotiated include the following:

1. Add language regarding AB 119, to give the union access to new employee orientations.
2. Effective July 1, 2018 increase Bilingual pay to \$600 per fiscal year.
3. Effective July 1, 2018 the City of Livingston will pay a 5% base salary adjustment.
Effective July 1, 2019 the City of Livingston will pay a 3% base salary adjustment.
Effective July 1, 2020 the City of Livingston will pay a 3% base salary adjustment.
4. Effective July 1, 2018, a maximum of two (2) employees who obtain and maintain a pesticide certification shall be paid \$300 quarterly.
5. Effective July 1, 2018 the language regarding Funeral Leave will change to include employees shall be allowed a leave of absence with full pay for 40 hours five (5) work days due to the death of a member of the employees' immediate family.
6. Effective upon execution of this agreement, AFSCME Public Works and Parks Classic members will pay one percent (1%) of the Employee contribution to PERS.
Effective July 1, 2019, AFSCME Public Works and Parks Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2020, AFSCME Public Works and Parks Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

7. Safety Equipment, the City of Livingston agrees to reimburse the employee for work boots with steel shanks through a purchase order up to \$200 once a year.
8. The terms of this Memorandum of Understanding shall become effective July 1, 2018, and continue in effect until June 30, 2021 unless modified, changed, or otherwise altered by force of law or by mutual agreement between the parties of this agreement.
9. All pay increases are retroactive to July 1, 2018.

FISCAL IMPACT:

Approval from City Council to allow staff to make the necessary budget adjustments.

ATTACHMENTS:

1. Resolution No. 2019-___, A Resolution of the City Council of the City of Livingston Approving a Memorandum of Understanding between the City of Livingston and the AFSCME Local 2703, District Council 57 on behalf of the Public Works and Parks Employees Unit
2. AFSCME Local 2703, District Council 57 on behalf of the Public Works and Parks Employees Unit MOU

RESOLUTION NO. 2019-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LIVINGSTON AND
THE AFSCME LOCAL 2703, DISTRICT COUNCIL 57 ON BEHALF OF THE
PUBLIC WORKS AND PARKS EMPLOYEES UNIT**

WHEREAS, the City of Livingston, through its City Manager, has negotiated new terms which will alter or change the existing Memorandum of Understanding, as it applies to the AFSCME Public Works and Parks Employees Unit; and

WHEREAS, the terms of the Memorandum of Understanding between the City of Livingston and the AFSCME Public Works and Parks Employees Unit are effective July 1, 2018 through June 30, 2021; and

WHEREAS, the attached revised Memorandum of Understanding (“MOU”) makes the following changes:

1. Approves modifications to MOU sections 2.1: language regarding AB 119.
2. Approves modifications to MOU section 6.8: Salary/wage increases as follows;
 - A) 5% salary/wage increase effective July 1, 2018.
 - B) 3% salary/wage increase effective July 1, 2019.
 - C) 3% salary/wage increase effective July 1, 2020.
3. Approves modifications to MOU section 6.7: Bilingual pay paid at \$600 per fiscal year.
4. Approves modifications to MOU section 16.2.1: Retirement-Classic Members.

Effective upon execution of this agreement, AFSCME Public Works and Parks Classic members will pay one percent (1%) of the Employee contribution to PERS.
Effective July 1, 2019, AFSCME Public Works and Parks Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.
Effective July 1, 2020, AFSCME Public Works and Parks Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.
5. Approves modifications to MOU section 6.3.1: maximum of two (2) employees who obtain and maintain a pesticide certification shall be paid \$300 quarterly.

Resolution No. 2019-

6. Approves modifications to MOU section 15.4: Funeral Leave, employee shall be allowed a leave of absence with full pay for up to 40 hours (5) work days due to the death of a member of employees immediate family.
7. Approves modifications to MOU section 17.3: Safety equipment, to reimburse employee for work boots with steel shanks through purchase order up to \$200 once a year.

WHEREAS, the City Council now desires to formally approve those changes in the Memorandum of Understanding as has been negotiated and approved by the parties.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livingston that it hereby approves a three (3) year Memorandum of Understanding between the City of Livingston and the AFSCME Local 2703, District Council 57 Public Works and Parks Employees Unit, in a form approved by the City Attorney, for the period of July 1, 2018 through June 30, 2021.

Passed and adopted this 20th day of August, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gurpal Samra, Mayor
of the City of Livingston

ATTEST:

I, hereby certify that the foregoing Resolution was regularly introduced, passed, and adopted at a regular meeting of the City Council of the City of Livingston this 20th day of August, 2019.

Monica Cisneros, Deputy City Clerk
of the City of Livingston

**CITY OF LIVINGSTON
AFSCME LOCAL 2703, DISTRICT COUNCIL 57
ON BEHALF OF THE
PUBLIC WORKS AND PARKS EMPLOYEES UNIT
MOU**

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Local 2703, Council 57, American Federation of State, County and Municipal Employees, AFL-CIO, and representatives of the City of Livingston have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of employees in the representation units listed in Section 1, have exchanged freely information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations to such employees.

SECTION 1 - RECOGNITION

Local 2703, Council 57, American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as the "Union" or "AFSCME Local 2703" is recognized as the majority representative as provided in the City's Personnel Rules and Regulations for all employees assigned to the classifications set forth in Appendix "A", which is attached hereto and incorporated herein by reference.

1.1 City Council Approval

It is agreed that this Memorandum of Understanding is not in force or effect until ratified and approved by Resolution hereby adopted by the City Council of the City of Livingston.

1.2 Conflict of Memorandum or Resolution

It is understood and agreed that there exists within the City Personnel Rules and Regulations per Resolution No. 87.30.

SECTION 2 – UNION SECURITY

At the time a new employee is hired who will be subject to this agreement, the City shall deliver to the employee a written notice stating that the City acknowledges the Union as the recognized employee organization for the employees covered by this agreement.

2.1 New Hires

City shall notify the Union, in writing, of all new hires within seven (7) days after the initial hire date. The information provided shall contain name, job title, department, work location, work, home, and personal cellular phone numbers, personal email on file with the City and home address. Notwithstanding the foregoing, City shall not disclose the personal email address, cellular and/or home phone number and/or home address of any employee who submits a written request that such information remain private. The City shall provide a list of all previously stated information for all employees working for the City in the covered classifications at least once every 120 days (January 1, May 1 and September 1 of every year), with the exception of those employees who have requested in writing that the information remain private.

When a new employee orientation/on boarding is scheduled, the Union will receive an invitation to such at least ten (10) days in advance of scheduled date of orientation/on boarding unless there is an unforeseeable urgent need requiring a shorter notice period, pursuant to California Government Code section 3556. City will allow the Union to meet with new employees hired into the bargaining unit for a total of 30 minutes during the employee orientation.

Payment of dues shall be by payroll deduction. Upon receipt of written certification by the Union that an employee has signed a deduction authorization, the City will deduct the appropriate dues or fees from the employee's pay, as established and as may be changed from time to time by the Union and will remit such dues or fees to the Union. Employee requests to cancel or change deductions must be directed to the Union, rather than City. Payroll deductions will cease or be modified upon receipt of written certification from the Union that the employee has revoked or modified the deduction authorization for dues or fees. Payroll deductions for new members authorizing dues deduction will become effective the first pay period following City's receipt of the written certification of authorization. Revocations or modifications of authorizations will become effective the first pay period following City's receipt of the written certification of revocation or modification. Neither the City nor the Union will discriminate against any unit member because of the exercise of their statutory rights.

In accordance with Government Code 1157.12, the Union agrees to hold the City harmless from all claims, demands, suits or other forms of liability that may arise against City for or on account of any deduction made from the wages of such employees pursuant to this MOU.

2.2 Voluntary Contributions to "AFSCME PEOPLE"

The City agrees to deduct from the paycheck of all employees, who have elected to contribute and are covered by this Memorandum of Understanding, voluntary contributions to AFSCME PEOPLE (Public Employees Organized to Promote Legislative Equality). The Union shall notify the City of the monthly amounts designated by each contributor/employee that are to be deducted from his/her paycheck on a bi-weekly basis for each period worked. The employee shall make the designation for the voluntary contribution.

The City shall transmit to AFSCME Local 2703 on a monthly basis in one (1) check the total amount deducted along with a roster indicating the name of each employee on whose behalf a deduction is made and the amount deducted from that employee's paycheck

2.3 Communication With Employees

The Union shall be provided suitable space on bulletin boards at each work location for posting notices concerning official Union business.

2.4 Advance Notice

The Union shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted

by the City and shall be given the opportunity to meet with the appropriate management representatives prior to adoption.

2.5 List of Unit Employees

The City shall furnish the Union with the names and classifications and date of hire of employees newly assigned to the unit and employees leaving the unit.

SECTION 3 – MANAGEMENT RIGHTS

The employer reserves and retains, solely, exclusively, all management rights and authority, including the rights set forth by law, except as specifically abridged or modified by this agreement.

SECTION 4 – NO DISCRIMINATION

The City agrees not to discriminate against any employee because of membership in the Union. The Union agrees not to discriminate against any employee for non-membership in the Union. Union activities shall not interfere with the normal operation of the City. See Section 4.1 of Personnel Rules and Regulations.

SECTION 5 – UNION STEWARDS AND OFFICIAL REPRESENTATIVES

5.1 Stewards

The Union shall be entitled to one (1) Steward for each ten (10) employees who shall restrict their activities to the handling of grievances and shall be allowed a reasonable amount of time for this purpose. The Union shall notify the City Manager in writing of the name/names of the Steward/Stewards.

5.2 Representative of the Union

An authorized representative of the Union shall be allowed to visit the work location for the purpose of ascertaining whether or not this Memorandum of Understanding is being observed. This right shall be exercised reasonably. An authorized representative of the Union shall report to management before proceeding to the work location. He/she shall not interfere with the normal conduct of work. Union meetings must be held after normal working hours.

5.3 Access to Personnel Files

An employee or an employee's representative both upon written authorization from the employee shall have access to the employee's personnel file upon request. Nothing shall be placed in an employee's personnel file until he/she has seen it.

SECTION 6 SALARY PLAN/COMPENSATION

6.1 Salary Schedule – see attached

The parties have agreed to use the Merced County CPI to determine the cola's. Future Cola's will be subject to meet and confer process annually only after the State of California has adopted its budget. Retroactivity shall be presumed to July 1, of each year unless the parties have specifically agreed otherwise.

Salary Plan Administration

See Section 3 of Personnel Rules and Regulations.

6.2 Salary Plan Administration, Original Appointment

See Section 3 of Personnel Rules and Regulations.

6.3 Salary Plan Administration, Advancement Within Salary Range

See Section 3 of Personnel Rules and Regulations.

6.3.1 A maximum of two (2) employees who obtain and maintain a pesticide certification shall be paid \$300 quarterly.

6.4 Salary Plan Administration, Salary Step after Promotion or Demotion

See Section 3 of Personnel Rules and Regulations.

6.5 Temporary Upgrading

An employee assigned by the Department Head to perform the duties of a higher-[aid classification shall receive an increase of five per cent (5%) for all hours so worked at the higher classification, from the first hour worked provided, however, that the rate paid shall not exceed the top step of the classification, nor be less than the first step of the classification.

If the temporary upgrading of the employee's work lasts less than ten (10) consecutive working days, hours worked at the 5% increase in pay will be accumulated and paid quarterly on the first pay period in January, April, July or October.

A temporary assignment to a higher classification may not exceed six (6) months from the date the employee began working in the higher classification. In the event the temporary assignment lasts longer than six (6) months, the employee shall be deemed appointed to the higher classification. Time served in the classification shall be counted as time in the classification for the purpose of serving a new probation period.

6.6 Salary Plan, Pay Periods – See Section 3.3 of Personnel Rules and Regulations.

6.7 Bi-Lingual Pay

All individuals who after having passed a verbal test to determine that they are in fact bi-

lingual, will receive incentive pay at a rate not to exceed \$\$600. per fiscal year, distributed quarterly.

6.8 Increases During Term of this Memorandum of Understanding, July 1, 2018 through June 30, 2021

For those employees within the bargaining unit, the Public Works and Parks Employees Unit shall receive a base salary adjustment on such dates as listed below.

Effective July 1, 2018, 5% base salary adjustment.

Effective July 1, 2019, 3% base salary adjustment.

Effective July 1, 2020, 3%base salary adjustment.

6.9 The City agrees to meet and confer with the Union about Commercial Licenses, before July 1, 2016.

SECTION 7 – PROBATION PERIOD

See Section 5.5 of Personnel Rules and Regulations. An employee who is not fulfilling the requirements of the appointed position will be notified that his/her performance is unsatisfactory and will be evaluated at 30 day intervals for the final 90 days of the period. If performance is unsatisfactory after the 90 day period, the employee will return to the previous position held.

SECTION 8 – SENIORITY

See Section 6.3 of the Personnel Rules and Regulations.

SECTION 9 – TRANSFER, PROMOTION, EMPLOYMENT LISTS

9.1 Transfer

See Section 3.10 of Personnel Rules and Regulations.

9.2 Promotion

See Section 5.4 of Personnel Rules and Regulations.

9.3 Employment Lists for Promotion

See Section 5.3 of Personnel Rules and Regulations.

9.4 Time Off for Examinations

Promotional examinations scheduled by the City during an employee's regular working hours may be taken without any loss in compensation.

9.5 Preservation of Work

The City will not contract out work that will result in a reduction in the work force unless failure to do so would cause economic hardship on the community. The City shall show this economic

hardship during a meet and confer session with the Union. The City will give a six (6) month notice to the Union and attempt to find jobs for the displaced employees with the contracting agency.

9.6 Reduction in Force (Layoffs)

When it becomes necessary to reduce the City's work force, employees shall be "laid off" on the basis of their seniority within the Public Works/Parks Department. See Section 6.1 of Personnel Rules and Regulations.

- a. Order of Layoff – See Section 6.1 of Personnel Rules and Regulations.
- b. Notice of Layoff

Before an employee is laid off, the employee and the Union shall be notified in writing of such contemplated layoff at least sixty (60) working days prior to the effective date of layoff.

9.7 Reinstatement

See Section 6.2 of Personnel Rules and Regulations.

9.8 Training

Both the City and Union agree that training is an important part of employment. Training will be provided by City for each employee to improve their job skills as well as providing an opportunity for advancement. The training provided will be fully funded by City with no cost to the employee and will be job related. Such training will not in any way guarantee employee advancement, but will assist such promotion when a position is available.

The City shall provide a reimbursement of any tuition, books, or other expenses as part of the Water or Waste Water Certificate effective 7/1/92.

- 9.8.1** The City will implement an interest free loan to assist Bargaining Unit members with the purchase of personal computers and software as approved by the City.

SECTION 10 – EVALUATIONS AND JOB DESCRIPTIONS

10.1 Evaluations – See Section 8.1 of Personnel Rules and Regulations

10.2 Job Descriptions

The City will meet and confer with the Union to review job descriptions of the classifications in this unit if the City makes any significant changes from the existing job descriptions.

SECTION 11 – RESIGNATION AND REINSTATEMENT

11.1 Resignation

See Section 7.1 of Personnel Rules and Regulations

11.2 Reinstatement

A permanent employee who has resigned in good standing will be considered for reinstatement to a vacant position of the same classification as the previous position within a period of two (2) years from the effective date of resignation. Reinstatement shall be made at the salary step last received by the returning employee.

A permanent employee who has resigned in good standing shall be allowed to reapply for a vacant position, but will be required to participate in oral interview process if there is one.

SECTION 12 – HOURS OF WORK – OVERTIME/CTO – PREMIUM WORK

Authorized work performed in excess of eight (8) hours in one day or more than forty (40) hours in a regular work schedule in one (1) week, shall constitute overtime. AFCME Public Works and Parks Employees may choose between CTO and paid overtime when they are required to work overtime. Paid overtime will be compensated at one and one-half the employee's regular hourly rate of pay. Association members will be allowed to accumulate a maximum of eighty (80) hours of CTO earned at a rate of 1.5 times actual overtime worked. All paid leave (vacation, holiday, sick leave) is considered time worked. The City shall not change work hours to avoid paying of overtime.

12.1 Breaks

Employees shall be entitled to take on fifteen (15) minute break mid-morning, and one fifteen (15) minute break mid-afternoon. Employees may take their break at their current work site, or they may use a City vehicle to drive to another location for their break. In any case the break time shall not exceed fifteen (15) minutes in the morning and fifteen (15) minutes in the afternoon, including driving time.

12.1.1 Lunch Breaks

- a.** Employees will be entitled to one unpaid lunch break of thirty (30) minutes each work day. The lunch break shall not occur less than four hours into the shift or within two (2) hours of the time the shift ends. Employees may drive a City vehicle to one destination during their lunch break. An employee may combine the fifteen (15) minute afternoon break with the lunch break for a total of a forty-five minute lunch break, of which fifteen (15) minutes shall be paid.
- b.** Employees may drive a City vehicle to one destination during their lunch break. In any case the break time will not exceed forty-five (45) minutes (including the 15

minute afternoon break) or 30 minutes if the afternoon break is not taken concurrently with the lunch break, including driving time.

12.2 Temporary Employees

See Section 1.5 for definition and Section 3.5 of Personnel Rules and Regulations.

12.2a Call Back

Call back work is defined as work required of an employee when such employee is not on his/her regular shift, during the period that begins one (1) hour after the employee's regular shift has ended and ends one (1) hour before the employee's next regular shift is scheduled to begin.

12.2.1 Call Back Compensation

If an employee is required to and does report for work after he/she is called back, he/she shall be paid travel time at the overtime rate in addition to pay for time worked. The amount of travel time allowed will be the reasonable time it takes to travel from his/her home to wherever he/she is to report. He/she will be credited with the same amount of travel time to return home except when the work for which he/she is called back continues until the beginning of his/her next regular scheduled shift; in such cases, travel time for returning home will not be paid. If an employee is called back and does report to work, he/she shall receive pay for a minimum of two (2) hours pay at the rate of 1 ½ times the employee's straight time rate of pay. Only one two (2) hour minimum call back allowance shall be paid in any call back period as defined in Article 12.2. Employees shall be paid at a rate of 1 ½ times the straight time rate for pay for all call back hours worked in excess of the minimum two (2) hours of call back time.

12.2.2 Call Back – Telephone Response

If any employee is contacted via telephone during the call back period defined in Section 12.2, the employee shall be paid in 15 minute increments at the rate of time and one half. For example, if the call lasts less than 15 minutes, the employee will be compensated for the full 15 minute increment at a rate of time and one half. If the call lasts for 20 minutes, the employee will be compensated for 30 minutes (two 15 minute increments). All calls made under this Section shall be authorized by the Public Works Director or City Manager.

12.2.3 The City agrees to meet and confer with the Union about Call-Back, before July 1, 2016.

12.3 Mileage Allowance

An employee who is required by the City Manager to provide transportation for the performance of his/her job shall be compensated at a rate set by the City Council for all City employees.

12.4 Stand-By

- a. The City of Livingston agrees to pay Standby to one Public Works employee from the General Department/Division and one employee from the Wastewater Division at the rate of two (2) regular hours per day Monday through Friday and four (4) hours per day for each weekend day or Holiday.
- b. If an employee is called back to work, Section 12.2 shall apply. In addition to Section 12.2, The City will pay time and one-half for hours actually worked that exceed the two (2) hour call back minimum.
- c. The employee on call during weekdays will be the same employee that works the late shift from 8:00 AM to 5:00 PM that day.
- d. Regular full-time employees who are in the Maintenance Worker classification, Maintenance Mechanic, Public Works Lead Man and the Water/Wastewater Operator I, II, and III classifications are subject to Stand-By for the City of Livingston. All individuals are subject to Call-Back at the request of the Public Works Director or his/her designee.
- e. The City agrees to meet and confer with the Union about Stand-By, before July 1, 2016.

12.5 Work Schedule:

For employees on a 5-8 Schedule: Any employee who works more than eight (8) hours in one day or more than forty (40) hours per **workweek** shall be paid one and one-half (1 ½) times their regular rate for all hours worked in excess of eight (8) hours in one day or in excess of forty (40) hours per **workweek**. All paid leave (vacation, holiday, sick leave) is considered time worked. The City shall not change work hours to avoid paying overtime. **The FLSA workweek for employees on a 5-8 schedule shall begin Sunday at 12:01 a.m. and end the following Saturday at midnight.**

SECTION 13 – HOLIDAYS

13.1 Holiday Pay

Regular full-time employees shall be entitled to observe all authorized holidays at full pay, not to exceed eight (8) hours for any one (1) day.

13.2 Recognized Holidays

If a holiday falls on a Sunday, the following Monday shall be observed and when a holiday falls on a Saturday, the preceding Friday shall be observed.

- A. Day before New Year's Day
- B. New Year's Day – January 1st
- C. Martin Luther King, Jr. –January (3rd Monday)
- D. President's Day– February (3rd Monday)
- E. Memorial Day – Last Monday in May
- F. Independence Day – July 4th
- G. Labor Day – First Monday in September
- H. Veteran's Day – November 11th
- I. Thanksgiving Day – Fourth Thursday in November
- J. Day after Thanksgiving
- K. Day before Christmas
- L. Christmas Day – December 25th
- M. Optional Holidays (2) – Must be taken before end of the fiscal year in each year of the agreement.

13.3 Worked Performed on a Holiday

Any regular full-time employee who is required to work on any of the holidays specified in subsection 13.2 shall receive regular pay for holidays plus one and one-half (1 ½) times regular pay for hours worked on a holiday.

13.4 Holiday During Vacation

In the event any of the holidays specified in subsection 13.2 occur while any employee is on vacation, the holiday shall not be charged to vacation.

SECTION 14 – VACATION LEAVE

14.1 Vacation Allowance

Regular full-time employees who have worked for the City six (6) months or more shall be entitled to vacation leave as follows: Upon completion of the initial six (6) month probationary period of employment, full-time employees shall be credited with forty (40) hours of vacation leave. Thereafter, in accordance with the following schedule:

<u>Length of Service</u>	<u>Vacation Earned</u>
1-2 Years	10 Days
3-4 Years	15 Days
5-14Years	20 Days
15 Year on	25 Days (Ceiling)

An employee having a minimum balance of 160 hours of vacation shall have the option to sell back up to 80 hours total of unused vacation either in December or June annually.

Longevity Incentive

Employees shall be eligible for one additional week (40 hours) of vacation at the following rate:

10th Year = 1 week for that year

20th Year = 1 week for that year

25th Year = 1 week for that year

30th Year = 1 week for that year

The time shown shall be for one additional week in each of the mentioned years only, not retroactive.

14.2 Vacation Provisions

In the case of severance of employment, the employee shall be paid for vacation earned pro-rated on the basis of 1/12th of 1, 2, 3, 4, or 5 weeks' vacation whichever applies to each month or major fraction thereof or since the anniversary date of his/her employment.

Payment for each week of employment shall be for 40 hours at the applicable rate in effect at the time of vacation. Vacations may be split and taken at a time desired by the employee with prior approval of the Department Head.

Continuity of service for vacation shall be interrupted by layoff due to illness, accident or forced layoff by the employer of less than 30 days or leave of absence mutually agreed to by the employer and the employee.

In the selection of vacation time, preference shall be given to senior employees where vacation requests of employees conflict.

Vacation accrual will not be allowed over 280 hours. Employees will not receive any compensation for vacation hours in excess of 280 hours unless employee has requested and has been refused a vacation 30 days prior to exceeding 280 hours of accumulated vacation. If the employee has been refused a vacation, he must schedule a vacation as soon as working conditions will allow.

SECTION 15 – LEAVE PROVISIONS

15.1 Sick Leave

Sick leave accumulation shall commence the first day of employment at a rate of one day per month. The taking of sick leave shall commence upon the completion of one month of employment. Sick leave may be accumulated without limit.

Upon retirement each employee shall receive 100% of unused sick leave in cash, to a maximum of 1560 hours. Any additional hours will be credited toward retirement.

Sick leave will be paid at 75% of accrued Sick Leave at time of layoff.

When an absence is for more than three (3) consecutive work days, the employee shall file a physician's certificate or personal affidavit with the immediate supervisor stating the cause and reasons of the absence. City may request a physician's verification of illness before paying any sick leave.

Unused sick leave shall be accumulated at the rate of ninety-six (96) hours a year. An employee shall be able to use sick leave with pay each year when illness of a member of the employee's immediate household necessitates such absence. Some verification of a personal sick leave is required. If an employee is absent on paid sick leave and a holiday occurs during such absence, the employee shall receive holiday pay for such holiday and such pay shall not be charged against the employee's sick leave credit.

In the event an employee voluntarily terminates employment with the City, fifty per cent (50%) of unused sick leave shall be paid upon termination of employment.

In the event that Workers' Compensation payments cover all or part of the period during which sick leave is paid, the sum of the two shall not exceed the sick leave benefit payable for said period, and the unused portion of accumulated sick leave will continue to be credited to the employee.

15.2 Industrial Disability Leave

Any permanent employee of the City who has suffered any disability arising out of and in the course of employment, as defined by the Workers' Compensation laws of the State of California, shall be entitled to disability leave while so disabled without loss of compensation for a period of such disability to a maximum of sixty (60) day increments by the City for a total period of one (1) year, subject to examination confirmation of the continuing disability by a physician selected by the City every sixty (60) days.

During the period the employee is paid by the City, the employee shall assign or endorse to the City any benefit payment received as a result of Workers' Compensation Insurance coverage. The City reserves the right to withhold payment of any disability benefits until such time as it is determined whether or not the illness or injury is covered by Workers' Compensation.

The benefits of Sick Leave and Disability Leave shall be mutually exclusive at any one time, and no Disability Leave may be used for the purpose specified under subsection 15.1, Sick Leave, and no Sick Leave benefits may be used for the purposes specified under this subsection 15.2, Disability Leave.

Employees shall accrue vacation credit during an Industrial Disability Leave which does not exceed thirty (30) days of absence; employees shall not accrue vacation credit after they have been on Industrial Disability leave for a total of thirty (30) days in any one (1) year.

15.3 Limited Duty

Upon the advice of his/her physician, an employee may request and may be granted transfer to less strenuous or hazardous duties within their classification which the employee is qualified to perform for a period not to exceed one (1) year for non-work related injuries or illnesses, or in the case of work related injuries or illnesses, for the full recovery or rehabilitation period.

15.4 Funeral Leave

Employee shall be allowed a leave of absence with full pay for up to 40 hours (5) work days due to the death of a member of employee's immediate family. For purposes of this provision, immediate family shall include spouse, domestic partner, child (including legally adopted child), parent, grandparent, grandchild, step-parent, stepchild, sibling, step-sibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law of the eligible employee. Requests for bereavement leave for persons not listed above may be granted at the discretion of the City Manager of his/her designee. Time off for funeral or bereavement leave must be taken within time of service of the immediate family member.

15.5 Leave of Absence

Upon written request a leave of absence without pay may be granted to any permanent employee for a period not to exceed six (6) months for the following reasons:

1. Illness or disability not covered by sick leave.
2. Education or training which will benefit the employee, but that which is not paid by the employer.
3. Personal reasons: In the event of unusual or special circumstances, a leave of absence may be extended if recommended by the Department Head and approved by the City Manager.

A request for leave of absence without pay shall be made in writing to the Department Head stating the reasons for such request. For leaves of absence in excess of five (5) days, the Department Head shall submit the request with their recommendation to the City Manager.

All accumulated vacation time shall be exhausted prior to having been granted a leave of absence without pay. Any employee who does not return to work on the subsequent work day after the date of expiration, shall be considered terminate. The employee, while on authorized leave of absence, will not be eligible for accruing vacation and/or holidays.

15.6 Maternity Leave

A pregnant employee holding a permanent position shall be entitled to a leave of absence for up to one hundred twenty (120) days.

This leave shall commence upon certification from the employee's attending physician that she is no longer capable of performing the duties of her position.

Upon the advice of her physician, the employee may request a temporary transfer to a less strenuous or hazardous position carrying the same or lower salary which she is qualified to perform. However, nothing herein shall result in the displacement or transfer of other employees in permanent positions or the performance of unnecessary work.

Where it is the opinion of the Department Head that the employee should be placed on leave sooner than prescribed by her physician due to her inability to effectively or safely perform the duties of her regular position or of one which she has been or could otherwise be temporarily transferred, the employee may be required to undergo an examination by a second physician. The cost of this examination shall be paid by the City and shall not be ordered without prior approval of the City Manager.

During the first six (6) weeks of any such leave, the employee shall be entitled to utilize accrued sick leave benefits on the same basis as other employees who are temporarily disabled due to a non-industrial illness or injury.

After the first six (6) weeks of such leave, the employee shall be entitled to utilize accrued vacation. While the pregnant employee is on a paid leave status, service credits shall continue to accrue and the City shall continue payments toward group insurance and retirement coverage. Upon expiration of the approved leave, the employee shall be reinstated to her former position. Prior to the employee being reinstated, the Department Head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

An employee may, based upon medical factors, require that her leave be extended beyond one hundred twenty (120) days and shall submit a supporting statement from her physician. The Department Head with the approval of the appointing authority may extend the leave for up to an additional thirty (30) days.

15.7 Military Leave

Military leave shall be granted in accordance with the provisions of State law. All employees entitled to military leave shall give the City Manager an opportunity within the limits of military regulations to determine when such leave shall be taken.

15.8 State Disability Insurance

The employee will pay the premium for S.D.I. coverage for Short-Term Disability.

15.9 Long-Term Disability

City will pay the premium for Long-Term Disability coverage.

15.10 ADA and MOU PROVISIONS

- 15.10.1** Because the ADA requires accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual, case-by-case basis, the parties agree that the provisions of this Agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.
- 15.10.2** AFSCME recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. AFSCME will be notified of these proposed accommodations prior to implementation by the City.
- 15.10.3** Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure.
- 15.10.4** Prior to disregarding any provision of this Agreement in order to undertake required accommodations for an individual protected by the Act, the City will provide AFSCME with written notice of its intent to disregard the provision, and will allow AFSCME the opportunity to discuss options to disregarding the Agreement. However, as the City has a legal obligation to undertake required accommodations, such action shall not be subject to bargaining with AFSCME.

SECTION 16 – HEALTH AND WELFARE PLANS

16.1 Medical-Dental-Vision-Long Term Disability and Life Insurance

Effective February 1, 2006, for those employees known as the Public Works and Parks Employees Unit, the City of Livingston will pay all premiums associated with the cost of providing, dental, vision, long term disability and life insurance for full-time employees and their eligible dependents.

Effective February 1, 2006, the City of Livingston will assume full control over the benefit plans offered to the employees, including the selection and retention of any and all agencies involved in providing and maintaining medical, dental, vision, long term disability and life insurance benefits. The City agrees to continue to provide comparable or better benefit plans for the employees as long as the financial condition of the City is such that it can afford to cover the cost of providing the benefits.

Effective July 1, 2015, the City of Livingston shall contribute the following amounts monthly toward the total premium for medical plans; the employee is responsible for the balance of the premium cost, if any.

City Monthly Contribution Cap:

	July 1, 2015		July 1, 2016	
	<u>PPO</u>	<u>EPO</u>	<u>PPO</u>	<u>EPO</u>
Employee Only	\$ 506.98	\$ 575.16	\$ 531.98	\$ 600.16
Employee + One	\$1013.96	\$1150.31	\$1063.96	\$1200.31
Family	\$1318.17	\$1495.41	\$1393.17	\$1570.41

	July 1, 2017		Jan. 1, 2018	
	<u>PPO</u>	<u>EPO</u>	<u>PPO</u>	<u>EPO</u>
Employee Only	\$ 556.98	\$ 625.16	\$ 581.98	\$ 650.16
Employee + One	\$1113.96	\$1250.31	\$1163.96	\$1300.31
Family	\$1468.17	\$1645.41	\$1543.17	\$1720.41

Effective July 1, 1997, Term Life Insurance in the amount of \$100,000 shall be provided to all members.

16.2 Retirement – Classic Members

The benefit contract in effect between the City of Livingston and the Public Employees' Retirement System (P.E.R.S.) in behalf of eligible permanent full-time employees of this unit as of July 1, 1989, shall be continued during the term of this Memorandum of Understanding. When the parties have agreed with the other affected units, the employer has agreed to do a single actuarial review.

The City will pay the employee's seven per cent (7%) contribution to P.E.R.S. Payments made on the employee's behalf by the City will remain in the employee's account. However, when removed by the employee at his or her termination of enrollment in P.E.R.S., or upon retirement, will be considered taxable income at that date. The City will notify each employee annually of the amount of tax deferred payment made to P.E.R.S. in his/her behalf.

Effective July 1, 1998, the members shall receive a modification to their PERS benefit providing for 2% at age 55.

City of Livingston shall amend the City's contract with the Public Employees' Retirement System (PERS) to provide the following additional benefit as provided by Section 20042 of the Government Code:

The period for determining the average monthly pay rate when calculating retirement benefits will change from the 36 highest paid consecutive months to the 12 highest paid consecutive

months. (Applicable only to members retiring or whose death occurs after the effective date of the contract amendment.)

16.2.1 Retirement – Classic Members

Effective upon execution of this agreement, AFSCME Public Works and Parks, Classic members will pay one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2019, AFSCME Public Works and Parks, Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2020, AFSCME Public Works and Parks, Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

16.2.2 Retirement – New Members

All employees hired on or after January 1, 2013, who are considered “new members” under the Public Employees’ Pension Reform Act (PEPRA) will be provided a CalPERS benefit formula of 2% at 62 for Miscellaneous and 2% at 57 for Safety.

In addition, “new members” shall be subject to the contribution requirements in Section 7522.30(a) and (c) of the PEPRA, and the City shall not pay any of the required employee contribution for “new members.”

16.3 Post Retirement Health Benefits

16.3.1 Employee must have been continuously employed by the City for twenty (20) years. Disruptions in service due to layoffs of exempted.

16.3.2 Post retirement health insurance for employee only shall be limited to the actual cost of insurance, not to exceed \$300.00 per month.

16.3.3 Disability retirement will be as if employee met the twenty (20) year employment requirement referred to item 16.3.1 above.

16.3.4 At age sixty-five (65), Medicare shall become the retired employees primary insurance.

16.4 Deferred Compensation

Effective January 1, 1998, the City will pay up to \$100.00 per month per employee in deferred compensation matching an equal amount contributed by the employee. The City’s match to deferred compensation is limited to a one year period beginning January 1 of the effective year. Employees must have five (5) years continued service, effective December 31, 1997, to qualify for this benefit. Members not currently eligible to receive this benefit shall do so upon their fifth

anniversary and enjoy the City match for a one year period effective January 1 following their anniversary date.

SECTION 17 – SAFETY

17.1 Observance of Safety Rules and Regulations

Both the City and the Union shall expend every effort to insure that work is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations.

Each employee covered by the Memorandum of Understanding agrees to comply with all safety rules and regulations in effect and any subsequent rules and regulations that may be adopted. Employees further agree that they will report all accidents and safety hazards to the appropriate management official immediately. Any employee having knowledge of or who is a witness to any accident, shall, if requested, give full and truthful testimony as to same.

An employee may refuse a dangerous work assignment if one or all of the following conditions exist and he or she immediately notifies his or her supervisor of the conditions:

1. He/she has a reasonable belief, based on what he/she knows at the time, that there is a real imminent danger of death or serious physical injury. If he/she has good reasons that other reasonable people would recognize, he/she may refuse the task even if it is later found that there was no imminent danger.
2. If he/she has asked his/her employer to eliminate the danger and the employer has failed to do so.
3. The danger is so imminent that it cannot be eliminated quickly enough through normal OSHA enforcement procedures.

17.1.1 Bargaining Unit members shall receive a series of three Hepatitis B shots at the Livingston Medical Clinic to be paid for by the City.

17.1.2 Bargaining Unit members shall receive Tetanus shots at the Livingston Medical Clinic to be paid for by the City.

17.2 Safety Program

The Public Works/Parks Safety Committee shall consist of three (3) representatives of the AFSCME Unit. This Committee shall meet regularly the first Wednesday of each month at an agreed upon time and place.

17.3 Safety Equipment

The city shall continue to supply employees with safety equipment required by the City and/or CALOSHA. All employees shall use City supplied safety equipment only for the purposes and uses specified under applicable safety rules and regulations.

The City agrees to reimburse the employee for work boots with steel shanks through a purchase order up to \$200.00 once a year. The City agrees to purchase Hernia Belts for each Public Works and Parks employee. They will be worn as needed by the employees.

17.4 Uniforms

The City will provide uniforms, including maintenance, for all employees in the Public Works/Parks Unit. Each employee shall receive a total of nine (9) uniforms. Employees shall receive five (5) clean uniforms each week and one for exchange. The City will provide one (1) new jacket for each member of this unit during this agreement. See Article 17.3 regarding work boots. Uniform: The City agrees to purchase reflective type jackets for all individuals who are represented by this Union. Jackets (worn out) will be replaced as determined by the Public Works Director or his/her designee.

SECTION 18 – DISCIPLINE

See Section 9 of Personnel Rules and Regulations.

SECTION 19 – GRIEVANCE PROCEDURE

See Section 10 of Personnel Rules and Regulations.

SECTION 20 – MODIFICATION OF AGREEMENT

No changes in this Memorandum of Understanding or interpretations thereof will be recognized, unless agreed to by the City Manager and the Union.

SECTION 21 – PAST PRACTICES AND EXISTING MEMORANDA OF UNDERSTANDING

This Memorandum shall supersede all existing and prior Memoranda of Understanding between City and the Union Resolutions and Ordinances which are in conflict with this agreement.

SECTION 22 – NEW WORK

In the event the City introduces new work which the Union believes does not fall within any of the existing classifications, the City and the Union shall, upon written request, meet and confer with respect to the assignment or classification of such work.

STAFF REPORT

AGENDA ITEM: A Resolution of the City Council of the City of Livingston Approving a Three (3) Year Memorandum of Understanding between the City of Livingston and the Livingston Police Officers' Association Unit

MEETING DATE: August 20, 2019

PREPARED BY: Danna Rasmussen, Human Resources Coordinator

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

City Council review and approve the Memorandum of Understanding for the City of Livingston Police Officers' Association Unit.

BACKGROUND:

The City Manager has negotiated additional compensation and benefits, at the direction of City Council, and the bargaining unit known as the Livingston Police Officers' Association Unit has accepted and agreed to the proposed additional compensation and benefits.

DISCUSSION:

Compensation and Benefits negotiated include the following:

1. Effective July 1, 2018 the City of Livingston will pay a 5% base salary adjustment.
Effective July 1, 2019 the City of Livingston will pay a 4% base salary adjustment.
Effective July 1, 2020 the City of Livingston will pay a 2.5% base salary adjustment.
2. Salary Schedule Adjustments: There will be a minimum of 5% increase from Police Officer, pay Step E to Police Corporal pay Step A. Retroactive two (2) months.
3. Salary Adjustments: Dispatchers shall receive an additional 1.5% base salary increase for a total of 4% during the duration of the Gustine Dispatching Contract. A shift differential pay will be paid to those employees who work the Graveyard shift at an extra rate of .50 cents per hour.
4. Effective July 1, 2018 Career Service Pay will be added to the MOU to include a one-time payment to be paid to unit members when completion of the 5th, 10th, 15th, 20th, and 25th years of service has been reached.
5. Work Schedule: All members, excluding Animal Control Officer, as described in Section 15.1 will be assigned to a 4/10 work schedule based on a 4 days on and 3 days off work plan. The Department will make every effort to implement the designated schedule change on the first of the month. Based on a four month rotation, shift change will occur on the following dates; April 1st, August 1st, and December 1st of each year for dispatch, and March 1st, July 1st, and November

1st of each year of each year for all other positions. The rotation schedule does not include the Police Investigator, School Resource Officer as the position is a specialized assignment. The Animal Control Officer will work Monday to Friday from 0800-1600 hours. Also, for Dispatchers the shift selection protocol will be as follows:

Shift selection schedule will be posted along with a current seniority list 30 days prior to shift change.

The posted schedule will be blank other than designated shifts to be filled.

The department will maintain the selection of days off and number of personnel assigned to each shift.

Selection process will start with the most senior dispatcher.

The dispatcher will have two (2) working days to make their selection. After that if a selection has not been made, they will drop down a position and the next senior dispatcher will make their selection.

The department retains the right, within a 30 day notice, to adjust specific shifts to accommodate the training of new dispatchers to be trained on all shifts. The adjustment will only be implemented during the duration of the trainee's scheduled time on that specific shift.

6. Clothing Allowance: Clothing allowance will increase by \$75.00 a quarter, therefore association members will receive a total of \$900 per year in uniform allowance to be paid quarterly.
7. Safety Equipment: All members will be allowed to wear beards as long as they are well groomed and maintained. Sworn and non-sworn department members are permitted to wear goatees with mustaches or beards that are maintained at a length and pattern so as not to detract from the professional image employees of the Livingston Police Department shall maintain. Facial hair should be neatly trimmed and maintained at a length not to exceed 1 inch. Beards must be trimmed above and below and shall not be permitted below the Adam's apple or on the neck. Uniformed officers shall not be permitted to wear facial hair with less than five days growth. Any facial hair other than that defined as a goatee with mustache or beard, such as a goat patch, soul patch, chinstrap beard, goatee without mustache, mutton chops, Balbo, chin curtain, van dyke beard, or chin puff, are strictly prohibited. Sworn personnel working in undercover assignments, or specialized assignments requiring facial hair not otherwise authorized by this policy, shall be exempt from the restrictions as the discretion of the Chief of Police or his/her designee. Beards and goatees are PROHIBITED while wearing a Livingston Police Department Class A uniform. Mustaches are allowed while in Class A uniforms as long as they are clean and neatly trimmed. The mustache may not extend lower than the bottom of the corner of the mouth, also referred to as the oral commissures. Facial hair as it is defined above is allowed at any time while wearing any other Livingston Police Department approved uniform. The Chief of Police or his/her designee will be the final authority with regards to what is deemed appropriate.
8. Effective July 1, 2018 the language regarding Funeral Leave will change to include employees shall be allowed a leave of absence with full pay for 40 hours due to the death of a member of the employees' immediate family.
9. Effective upon execution of this agreement, Livingston Police Officers' Association Unit Classic members will pay one percent (1%) of the Employee contribution to PERS for a total of five (5%) percent. Effective July 1, 2019, Livingston Police Officers' Association Unit Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of six (6%) percent. Effective July 1, 2020, Livingston Police Officers' Association Unit Classic

members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of seven (7%) percent.

10. Language regarding AB 119 will be added to the MOU.
11. The terms of this Memorandum of Understanding shall become effective July 1, 2018, and continue in effect until June 30, 2021 unless modified, changed, or otherwise altered by force of law or by mutual agreement between the parties of this agreement.
12. All pay increases are retroactive to July 1, 2018.

FISCAL IMPACT:

Approval from City Council to allow staff to make the necessary budget adjustments.

ATTACHMENTS:

1. Resolution No. 2019-___, A Resolution of the City Council of the City of Livingston Approving a Memorandum of Understanding between the City of Livingston and the Livingston Police Officers' Association Unit
2. Livingston Police Officers' Association Unit MOU

RESOLUTION NO. 2019-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LIVINGSTON AND
THE LIVINGSTON POLICE OFFICERS' ASSOCIATION UNIT**

WHEREAS, the City of Livingston, through its City Manager, has negotiated new terms which will alter or change the existing Memorandum of Understanding, as it applies to the Livingston Police Officers' Association Unit; and

WHEREAS, the terms of the Memorandum of Understanding between the City of Livingston and the Livingston Police Officers' Association Unit are effective July 1, 2018 through June 30, 2021; and

WHEREAS, the attached revised Memorandum of Understanding ("MOU") makes the following changes:

1. Approves modifications to MOU section 8.10: Salary/wage increases as follows;
 - A) 5% salary/wage increase effective July 1, 2018.
 - B) 4% salary/wage increase effective July 1, 2019.
 - C) 2.5% salary/wage increase effective July 1, 2020.
2. Adds language to MOU section 8.13: Pay Separation; There will be a minimum of 5% increase from Police Officer, pay Step E to Police Corporal Step A. Retro pay will be a one-time only of 2 months for this salary schedule adjustments.
3. Adds language to MOU section 8.12: Shift Differential Pay; For those employees who work the graveyard shift shall receive an extra .50 cents per hour.
4. Adds language to MOU section 15.1(a): Work Schedule; All members, excluding Animal Control Officer, as described in Section 15.1 will be assigned to a 4/10 work schedule based on a 4 days on and 3 days off work plan. The Department will make every effort to implement the designated schedule change on the first of the month. Based on a four month rotation, shift change will occur on the following dates; April 1st, August 1st, and December 1st of each year for dispatch, and March 1st, July 1st, and November 1st of each year of each year for all other positions. The rotation schedule does not include the Police Investigator, School Resource Officer as the position is a specialized assignment. The Animal Control Officer will work Monday to Friday from 0800-1600 hours. Also, for Dispatchers the shift selection protocol will be as follows:

Resolution No. 2019-

Shift selection schedule will be posted along with a current seniority list 30 days prior to shift change. The posted schedule will be blank other than designated shifts to be filled. The department will maintain the selection of days off and number of personnel assigned to each shift. Selection process will start with the most senior dispatcher. The dispatcher will have two (2) working days to make their selection. After that if a selection has not been made, they will drop down a position and the next senior dispatcher will make their selection. The department retains the right, within a 30 day notice, to adjust specific shifts to accommodate the training of new dispatchers to be trained on all shifts. The adjustment will only be implemented during the duration of the trainee's scheduled time on that specific shift.

5. Adds language to MOU section 4(a): AB 119.
6. Effective July 1, 2018 clothing allowance will increase by \$75.00 paid quarterly for a total of \$900 per year.
7. Effective upon execution of this agreement, Livingston Police Officers' Association Classic members will pay one percent (1%) of the Employee contribution to PERS for a total of five (5%) percent. Effective July 1, 2019, Livingston Police Officers' Association Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of six (6%) percent. Effective July 1, 2020, Livingston Police Officers' Association Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of seven (7%) percent.
8. Add language to MOU section 18.3.1: Career Service Pay; Upon reaching such career milestones with the City of Livingston members of the Livingston Police Officers' Association Unit will receive a one-time payment of as listed below at the end of such completed year of service. 5 years \$100, 10 years \$200, 15 years \$300, 20 years \$400, 25 years \$500.
9. Approves modifications to MOU section 15.4: Funeral Leave; employee shall be allowed a leave of absence with full pay for up to 40 hours due to the death of a member of employees' immediate family.
10. Adds language to MOU section 21.3.1: Uniforms and Protective Clothing; All members will be allowed to wear beards as long as they are well groomed and maintained.

Resolution No. 2019-

Sworn and non-sworn department members are permitted to wear goatees with mustaches or beards that are maintained at a length and pattern so as not to detract from the professional image employees of the Livingston Police Department shall maintain. Facial hair should be neatly trimmed and maintained at a length not to exceed 1 inch. Beards must be trimmed above and below and shall not be permitted below the Adam's apple or on the neck. Uniformed officers shall not be permitted to wear facial hair with less than five days growth. Any facial hair other than that defined as a goatee with mustache or beard, such as a goat patch, soul patch, chinstrap beard, goatee without mustache, mutton chops, Balbo, chin curtain, van dyke beard, or chin puff, are strictly prohibited. Sworn personnel working in undercover assignments, or specialized assignments facial hair not otherwise authorized by this policy, shall be exempt from the restrictions as the discretion of the Chief of Police or his/her designee. Beards and goatees are PROHIBITED while wearing a Livingston Police Department Class A uniform. Mustaches are allowed while in Class A uniforms as long as they are clean and neatly trimmed. The mustache may not extend lower than the bottom of the corner of the mouth, also referred to as the oral commissures. Facial hair as it is defined above is allowed at any time while wearing any other Livingston Police Department approved uniform. The Chief of Police or his/her designee will be the final authority with regards to what is deemed appropriate.

WHEREAS, the City Council now desires to formally approve those changes in the Memorandum of Understanding as has been negotiated and approved by the parties.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livingston that it hereby approves a three (3) year Memorandum of Understanding between the City of Livingston and the Livingston Police Officers' Association Unit, in a form approved by the City Attorney, for the period of July 1, 2018 through June 30, 2021.

Passed and adopted this 20th day of August, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gurpal Samra, Mayor
of the City of Livingston

Resolution No. 2019-

ATTEST:

I, hereby certify that the foregoing Resolution was regularly introduced, passed, and adopted at a regular meeting of the City Council of the City of Livingston this 20th day of August, 2019.

Monica Cisneros, Deputy City Clerk
of the City of Livingston

Memorandum of Understanding

07/01/2018 – 06/30/2021



**Operating Engineers Local #3
on behalf of the
Livingston Police Officers' Association
and the
City of Livingston**

Livingston Police Officers' Association
Memorandum Of Understanding

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MEMORANDUM OF UNDERSTANDING

SECTION 1. TERMS OF AGREEMENT

This Memorandum of Understanding, upon approval of the City Council, shall remain in effect for those employees employed in the classifications which comprise the Livingston Police Officers' Association bargaining unit for the period beginning July 1, 2018 and ending June 30, 2021. The City may unilaterally open this agreement in the event a financial disaster results in a significant loss of revenue to the City.

Ninety (90) days prior to the termination of this Memorandum, the Union will notify the City if it wishes to modify the agreement. Failure to comply with the ninety (90) days' notice will not preclude commencement of negotiations. In the event that such notice is given, negotiations shall begin as soon as possible after the notice. This period of negotiations and until notice of termination of this agreement is provided to the other party.

SECTION 2. PURPOSE

The purpose of this Memorandum of Understanding is to promote and provide harmonious relations, peaceful resolution of disputes, and cooperation and understanding between the City and its employees covered herein, and to set forth the full and entire understanding reached as a result of meeting and conferring on hours, wages, and working conditions in accordance with state and federal law and city ordinances, rules, and regulations.

SECTION 3. RECOGNITION

A. The City of Livingston (City) recognizes the Operating Engineers Local Union No. 3 (OE3), representing Livingston Police Officers' Association (LPOA), as the sole and exclusive bargaining agent, for the purposes of establishing wages, hours, and conditions of employment, for all regular City employees of the Police Department, who were in the classification of Police Officer, Corporal and dispatcher at the time this Understanding was entered into, but excluding all seasonal (those hired to work for a fixed period of time, which is less than one year), casual, supervisory of confidential employees, and all elected officials or officers of the City. This MOU, unless otherwise indicated, governs those Police Officers, Corporals and Dispatchers in this bargaining unit which is comprised of:

- Animal Control Officer
- Corporal
- Dispatcher
- Evidence Technician/Special Project
- Police Officer
- Police Office Assistant II
- Police Records Assistant
- Public Services Officer

The classification or job titles used above are for descriptive purposes only. Their use is neither an indication nor a guarantee that these classifications or titles will continue to be used by the City.

Conflict of Memorandum and Resolution: It is understood and agreed that there exists within the City Personnel Rules and Regulations per Resolution No. 87-30.

SECTION 4. UNION SECURITY

At the time a new employee is hired who will be subject to this agreement, the City shall deliver to the employee a written notice stating the City shall deliver to the employee a written notice stating the City acknowledges the Union (OE3) as the recognized employee organization for the employees covered by this agreement.

All employees covered by this agreement, who are not already Union members, shall make application for membership within one (1) month following their date of employment or pay to the Union, each month through payroll deduction, a service charge as a contribution toward the administration of this agreement in an amount equal to the regular monthly dues. The Union shall be responsible for enforcement for those employees who fail to comply with these requirements.

Any employee having an objection to the payment of Union dues or service fee shall, to comply with this section, show evidence of contribution of a like amount to a charity of his/her choice.

4.1 Dues Deduction

The Union may have the regular dues to its members within the representation unit, deducted from the employee's paycheck under procedures prescribe by the City for such deductions. Dues deductions shall be made only upon signed authorization from the employee.

4.2 Communications with Employees

The Union shall be provided suitable space on bulletin boards at each work location for posting notices concerning official Union business.

4.3 Advance Notice

The Union shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet with the appropriate management representatives prior to adoption.

4.4 List of Unit Employees

The City shall furnish the Union with the names, classifications and date of hire of employees newly assigned to the unit and employees having leaving the unit.

SECTION 4(a) AB 119

A. Payroll deductions for the periodic membership dues, initiation fees and general assessments of the Union shall be made by the City on behalf of the Union from the paycheck of each employee whom the Union certifies has affirmatively consented to such dues deduction. The City shall remit the deducted membership dues to the officer(s) of the Union designated in writing by the Union.

B. The Union will maintain individual employee authorizations for payroll deductions, signed by the individual from whose wages the deduction is to be made. The City shall rely upon written notification from the Union for any employee requests to cancel, initiate or change payroll deductions for dues. The Union will obtain and maintain voluntary written authorization for dues deductions. Dues deductions shall automatically renew unless written notice is provided by the Union.

C. Deduction notification will be provided to the City's Payroll Division. Change, cancellation and deduction requests received by the City prior to the 15th of the month will be processed the first full pay period of the following month. Change, cancellation and deduction requests received by the City on or after the 15th of the month will be processed the second full pay period of the following month.

D. The Union shall indemnify and hold the City and its agents and employees harmless from any cost, expense, fee or liability resulting from any threatened or actual claims, demands, lawsuits, or any other action arising from the operation of this Section and from the use of such monies by the Union.

SECTION 5. CITY RIGHTS/EMPLOYEE RESPONSIBILITIES

It is understood and agreed the City retains its powers and authority to direct, manage and control all affairs of the City to the full extent of the law.

The employer-employee relations create mutual responsibilities. Reasonable rules and regulations are necessary to the proper functioning of any city. Observance of all rules, regulations, and this Memorandum is essential.

SECTION 6. NO DISCRIMINATION

The City agrees not to discriminate against any employee because of membership in the Union or because of any activities on behalf of the Union. Union activities shall not interfere with the normal operations of the City. See Section 4.1 of Personnel Rules and Regulations.

SECTION 7. UNION REPRESENTATIVES/ASSOCIATION MEMBERS

7.1 Representatives

Designated Association Members shall obtain approval from their immediate supervisor or any supervisor if their immediate supervisor is not available, before leaving their duty assignment to resolve grievances.

This provision shall not be used to prevent association members from performing their duties or obligations set forth in this section; provided, however, the use of time for this purpose shall be reasonable.

Whenever an employee is required to meet with a supervisor and the employee reasonably believes the discussion may lead to a disciplinary action, the employee shall be entitled to a Union representative or association member for representation. In the event the employee desires the presence of a Union representative or

association member, the City will contact the representative to arrange a mutually acceptable time and day to hold the meeting.

By January 31 of each year, the Livingston Police Officer's Association shall notify the Chief of Police the names of two (2) association members who be designated for the above responsibilities.

7.2 Representative of the Union

The employer agrees accredited representatives of the Police Officer's Association shall have access to the premises of the employer at any time during working hours to conduct Union business. Said representative will notify the City Manager or the Chief of Police twenty-four (24) hours in advance whenever he/she is conducting employee business during working hours.

7.3 Access to Personnel Files

An employee or an employee's representative both upon written authorization from the employee shall have access to the employee's personnel file upon request. Nothing shall be placed in an employee's personnel file until he/she has seen it.

SECTION 8. SALARY/COMPENSATION

8.1 Salary Schedule

Both the LPOA and the City agree to use the Merced County CPI to determine any COLA's. Future COLA's will be subject to the meet and confer process annually only after the State of California had adopted its budget. Retroactivity for any adjustments will be negotiated each re-opener year.

8.2 Salary Plan Administration

See section 3 of Personnel Rules and Regulations

8.3 Salary Plan Administration, Advancement with Salary Range

See Section 3 of Personnel Rules and Regulations, except that advancement from Step 1 to Step 2 shall be made at six (6) months for those dispatchers on probation or employees as temporary employees on the date this contract is signed.

8.4 Salary Plan Administration, Salary Step After Promotion or Demotion

See Section 3 of Personnel Rules and Regulations, except that advancement from Step 1 to Step 2 shall be made at six (6) months for those dispatchers on probation or employees as temporary employees on the date this contract is signed.

8.5 Temporary Upgrading

An employee assigned by the Chief of Police to perform the duties of a higher-paid classification shall receive an increase of five percent (5%) for all hours so worked at the higher classification, from the first hour worked provided, however, the rate paid shall not exceed the top step of the classification, nor be less than the first step of the classification.

8.6 Salary Plan, Pay Periods

See Section 3.3 of Personnel Rules and Regulations

8.7 Increases During Term of this Memorandum of Understanding

For those employees within the bargaining unit, the Livingston Police Officers Association shall receive a base salary adjustment on such dates as listed below.

Effective July 1, 2018, 5% base salary adjustment.

Effective July 1, 2019, 4%% base salary adjustment.

Effective July 1, 2020, 2.5%% base salary adjustment.

Retroactive to July 1, 2018

8.8 Salary Plan Administration, Gustine Dispatching Services

Effective upon the execution of this agreement, Dispatchers shall receive a four percent (4%) base salary increase during the duration of the Gustine Dispatching Contract.

This pay shall end if the City ceases providing dispatch services to the City of Gustine.

8.9 Shift Pay Differential

For those employees within the bargaining unit, the Livingston Police Officers Association shall receive a shift pay differential as follows below.

Graveyard – shall receive an extra \$.50 cents per hour for each hour worked on Graveyard shift.

8.10 Pay Separation

Effective July 1, 2018 there will be a five (5%) differential pay between Step E Police Officer and Step A Corporal.

Retroactive two (2) months only.

SECTION 9. PROBATION PERIOD

All employees of the City of Livingston Police Department shall have a probation period of 18 months. See Section 5.5 of Personnel Rules and Regulations.

9.1 In-House Promotions

A probation period of one (1) year will be implemented for all In-House promotions.

SECTION 10. SENIORITY

Seniority is hereby defined as the employee's length of continuous service with the City since his/her last date of hire, except as otherwise provided herein.

Continuous service used in the above paragraph hereof means an employee's total continuous length of service with the City since his/her last date of hire without break or interruption; provided that layoff of one (1) year or less, any suspension for disciplinary purposes, absence on authorized leave with or without pay and absence while receiving temporary total disability benefits under the California Worker's Compensation Act, shall not constitute a break or interruption in service within the meaning of this article.

After an employee satisfactorily completes his/her initial probationary period of employment with the City, his/her seniority shall be effective from the date on which the employee was hired.

A list of employees arranged in order of their seniority as defined herein, shall be maintained and made available for examination by employees; provided the seniority list be revised and updated at the end of November each year. A copy of the same shall be transmitted to the Union and/or associations.

Where two or more employees were appointed on the same date, their seniority standing shall be determined in the order in which they filed their application for such employment in accordance with the date of filing such application which shall appear on the application form.

SECTION 11. TRANSFER, PROMOTION LIST

11.1 Transfer

See Section 3.10 of City Personnel Rules and Regulations

11.2 Promotion

See Section 5.4 of City Personnel Rules and Regulations

11.3 Time Off for Examination

Promotional examinations scheduled by the City during an employee's regular working hours may be taken without any loss in compensation.

SECTION 12. EVALUATIONS AND JOB DESCRIPTIONS

12.1 Evaluations

See Section 8.1 of City Personnel Rules and Regulations

12.2 Job Descriptions

Job descriptions currently adopted will remain, but the City will meet and confer on any changes in the futures.

SECTION 13. REDUCTION IN FORCE (LAYOFFS)

When it becomes necessary to reduce the City's work force, employees shall be "laid off" on the basis of their seniority within the Police Department. See Section 6.1 of City Personnel Rules and Regulations.

13.1 Order of Layoff

See Section 6.1 of City Personnel Rules and Regulations

13.2 Notice of Layoff

Before an employee is laid off, the employee and the Union shall be notified in writing of such contemplated layoff at least thirty (30) working days prior to the effective date of layoff.

13.3 Recall

See Section 6.2 of City Personnel Rules and Regulations

13.4 Outside Employment

See Section 14.1 of City Personnel Rules and Regulations

Off-duty employment will be approved subject to:

- (a) An absence of interference with the full and efficient performance of duty at all times.
- (b) The absence of a demonstrative conflict of interest between outside employment and City employment.
- (c) Outside employment must be covered by State Workers' Compensation Insurance of a comparable insurance policy covering industrial accidents and injuries, said coverage to be approved by the City Manager.
- (d) Outside employment will not create any liability against the City of Livingston.

SECTION 14. RESIGNATION AND REINSTATEMENT

14.1 Resignation

See Section 7.1 of City Personnel Rules and Regulations

14.2 Reinstatement

A permanent employee who has resigned in good standing shall be allowed to reapply for a vacant position, but will be required to participate in an oral interview process if there is one.

SECTION 15. HOURS OF WORK, OVERTIME, PREMIUM PAY

15.1 4-10 Work Schedule

The following members represented by the Association will be assigned to work a 4/10 work schedule.

**Police Dispatcher
Police Officer**

**Police Corporal
Police Investigator**

5-8 Work Schedule

Animal Control Officer

15.1(a) Workweek

All members, excluding Animal Control Officer, as described in Section 15.1 will be assigned to a 4/10 work schedule based on a 4 days on and 3 days off work plan. The Department will make every effort to implement the designated schedule change on the first of the month. Based on a four month rotation, shift change will occur on the following dates; April 1st, August 1st, and December 1st of each year for dispatch, and March 1st, July 1st, and November 1st of each year of each year for all other positions. The rotation schedule does not include the Police Investigator, School Resource Officer as the position is a specialized assignment. The Animal Control Officer will work Monday to Friday from 0800-1600 hours.

15.1(b) Work Hours

The Department will maintain the option of hours of work for each assigned shift. These hours may change as required to meet the needs of the Department and the City. No hour change will be made for shifts prior to a new shift schedule being posted for sign up. This will allow for the Department to adjust to season and crime statistics throughout the year.

15.1 (c) Shift Selections

Police Officer and Corporal

Individual shift selection will be based on seniority with the following guidelines;

1. Shift selection schedule will be posted along with a current seniority list 30 days prior to shift change.
2. The posted schedule will be blank other than the designated positions to be filled (i.e. Corporal, Police Officer).

4. Selection process will start with the most senior officer within each of the above positions.
5. An officer will have two (2) working days to make their selection. After that if a selection has not been made, they will drop down a position and the next senior officer will make their selection.
6. Special Assignments (Investigations, SRO, Temporary Duty) will not be included in the seniority sign up for shift assignment. Shift assignment for these positions will be at the option of the Police Lieutenant.

Dispatcher

1. Shift selection schedule will be posted along with a current seniority list 30 days prior to shift change.
2. The posted schedule will be blank other than designated shifts to be filled.
3. The department will maintain the selection of days off and number of personnel assigned to each shift.
4. Selection process will start with the most senior dispatcher.
5. The dispatcher will have two (2) working days to make their selection. After that if a selection has not been made, they will drop down a position and the next senior dispatcher will make their selection.
6. The department retains the right, within a 30 day notice, to adjust specific shifts to accommodate the training of new dispatchers to be trained on all shifts. The adjustment will only be implemented during the duration of the trainee's scheduled time on that specific shift.

15.1(d) Implementation of 5/8 Work Schedule

In the event staffing level falls below twelve (12) sworn officers the Department will revert back to a temporary 5/8 work schedule. The Department will transfer special assignment personnel to fill open patrol positions as required.

The Department will give a minimum of seven (7) days notification prior to implementing a 5/8 work schedule. Sworn officers will not include administrative staff, and each must be cleared from field training and assigned to a working shift.

When the Department reaches a staffing level of twelve (12) or more sworn officers and each is cleared from the Department FTO program the 4/10 schedule will be immediately reinstated with a minimum of seven (7) days notification.

Nothing herein shall prevent the Department from making temporary schedule changes to address bona fide emergencies that may arise during the term of this agreement. An "emergency" is an unanticipated or unforeseen event or occurrence beyond the control of the City or the Police Department which required prompt and immediate law enforcement response to prevent injury or damage to life, person, or property.

In the event that staffing level falls below five (5) full time dispatchers, the Department will have the option to implement a modified schedule on a temporary basis.

15.2 Attendance

If any employee knows in advance he/she is going to be late, he/she must contact a designated shift supervisor and explain the reason for tardiness and what time he/she expects to arrive. If an employee is to be absent he/she must call or discuss the reason beforehand with the designated shift supervisor. The employee is responsible for being ready for his/her assigned duty at the start of his/her shift and continue through the shift to the quitting time of the shift.

15.3 Overtime/CTO

Authorized work performed in excess of forty (40) hours in a regular work schedule in one (1) week, shall constitute overtime. Association members may choose between CTO and paid overtime when they are required to work overtime. Paid overtime will be compensated at one and one-half the employee's regular hourly rate of pay except as otherwise designated by the Chief of Police. Association members will be allowed to accumulate a maximum of eighty (80) hours of CTO earned at a rate of 1.5 times actual overtime worked.

15.4 Court Pay

Any employee who shall be called as a witness arising out of and in the course of his/her employment during his/her normal working hours shall be deemed to be on duty. A minimum court time of three (3) hours per call at time and one-half will be paid for court appearances only on all non-duty hours.

Those members of the LPOA who are placed on-call for court, shall receive two (2) hours of overtime, in compensatory time for the duration of the on-call status.

15.5 Training/Informational Meetings

Necessary training and/or informational meetings may be scheduled by the Chief of Police and/or his designated Command Officer. The meetings are to ensure all employees the necessary knowledge so he/she may fulfill the needs of his/her position more professionally. An employee will receive overtime for attendance at all required training meetings, but not including pre-shift briefings. Furthermore, training shall consist of twenty-four (24) hours per Police Officer per year of Police Officers Standard and Training (P.O.S.T.) reimbursable curriculum.

Dispatchers shall attend a P.O.S.T. certified 120 hours Basic Dispatcher School as required by P.O.S.T. within one (1) year of date of hire. Dispatchers shall also receive at least twenty-four (24) hours of P.O.S.T. certified training every two (2) years as required by P.O.S.T.

15.6 Call-Back

Any employee "called out" or assigned to work during his/her normal time off shall be paid a minimum of one hour at time and one half. In the event an assignment is cancelled, call-out pay will not be paid if the employee is notified of cancellation twenty-four (24) hours prior to the assignment.

If an employee is required to and does report for work after employee is called back, he/she shall be paid travel time at the overtime rate in addition to the pay for the time worked. The amount of travel time will be the reasonable time it takes to travel from his/her home to wherever he/she is to report. He/she will be credited with the same amount of travel time to return home, except when the work for which he/she is called back continues until the beginning of his/her next regular scheduled shift, in such cases, travel time for returning home will not be allowed.

SECTION 16. INCENTIVE PAY

16.1 Education Incentive

Full-time employees who have at least three years of law enforcement experience and an Associate of Arts Degree in a law enforcement related field shall be eligible for a five percent (5%) pay increase above the employee's current pay step.

Associate of Arts Degree and Bachelors of Science Degrees in Business Administration, Public Administration, Criminal Justice and Administration of Justice shall be accepted to satisfy the degree requirement. Additional Degrees in computer technology would also be considered for the five percent (5%) pay increase mentioned above.

16.2 Tuition Incentive

Employees are urged to continue their in-service formal education. Upon the recommendation of the Chief of Police, the City Manager may authorize City payment for all or a portion of the cost of such education if the education and training is job related. Courses taken via online schools will be considered for reimbursement. Cost of education shall only include tuition, books, and supplies not to exceed \$75.00 expense to the City per semester.

16.3 Bilingual/Biliterate Incentive

The City will pay 5% of gross pay per year for those association members who are bilingual and the city will pay 5% of gross pay per year for those association members who are biliterate for a total possible pay increase of 10%. A Post Standard Test as agreed to by the Union and the City, will be developed to determine qualifications. If a recipient of the Bilingual Incentive Pay refuses to translate, bilingual pay will be terminated immediately.

16.4 Field Training Incentive (Dispatcher and Officer)

Any member assigned to this temporary position, will receive an additional 5% incentive during the time period they are actually training for.

16.5 Motorcycle Maintenance

An Officer assigned to motorcycle duty and assigned a department motorcycle shall receive eight (8) hours overtime pay, 8 hrs @ 1 ½ x) monthly for the cleaning and maintenance of the motorcycle.

Association members assigned to motorcycle duty shall receive the following safety equipment at City expense:

- a. Helmet
- b. Sun glasses
- c. Night glasses
- d. Boots
- e. Leather jacket
- f. Gloves
- g. One pair of riding pants annually

All above reference safety equipment shall remain the property of the City.

16.6 P.O.S.T. Certification

Association members, who obtain either an Intermediate or Advance Certification for the California Police Officers Standards and Training (P.O.S.T.), shall receive a five percent (5%) increase in salary. This salary increase shall not be in addition to salary adjustments associated with obtaining college degrees.

16.7 Deferred Compensation

Association members with five (5) years continued service as of April 1, 1998, shall be eligible to receive up to \$100.00 per month in deferred compensation provided by the City as a match to the level of deferred compensation contribution provided by individual Association Members. City match is limited to one (1) year.

16.8 Computer Purchase Program

Upon completion of probation, association members are eligible to participate in the City's employee computer purchase assistance program. Eligible purchases include, but are not limited to: computers, monitors, printers, lap tops, and mobile computers to include tablet computers such as IPADs.

SECTION 17. HOLIDAYS

17.1 Holiday Pay

Association members in lieu of observing holidays will be compensated in cash payout per holiday. Presently there are twelve (12) holidays per year. Association members shall be compensated at straight time for each holiday. Association members shall receive a separate check in July of each year for the total number of hours represented by the total number of holidays, to reflect employee's current shift.

Should a member leave the City's employment during the year, the members final paycheck will reflect a reimbursement to the City for those holiday hours not earned.

The above, Section #17.1, does not apply to the following positions: Public Assistant, Records Clerk, Police Services Officer and Animal Control Officer. These positions will be observing the authorized holidays and therefore will be compensated as a day off.

17.2 Authorized Holidays

- a. Day before New Years
- b. New Year's Day – January 1st
- c. Martin Luther King's Birthday
- d. President's Day
- e. Memorial Day – Last Monday in May
- f. Independence Day – July 4th
- g. Labor Day – First Monday in September
- h. Veteran's Day – November 11th
- i. Thanksgiving Day – Fourth Thursday in November
- j. Day after Thanksgiving
- k. Day before Christmas
- l. Christmas Day – December 25th
- m. Two (2) Floating Holidays

17.3 Work Schedule

Employees assigned to patrol will work a 5-2 schedule. Employees assigned to Narcotic and Detective positions shall remain on a 5-2 schedule.

SECTION 18. VACATION

18.1 Vacation Leave

Annual vacation leave is to enable each eligible employee to return to his/her job mentally refreshed. The purpose of vacation is to insure the employee's continued efficiency by allowing periods of rest and relaxation. Therefore, vacation shall be taken in units of one week or more except the Chief of Police may allow an employee to take vacation in units of less than one (1) week when he deems it to be in the best interest of the City. Vacation shall only be allowed in increments of one (1) or more days.

Association members may sell back a maximum of 80 hours per year. Vacation sell back will take place two (2) times a year; once on June 1st and once on December 1st. Association members can sell back 40 hours (2x's) once in June and once in December, or he/she can sell back 80 hours (1x) during the year either in June or December.

The City shall pay to each employee all vacation hours accrued in excess of 240 hours on the next bi-weekly pay period.

18.2 Vacation Allowance

Employees covered by this Memorandum of Understanding shall be entitled to accrue vacation at the following rates:

Employees with less than two (2) years of employment shall be entitled to earn up to ten (10) days' vacation per year at the rate of .83 a day per completed month of service or pro-rata portion thereof. Employees with more than two (2) years' service and less than four (4) years of employment shall be entitled to earn up to fifteen (15) days of vacation per year at a rate of 1.25 days per completed month of service or

pro-rata portion thereof. Employees with more than four (4) years of employment shall be entitled to earn up to twenty (20) days of vacation per year at a rate of 1.67 days per completed month of service or pro-rata portion thereof. Employees with more than fourteen (14) years shall be entitled to earn up to 25 days' vacation each year at a rate of 2.08 days per completed month of service or pro-rata portion thereof:

1 through 2 years	10 days
3 through 4 years	15 days
5 through 14 years	20 days
15 years or more	25 days

An employee is eligible for vacation only after completion of 18 months of continuous service. Employees who have completed the probationary period shall be credited with vacation time accrued from the original date of hire.

18.3 Longevity Incentive

Employees shall be eligible for additional weeks of vacation based on longevity. The time shown shall be for one additional week in each of the mentioned years only: Completion of employee's 10th, 20th, 25th and 30th year.

10 th year = 1 week for that year
20 th year = 1 week for that year
25 th year = 1 week for that year
30 th year = 1 week for that year

18.3.1 Career Service Pay

Upon reaching such career milestones with the City of Livingston members of the Livingston Police Officers Association Unit will receive a one-time payment of as listed below at the end of such completed year of service.

5 years	\$100.00
10 years	\$200.00
15 years	\$300.00
20 years	\$400.00
25 years	\$500.00

18.4 Scheduling

The employee shall request in writing his/her preferred dates of vacation at least sixty (60) days in advance to the Chief of Police or his designated Command Officer.

The Chief of Police or his designee will respond back within ten (10) days. The Chief of Police may consider less time when it is in the best interest of the City. An employee who has given sixty (60) days' notice cannot be bumped from vacation on the basis of another employee's seniority.

18.5 Pay Upon Termination

Any employee shall be paid for any unused vacation time on the termination of his/her employment. The employee shall be paid at the rate of pay in effect at the time of his/her termination.

SECTION 19. LEAVE PROVISIONS

19.1 Sick Leave

Sick leave accumulation shall commence the first day of employment at a rate of eight (8) hours per month. The taking of sick leave shall commence upon the completion on one month employment.

Unused sick leave shall be accumulated at the rate of ninety-six (96) hours a year. The maximum accrual rate of sick leave for any employee will be 2880 hours. (This is the equal to 30 years times 96 hours).

Upon resignation, an employee shall receive 50% of all unused sick leave converted into cash.

Upon retirement after June 30, 2002, each employee shall have 100% of their unused sick leave cashed out or placed into a special account for the sick leave conversion plan benefit for retiree health. (Refer to Section 20.4 – Post Retirement Benefits for explanation of the Sick Leave Conversion Plan).

An employee may be required to submit a Physicians slip for any sick leave used immediately after using three (3) consecutive days of sick leave.

The Department Head may contact and counsel a specific employee, if it appears the usage of sick leave is improper.

In the event Worker's Compensation payments cover all or part of the period during which sick leave is paid, the sum of the two shall not exceed the sick leave benefit payable for said period, and the unused portion of accumulated sick leave will continue to be credited to the employee.

19.2 Industrial Disability Leave

Any permanent employee of the City who has suffered any disability arising out of an in the course of City employment, as defined by the Worker's Compensation laws of the State of California, shall be entitled to disability leave while so disabled without loss of compensation for the period of such disability to the maximum of sixty (60) days. Such disability leave with pay shall be renewable in sixty (60) day increments by the City Council for a total period of one (1) year, subject to examination confirmation of the continuing disability by a physician selected by the City every sixty (60) days.

During the period the employee is paid by the City, the employee shall assign or endorse to the City any benefit payments received as a result of Worker's Compensation insurance coverage. The City reserves the right to withhold payment

of any disability benefits until such time as it is determined whether or not the illness or injury is covered by Worker's Compensation.

The benefits of Sick Leave and Disability Leave shall be mutually exclusive at any one time, and no Disability Leave may be used for the purposes specified under Subsection 19, Sick Leave, and no Sick Leave benefits may be used for the purposes specified under this Subsection 19.2 Disability Leave.

Employees shall accrue vacation credit during an Industrial Disability Leave which does not exceed thirty (30) days in any one (1) year.

19.3 Long Term Disability

Employees covered under this MOU will be covered under the City of Livingston's Long Term Disability Plan, paid for by the City.

19.4 American Disabilities Act

Because the ADA requires accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual, case-by-case basis, the parties agree the provisions of this Agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

The association recognized the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The Association will be notified of these proposed accommodations prior to implementation by the City.

Any accommodation provided to an individual protected by the ADA Act shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure.

Prior to disregarding any provision of this Agreement in order to undertake required accommodations for an individual protected by the Act, the City will provide the Association with written notice of its intent to disregard the provision, and will allow the Association the opportunity to discuss options to disregarding the Agreement. However, as the City has a legal obligation to undertake required accommodations, such action shall not be subject to bargaining with the Association, unless required by statute of controlling court decision.

19.5 Funeral Leave

Employee shall be allowed a leave of absence with full pay for up to 40 work hours due to the death of a member of Employee's immediate family. For purposes of this provision, immediate family shall include spouse, domestic partner, child (including legally adopted child), parent, grandparent, grandchild, step-parent, stepchild, sibling, step-sibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law of the eligible employee. Requests for bereavement leave for

persons not listed above may be granted at the discretion of the City Manager or his/her designee. Time off for funerals or bereavement leave must be taken within time of service of the immediate family member.

19.6 Leave of Absence

Upon written request, a leave of absence without pay may be granted to any permanent employee for a period not to exceed six (6) months for the following reasons:

1. Illness or disability not covered by sick leave.
2. Education or training which will benefit the employee, but that which is not paid for by the employer.
3. Personal reasons: In the event of unusual or special circumstances, a leave of absence may be extended if recommended by the Chief of Police and approved by the City Manager.

A request for a leave of absence without pay shall be made in writing to the Chief of Police stating the reasons for such request. For leaves of absence in excess of five (5) days, the Chief of Police shall submit the request with his/her recommendation to the City Manager.

All accumulated vacation time shall be exhausted prior to having been granted a leave of absence without pay. Any employee, who does not return to work on the subsequent work day after the date of expiration, shall be considered terminated.

The employee, while on authorized leave of absence, will not be eligible for accruing vacation and/or holidays, and will not be eligible for clothing allowance.

19.7 Maternity Leave

A pregnant employee holding a permanent position shall be entitled to a leave of absence for up to one hundred and twenty (120) days. This leave shall commence upon certification from the employee's attending physician she is no longer capable of performing the duties of her position.

Upon advice of her physician, the employee may request a temporary transfer to a less strenuous or hazardous position carrying the same or lower salary which she is qualified to perform. However, nothing herein shall result in the displacement or transfer of other employees in permanent positions or the performance of unnecessary work.

Where it is the opinion of the Department Head, the employee should be placed on leave sooner than prescribed by her physician due to her inability to effectively or safely perform the duties of her regular position or of one to which the employee may be required to undergo examination by a second physician. The cost of this examination shall be paid by the City and shall be ordered without prior approval of the City Manager.

During the first six (6) weeks of such leave, the employee shall be entitled to utilize accrued vacation. While the pregnant employee is on a paid leave status, service

credits shall continue to accrue and the City shall continue payments toward group insurance and retirement coverage.

Upon expiration of the approved leave, the employee shall be reinstated to her former position. Prior to the employee being reinstated, the Department Head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

An employee may, based upon medical factors, request her leave be extended beyond one hundred twenty (120) days and shall submit a supporting statement from her physician. The Department Head with the approval of the appointing authority may extend the leave for up to an additional thirty (30) days.

All approved Maternity Leave will be without pay. The employee, while on Maternity Leave, will not be eligible for clothing allowance.

19.8 Military Leave

Any employee who is a member of a reserve force of the United States or the State of California, who is ordered by the appropriate authorities to attend a training period or perform other duties under the supervision of the United States or State of California, shall be granted a leave of absence without pay during the period of such activity except for as provided by law.

19.9 Administrative Leave

Corporals, Detectives, and Narcotics Officers shall receive a two percent (2%) salary increase in lieu of the four (4) administrative leave days they receive on an annual basis.

Detectives only shall receive three and one half percent (3.5%) base salary increase in lieu of the four (4) administrative leave days they receive on an annual basis.

SECTION 20. HEALTH AND WELFARE

20.1 Medical-Dental-Long Term Disability and Life Insurance

Effective February 1, 2006, for those employees known as the Livingston Police Officers Association, the City of Livingston will pay all premiums associated with the cost of providing dental, vision, long term disability and life insurance for full-time employees and their eligible dependents.

Also effective February 1, 2006, the City of Livingston will assume full control over the benefit plans offered to the employees, including the selection and retention of any and all agencies involved in providing and maintaining medical, dental, vision, long term disability and life insurance benefits. The City agrees to continue to provide comparable or better benefit plans for the employees as long as the financial condition of the City is such that it can afford to cover the cost of providing the benefits.

Effective July 1, 2015, the City of Livingston shall contribute the following amounts monthly toward the total premium for medical plans; the employee is responsible for the balance of the premium cost, if any.

City Monthly Contribution Cap:

	July 1, 2015		July 1, 2016	
	<u>PPO</u>	<u>EPO</u>	<u>PPO</u>	<u>EPO</u>
Employee Only	\$ 506.98	\$ 575.16	\$ 531.98	\$ 600.16
Employee + One	\$1013.96	\$1150.31	\$1063.96	\$1200.31
Family	\$1318.17	\$1495.41	\$1393.17	\$1570.41

	July 1, 2017		Jan. 1, 2018	
	<u>PPO</u>	<u>EPO</u>	<u>PPO</u>	<u>EPO</u>
Employee Only	\$ 556.98	\$ 625.16	\$ 581.98	\$ 650.16
Employee + One	\$1113.96	\$1250.31	\$1163.96	\$1300.31
Family	\$1468.17	\$1645.41	\$1543.17	\$1720.41

Bargaining unit members who opt out of participating in the group medical plans sponsored by the City, and who provide proof of their medical coverage in a group plan, will receive \$400 per month. Any Federal/State laws/policies/guidelines conflicting with this incentive program should supersede this section of the MOU and incentive may be subject to termination.

20.2 Medical Examinations

The City, at its option, may require a physical examination of each employee upon his/her entry into the Police Department and of each employee at least once a year during the term of this agreement. Annual physical examinations shall be normally held on the anniversary date of an employee's entry into the Police Department. Standards of each examination shall be the same for all employees. Any expense in connection with the physical examination will be borne by the City; however, this is not to be considered as meaning the City will pay for the treatment of any physical ailments which may be discovered by such examination. Medical examinations will be performed at a location selected by the City.

20.3 Retirement

The benefit contract in effect between the City of Livingston and the Public Employee's Retirement System (PERS) in behalf of eligible permanent full-time employees of this unit as of July 1, 1989 shall be continued during the term of this Memorandum of Understanding.

The City will contribute the employee's seven percent (7%) payment to PERS. The payments made by the City on behalf of the employee will remain in the employee's account and may be withdrawn by the employee at such time as the employee terminates from participation in PERS or retires. However, money contributed by the

city on behalf of the employee will be considered taxable income during the year in which it is withdrawn. The city will furnish all employees an annual statement of the monies deposited in PERS on their behalf.

The City of Livingston shall amend the City's contract with the Public Employees' Retirement System (PERS) to provide the following additional benefit as provided by Section 20042 of the Government Code:

The period for determining the average monthly pay rate when calculating retirement benefits will change from the 36 highest paid consecutive months to the 12 highest paid consecutive months. (Applicable only to members retiring or whose death occurs after the effective date of the contract amendment.)

20.3.1 Effective upon execution of this agreement Livingston Police Officer Association, Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total 5%.

Effective July 1, 2019; Livingston Police Officer Association Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of 6%.

Effective July 1, 2020; Livingston Police Officer Association Classic members will pay an additional one percent (1%) of the Employee contribution to PERS for a total of 7%.

All employees hired on or after January 1, 2013, who are considered "new members" under the Public Employees Pension Reform Act (PEPRA) will be provided a CalPERS benefit formula of 2% at 62 for Miscellaneous and 2% at 57 for Safety.

In addition, "new members" shall be subject to the contribution requirements in Section 7522.30(a) and (c) of the PEPRA. Accordingly, "new members" shall pay 50% of the normal costs of their pension benefit and the City shall not pay any of the required employee contribution for "new members."

20.4 Post-Retirement Benefits

For all employees employed by the City as of July 1, 1989 only, who retire from the City's employment under the Public Employee's Retirement system currently in effect (other than disability retirement), the City will continue to pay the premiums for health and dental care insurance coverage in an amount equal to the amount paid if the employee was still employed by the City.

For all employees employed by the City after July 1, 1989, who retire from the City's employment under the PERS currently in effect (other than disability retirement), shall be eligible for the City's Sick Leave Conversion Plan for Retiree Health.

20.5 Sick Leave Conversion Plan

Eligible employees shall have unused sick leave credits (accumulated hours) converted to a cash equivalent value for the purpose of continued payment by the City of the premium for either both the health and dental insurance plans provided by the City for active employees and their dependents, regardless of the retirement option exercised, provided that:

- a. the employee has been covered under an insurance program of the type selected for payment (health or dental or both) provided by the City during the year immediately preceding such retirement; and
- b. the employee has been eligible to accumulate unused sick leave credits (hours); and
- c. the employee has not attained eligibility age for Medicare Benefits; and
- d. the employee has attained the minimum retirement age of the retirement plan relating to the employee's classification and is eligible for a monthly retirement allowance at the time severance is made from employment with the City, except when an employee is retired on either ordinary or service connected disability retirement pending regardless of whether said application is filed by the employee or by the City on the employee's behalf.
- e. The cash equivalent value of accumulated unused sick leave shall be determined on the basis of the hourly rate of pay earned by the employee immediately prior to the employee's retirement multiplied by the number of hours of such unused sick leave.

The credits (hours) of any employee for accumulated unused sick leave as determined according to the provisions herein shall be depleted each month by the amount of the City's contribution on behalf of said retired employee and the employee's eligible dependents, or in the case of an employee who is on a leave of absence pending the approval of an application for ordinary or service-connected disability retirement which has been filed by the employee or the City on behalf of the employee, in payment of the premium for the health and dental insurance plans provided for active employees of the City and their eligible dependents. The City's payment, on behalf of such employee, of such premium for the health and dental insurance plans shall cease at the end of the month immediately preceding the employee becoming eligible for Medicare, or at such time as the remaining cash equivalent value of the employee's accumulated sick leave is insufficient to equal a full month's premium, or at death of the employee, or at the disapproval of the employee's application for ordinary or service-connected disability retirement; and

- f. Any retired employee, or in the case of any employee who is on a leave of absence pending the approval of an application for ordinary or service-connected disability retirement which has been filed by the employee or the City on behalf of the employee, whose cash equivalent value for accumulated unused sick leave is depleted prior to the said employee becoming eligible for Medicare may, at the employee's election, submit to the City the required

monthly premium for transmittal to the insurance carriers providing the coverage for the health and dental insurance plans, and thereby continue in full force and effect the said, health and dental insurance plans. The eligibility of dependents of any such employee shall be dependent upon the eligibility of the employee.

In the event the application for ordinary or service-connected disability retirement is disapproved, the employee shall not be entitled to receive unused sick leave credits (hours) for any day or portion thereof of unused sick leave which the employee designated and used for purposes of health and dental insurance premium payments.

- g. Immediately prior to or at the time of retirement, an employee shall designate:

The amount, if any, of his/her unused sick leave credit which shall be converted to a cash equivalent value for purposes of health and dental insurance premium payments as provided and explained in the previous sections. However, the employee may elect the City to convert either 30%, 50% or 100% of the equivalent value for purposes of health and dental premium payments.

The City shall designate a 45 day period for open enrollment per year which the retiree may elect to change his/her initial choice to either 30%, 50% or 100% or may elect to freeze any payments.

Should the retired employee die before his/her designated beneficiary, his/her designated beneficiary shall receive the balance of the sick leave in a lump sum cash payment. If no beneficiary is designated, the City shall receive the balance. It is the responsibility of the employee to have a designated beneficiary. The designated beneficiary shall be the spouse or an eligible dependent under the terms of the current MOU.

Extension beyond age 65 of eligibility for payment of health insurance premiums based on unused sick leave – Employees who retire at age 65 shall be eligible to have unused sick leave credits (hours) converted to a cash equivalent value for the purpose of payment by the City of the premium requirement for a health or dental program or both, to supplement Medicare benefits for the employee and his eligible spouse. In the event said spouse or other eligible dependents are below age 65, the premium requirement for a conversion program shall be paid from the unused sick leave credits (hours). It shall be the responsibility of the employee to locate an appropriate insurance carrier.

SECTION 21. SAFETY

21.1 Observance of Safety Rules and Regulations

Both the City and the Union shall expend every effort to ensure work is performed with a maximum degree of safety, consistent with the requirements to conduct efficient operations. Each employee covered by this Memorandum agrees to comply with all safety rules and regulations in effect any subsequent rules and regulations that may be adopted. Employees further agree they will report all accidents and

safety hazards to the appropriate management official immediately. Any employee having knowledge of, or who is a witness to, an accident shall give full and truthful testimony as to same.

21.2 Safety Equipment

Protective clothing or any type of protective device required in employee's work will be furnished to the employee by the City at no cost to the employee. All employees shall use City supplied safety equipment only for the purpose and use specified under applicable safety rules and regulations.

All special police equipment required for use by employees as determined by the Chief of Police will be furnished without charge. Each employee will be responsible for proper care of such equipment and will be required to replace such equipment in case of loss or negligent destruction of same.

21.3 Uniforms and Protective Clothing

Effective upon execution of this agreement, all employees shall receive a \$900 uniform allowance per calendar year, paid quarterly. This increase is in exchange for the elimination of the dry cleaning reimbursements formerly provided by the city. Employees will be responsible for care and up keep of uniforms. (No boot allowance)

21.3.1 All members will be allowed to wear beards as long as they are well groomed and maintained.

Sworn and non-sworn department members are permitted to wear goatees with mustaches or beards that are maintained at a length and pattern so as not to detract from the professional image employees of the Livingston Police Department shall maintain.

Facial hair should be neatly trimmed and maintained at a length not to exceed 1 inch. Beards must be trimmed above and below and shall not be permitted below the Adam's apple or on the neck. Uniformed officers shall not be permitted to wear facial hair with less than five days growth. Any facial hair other than that defined as a goatee with mustache or beard, such as a goat patch, soul patch, chinstrap beard, goatee without mustache, mutton chops, Balbo, chin curtain, van dyke beard, or chin puff, are strictly prohibited.

Sworn personnel working in undercover assignments, or specialized assignments requiring facial hair not otherwise authorized by this policy, shall be exempt from the restrictions at the discretion of the Chief of Police or his/her designee.

Beards and goatees are PROHIBITED while wearing a Livingston Police Department Class A uniform. Mustaches are allowed while in Class A uniforms as long as they are clean and neatly trimmed. The mustache may not extend lower than the bottom of the corner of the mouth, also referred to as the oral commissures. Facial hair as it is defined above is allowed at any time while wearing any other Livingston Police Department approved uniform. The Chief of Police or his/her designee will be the final authority with regards to what is deemed appropriate.

SECTION 22. POLICE OFFICERS' BILL OF RIGHTS

The Police Officers' Bill of Rights shall be incorporated into this agreement by reference and shall apply only to sworn Police Officers.

SECTION 23. DISCIPLINE AND DISCHARGE

See Section 9 of Personnel Rules and Regulations

SECTION 24. WORK RULES

24.1 Compliance

It is the employee's responsibility to comply with all work rules approved by the Chief of Police.

SECTION 25. GRIEVANCE PROCEDURE

See Section 10 of the City's Personnel Rules and Regulations

SECTION 26. PAST PRACTICES AND EXISTING MEMORANDA OF UNDERSTANDING

This Memorandum of Understanding shall supersede all existing and prior Memoranda of Understanding between the City and the Union, Resolutions and Ordinances which are in conflict with this agreement.

SECTION 27. RESOLUTION OF IMPASSE

See Section 11.16 of the City's Personnel Rules and Regulations

SECTION 28. SEPARABILITY OF PROVISIONS

Should any section, clause or provision of this Memorandum of Understanding be declared illegal and unenforceable by final judgment of a Court or Competent Jurisdiction, such invalidation of such section, clause, or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of the Memorandum of Understanding. In the event of such invalidation, the parties agree to meet and confer immediately concerning substitute provisions rendered or declared illegal.

IN WITNESS WHEREOF, the parties hereto set their hands and seals by their respective officers duly authorized to do so this _____ day of _____, 2019.

City of Livingston - Employer

Operating Engineers Local Union No. 3 of
The International Union of Operating
Engineers.

By: _____
Jose Antonio Ramirez,
City Manager

By: _____
Kristen Hill, OE3 Member

Date

Date

For Operating Engineers Local Union No. 3
of the International Union of Operating Engineers, AFL-CIO

Russ Burns
Business Manager

Date

Dan Reding
President

Date

Pete Figueiredo
Vice-President

Date

James K. Sullivan
Recording-Corresponding Secretary

Date

Rick Davis
Director, Public Employee Division

Date

Darren Semore
Business Representative

Date

STAFF REPORT

AGENDA ITEM: Resolution of the City Council of the City of Livingston Approving a Three Year Contract Agreement with F & M Bank for Banking Services.

MEETING DATES: July 16, 2019 and August 20, 2019

PREPARED BY: Brad Grant – Interim Finance Director

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION: City Council approve Resolution No. _____ 2019 “A Resolution of the City Council of the City of Livingston Approving a Contract With F & M Bank For Banking Services.

BACKGROUND: State and local governments use a wide variety of banking services for the deposits, disbursement and safekeeping of public funds. Prudent procurement practices require the reevaluation of banking services on a periodic basis. In addition, continual changes in technology, treasure management practices and banking industry structure offer public fund managers opportunities to reevaluate banking services and costs.

The Government Finance Officers Association (GFOA), founded in 1906, represents public finance officials throughout the United State and Canada. The associations more than 20,000 members are federal, state/provincial and local finance officials deeply involved in planning, financing and implementing thousands of governmental operations in each of their jurisdictions. GFOA’s mission is to advance excellence in public finance.

GFOA, of which the City of Livingston is a member, provides “Best Practices” recommendations. In this regard GFOA recommends that governments review their financial services contracts every five years and use a competitive process for the procurement of financial services.

The current provider of banking services is Westamerica Bank. Westamerica Bank acquired the City of Livingston’s accounts not through a competitive process but rather through the acquisition of County Bank’s banking operations from the Federal Deposit Insurance Corporation February 6, 2009.

Because of GFOA’s “Best Practice” recommendation, the amount of time the City’s financial services have been provided by Westamerica Bank and because Westamerica Bank obtained the City’s accounts through an acquisition and not a competitive procurement, staff felt it appropriate for a Request for Proposal (RFP) to be issued for financial services.

DISCUSSION: The RFP was posted on the City’s website and the following four banks responded: Chase, F & M Bank, Tri Counties Bank and Westamerica Bank. The City Manager,

Interim Finance Director, Executive Assistant/Deputy City Clerk and Senior Accountant were involved in interviews and the evaluation criteria included the following:

1. Conformity to RFP Specifications
2. Responsiveness to RFP
3. Comprehensiveness of Services Provided
4. Related Experience
5. Account Analysis
6. Conversion Plan
7. Charges for Services
8. Service Enhancements
9. Other Factors

At the July 16, 2019 City Council meeting it was agreed that a letter, seeking further information, would be sent by the Mayor to Westamerica Bank and F & M Bank. The letter contained six questions. The questions focused on performance under the Community Reinvestment Act, loans and local small business/non-profit support and development.

Community Reinvestment Act: The Community Reinvestment Act (CRA), enacted by Congress in 1977, is intended to encourage depository institutions to help meet credit needs of the communities in which they operate including low – and moderate-income neighborhoods (LMI), consistent with safe and sound banking operations.

The CRA requires that each insured depository institution's record in helping meet the credit needs of its entire community be evaluated periodically. That record is taken into account in considering an institution's application for deposit facilities, including mergers and acquisitions. CRA examinations are conducted by the federal agencies that are responsible for supervising depository institutions.

Due to their size Westamerica Bank and F & M Bank are evaluated based upon Lending, Investment and Service.

The Lending evaluation considers number and amount of loans in the institution's assessment area, the geographic distribution of loans, including to LMI areas, record of lending/lending-related activity to borrowers of different income levels and/or businesses and farms of different sizes, community development loans and innovative or flexible lending practices to address the needs of LMI individuals or geographies consistent with safe and sound banking.

The Investment evaluation considers the dollar amount of qualified community development investments, innovativeness and complexity of qualified investments and responsiveness of qualified investments to credit and community development needs.

The Service evaluation considers the geographic distribution of retail bank branches, the record of opening and closing retail bank branches, particularly those that serve the LMI geographies and individuals, the availability and effectiveness of alternative systems for delivering retail banking services in LMI geographies and to LMI individuals, range or retail banking services in

each geography classification, extent of community development services provided and innovativeness and responsiveness of community development services.

The last four Community Reinvestment Act Performance Evaluation results as reported at www.ffiec.gov/craratings/default.aspx are as follows:

Overall CRA Rating	
Westamerica Bank	F & M Bank
Satisfactory	Outstanding
Satisfactory	Satisfactory
Satisfactory	Outstanding
Needs To Improve	Outstanding

The presence of violations of Section 5(a) of the Federal Trade Commission Act (FTC Act) for Westamerica’s last CRA evaluation, heavily influenced the overall CRA performance assessment and overshadowed an otherwise satisfactory lending record.

Section 5(a) of the FTC Act prohibits “unfair or deceptive acts or practices in or affecting commerce.”

Loans: Both banks provide a full range of loans except Westamerica Bank does not provide home mortgage loans.

Local Small Business/Non-profit Support and Development: Responses to these questions are attached.

Complete responses to all questions from each bank are attached.

Upon completion of interviews, applying evaluation criteria and reviewing responses to additional information requests, staff recommends a contract for banking services be awarded to F & M Bank.

F & M Bank has provided financial services to individuals, families and businesses in California since 1916. Locally owned and operated, F & M bank is headquartered in Lodi, California. F & M Bank is the primary operating subsidiary of Farmers & Merchants Bancorp with over \$3 billion in assets.

FISCAL IMPACT: Costs for banking services are offset by earnings on compensating balances.

ATTACHMENTS:

- Resolution No. 2019- _____
- F & M Banking Contract
- Letter to Westamerica Bank – Mr. Robert Baker
- Westamerica Responses To Letter
- Letter to F & M Bank – Mr. Jay Colombini
- F & M Responses To Letter

RESOLUTION NO. 2019 - ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING A THREE YEAR CONTRACT WITH F & M BANK FOR BANKING
SERVICES**

WHEREAS, the City of Livingston uses a wide variety of banking services for the deposits, disbursements and safekeeping of public funds.

WHEREAS, a priority of the City Council is to ensure appropriate and cost-effective banking services are being used for safekeeping of public funds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIVINGSTON AS FOLLOWS:

1. Contract with F & M Bank is approved for banking services.

Passed and adopted this 20th day of August 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gurpal Samra, Mayor
Of the City of Livingston

ATTEST:

I, hereby certify, that the forgoing resolution was regularly introduced, passed and adopted at a regular meeting of the City Council of the City of Livingston this 20th day of August 2019.

Monica Cisneros, Deputy City Clerk
Of the City of Livingston



BANKING SERVICES AGREEMENT
Authorization and Agreement for Treasury Management Services

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

This Banking Services Agreement (“AGREEMENT”) is entered into on August 8, 2019, by and between the **City of Livingston**, a municipal corporation (“COL”) and FARMERS & MERCHANTS BANK OF CENTRAL CALIFORNIA, a California banking corporation (“BANK”) and is supplemented by the Treasury Management Terms and Conditions (“TERMS AND CONDITIONS”) which contains the general terms and conditions governing each of the Bank Services (as defined herein). These TERMS AND CONDITIONS shall be construed and the rights and obligations of the parties determined in accordance with California law, except as otherwise stated.

Section 1.2 Purposes

The COL issued a Request for Proposals for Banking Services on or about **February 12th, 2019** (“RFP”). The BANK submitted a written proposal to such RFP dated **March 11, 2019**.

COL elected the BANK to provide the services as outlined in the SCOPE OF SERVICES for the RFP.

COL wishes to enter into an agreement with BANK for Banking Services, certain Treasury Management Services, and Collateralization of Deposits as set forth in this AGREEMENT, and as supplemented by the TERMS AND CONDITIONS, which may include such additional services as COL may request and BANK may agree to provide from time to time. BANK acknowledges that it is qualified to provide such services to COL.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

BANK, for the benefit and at the direction of COL, shall perform the Scope of Services as set forth in Exhibit A (each a “Service” or collectively the “Services”).

Section 2.2 Terms of Agreement

BANK shall serve as COL's depository and provider of banking services for a period of three (3) years, commencing **August 1st, 2019** and ending August 1st 2022. This AGREEMENT is renewable for one (1) additional two year (2 year) period upon the written agreement of the parties and including such changes upon which the parties may in writing agree.

BANK shall commence to provide services pursuant to this AGREEMENT upon receipt of a written notice to proceed from COL and shall perform all services diligently with due care for the duration of the AGREEMENT.

Section 2.3 Meetings

BANK shall attend meetings with the COL as may be reasonably required.

Section 2.4 Staffing

BANK represents it is prepared to and can perform all services requested. BANK represents that it has, or will have at the time this AGREEMENT is executed, all licenses, permits, insurance and approvals of whatsoever nature as are legally required for BANK to provide the Services, and BANK shall, at its own cost and expense, keep in effect during the life of this AGREEMENT all such licenses, permits, insurance and approvals, and shall reimburse COL for any out of pocket costs COL incurs as a result of BANK maintaining such licenses, permits, insurance and approvals.

ARTICLE 3 **DEPOSIT SERVICES**

Section 3.1 Commencing a Service

Prior to commencing a Service, the COL will open and maintain with the BANK one or more demand deposit accounts (individually "DDA" and collectively "DDAs") as the BANK shall require in connection with a Service. The COL shall maintain in each DDA good and collected funds sufficient to conduct each transaction on the DDA. The BANK shall have no obligation to conduct a transaction that may result in an overdraft in a DDA. If an overdraft is created in any DDA, the COL shall repay the overdraft and pay any associated service fee at once.

If a Service requires the BANK to extend credit to the COL or on the COL's behalf, the COL shall meet the BANK's credit and underwriting criteria. The COL shall authorize the BANK to obtain information about the COL's credit history or financial information in order to open a DDA or to provide a Service. The COL will provide the BANK information about the COL's financial information from time to time as the BANK may reasonably request.

Section 3.2 Rules Governing a Service

Each Service is subject to the BANK's AGREEMENT and TERMS AND CONDITIONS, its user guides, processing descriptions, procedures, instructions, online help screens, or other documentation (collectively "USER DOCUMENTATION") provided to the COL by the BANK from time to time. In addition, each Service is subject to the applicable provisions of any software license affecting the Service; the Operating Rules of the National Automated Clearing House Association ("NACHA Rules") and the rules of any other funds transfer system or clearing house through which funds are sent when the BANK provides a Service, as the same may be amended from time to time; the laws of the state of California and applicable Federal law and regulations. DDA's established in connection with a Service are subject to the disclosures as outlined in the TERMS AND CONDITIONS, the applicable account agreement (signature card) for the account(s) and the applicable fee schedule(s) as provided in "Exhibit A".

ARTICLE 4
TREASURY MANAGEMENT SERVICES

Section 4.1 Authorization to Act

The Designee and any designated person shall further be entitled to access and control all such accounts individually via the Services without regard to any multiple signer designations, requirements, or restrictions that might otherwise be applicable to a specific account but for this Authorization. Such access includes, without limitation, the ability to: (1) control such accounts electronically; (2) view or initiate transactions including, without limitation, withdrawals; (3) deposit and transfer money; and (4) generally perform all types of electronic transactions to and from each account of the COL. This authority may be exercised at such times and on such terms as the designated representative(s) believe proper;

The COL requests the following Services (as checked)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Account Analysis | <input checked="" type="checkbox"/> Investment Analysis |
| <input type="checkbox"/> Account Reconciliation | <input type="checkbox"/> Lockbox |
| <input type="checkbox"/> ACH Block/Filter | <input checked="" type="checkbox"/> Security Tokens |
| <input checked="" type="checkbox"/> ACH Origination | <input checked="" type="checkbox"/> Treasury Management Online |
| <input checked="" type="checkbox"/> ACH Positive Pay | <input checked="" type="checkbox"/> Positive Pay Default Option: <input type="checkbox"/> PayX <input type="checkbox"/> Return |
| <input type="checkbox"/> CD ROM | <input checked="" type="checkbox"/> Positive Pay Payee Verification |
| <input type="checkbox"/> Credit Sweep | <input checked="" type="checkbox"/> Remote Deposit Capture |
| <input type="checkbox"/> EDI/Fed Payments Reporter | <input checked="" type="checkbox"/> Wire Transfer of Funds |
| <input checked="" type="checkbox"/> eStatement | <input type="checkbox"/> Zero Balance Account |

The COL understands that use of any Service(s) is subject to: (1) BANK's receipt of any required information and documentation; (2) BANK's approval; and (3) the COL's completion of any testing or training requirements.

The undersigned Designee is a principal or other authorized individual of the COL on whose behalf the Designee is acting. The undersigned represents and warrants that the COL has taken all action required by statute or regulation to authorize the undersigned Designee to execute and deliver this Authorization and any other documents BANK may require with respect to a Service, and to provide to BANK instructions, and to designate employees and agents to act in the name of and on behalf of the COL regarding the Services and any and all accounts affected by any Service obtained on behalf of the COL.

List Designee(s) below:

NAME	CONTACT INFO
Jose Antonio Ramirez	209-394-8041 x113
Gurpal Samra	209-756-7114

ARTICLE 5
POOLED COLLATERAL

Section 5.1 Placement of Pooled Securities

As provided in California Government Code Section 53659, the COL (through its Treasurer or other duly authorized official) authorizes a third party Agent of COL approved by the BANK and COL in writing (the "Agent") as the agent for COL to hold the securities of BANK in accordance with Government Code Sections 53630 to 53686 (as they may be amended or modified from time to time). Agent is further authorized to place BANK's securities for safekeeping as provided in Government Code Section 53659 (as amended or modified from time to time).

Section 5.2 Conversion of Pooled Securities

The Administrator of Local Agency Security of the State of California ("Administrator") may convert the securities of BANK held by Agent upon the happening of any event specified in Government Code Section 53665 and in accordance with the procedures set forth in that section and other applicable law.

Section 5.3 Withdrawal of Deposits

Upon notice to the BANK from the Administrator, the COL may withdraw deposits in the event the BANK fails to pay the assessments, fines, or penalties assessed by the Administrator or may withdraw authorization for the placement of pooled securities with the Agent in the event the Agent fails to pay the fines or penalties assessed by the Administrator.

Deposits may be withdrawn in accordance with the agreement of the parties and applicable federal and state statutes, rules and regulations. This AGREEMENT is subject to modification or termination upon enactment of any statute, rule, or regulation, state or federal, which, in the opinion of the Administrator of Local Agency Security of the State of California (the "Administrator"), is inconsistent herewith, including any change relative to the payment of interest upon moneys so deposited by the COL. The COL may withdraw deposits from the BANK immediately upon receiving notice from the Administrator that the BANK has failed to pay assessments, fines or penalties assessed by the Administrator.

Interest shall accrue on any moneys so deposited as permitted by any act of Congress of the United States or by any rule or regulation of any department or agency of the Federal Government. If interest may legally be paid on the account into which the moneys are deposited, then all moneys deposited shall bear interest at a rate agreed upon by the COL and the BANK. Interest on active deposits will be computed on the average daily balance for the calendar quarter and paid no less than quarterly. Interest on inactive deposits will be computed on an Actual/360-day basis and paid no less than quarterly.

The BANK shall issue the COL for each deposit a receipt on a form agreed to by the BANK and the COL stating the interest to be paid (if any), the duration of the deposit (if appropriate), the frequency of interest payments (if any) and the terms of withdrawal. Each such deposit receipt is by reference made a part of this AGREEMENT.

The BANK will maintain at all times with the Agent of the BANK as security for COL's deposits: (a) eligible securities of the classes described in Government Code Section 53651 (except subdivisions (m) and (p) having a market value at least 10% in excess of the total amount of deposits secured by those

securities, and (b) eligible securities of the class described in subdivision (m) of Government Code Section 53651 having a market value at least 50% in excess of the total amount of deposits secured by those securities. The BANK will also comply with all the provisions of subdivision (m) of Government Code Section 53651.2. If the Administrator determines that a security is not qualified to secure public deposits, the BANK will substitute other securities to comply with the requirements of this Paragraph.

The COL hereby *does not elect to waive security* for that portion of the total amount on deposit which is insured pursuant to Federal law.

The Agent of the BANK, which the COL and the BANK hereby authorize to hold the eligible securities posted as collateral under this contract, is *Union Bank of California*. The Agent of the BANK has filed with the Administrator an agreement to comply in all respects with all provisions of the Local Agency Deposit Security Law, as governed by Government Code Section 53654, 53657, 53658, and 53659.

Authority for placement of securities for safekeeping in accordance with Government Code Section 53659 is hereby granted to the Agent of the BANK including placement with any one or more Federal Reserve Banks or branches thereof.

If the BANK fails to pay all or part of any moneys of the COL on deposit with the BANK which are subject to this AGREEMENT when ordered to do so in accordance with the terms of withdrawal set forth on the applicable deposit receipt, the COL will immediately notify the Administrator in writing. Action of the Administrator in converting the collateral required by Paragraph 5 above for the benefit of the Depositor is governed by Government Code Section 53665.

The BANK may add, substitute or withdraw eligible securities being used as security for deposits made hereunder in accordance with Government Code Section 53654, provided the requirements of Paragraph 5 above are met, and, provided further, with respect to any substitution of a class of eligible securities, that the BANK has given prior written notice to the COL of such substitution.

The BANK shall have and hereby reserves the right to collect and retain for the Bank's own account the interest or income on the securities, except in cases where the securities are liable to sale or are sold or converted in accordance with the provisions of Government Code Section 53665.

The BANK will pay all expenses incurred in transferring eligible securities maintained as collateral for moneys on deposit to and from the Agent of the BANK, and the BANK will pay all expenses incurred in transporting moneys from the BANK to the COL.

The parties hereto, and all deposits governed by this contract shall comply with and be subject in all respects to the Local Agency Deposit Security Law, and all other state and federal laws, statutes, rules and regulations applicable to such deposits, whether now in force or hereafter enacted, all of which are by this reference made a part hereof.

Section 5.4 Compliance with Law

The BANK shall comply with all provisions of Government Code Sections 53630 to 53686 and other applicable provisions of law regarding local agency deposits.

Section 5.5 Deposit and Other Limitations

WHEREAS, the COL proposes to deposit in the Bank from time to time, moneys in custody in an aggregate amount on deposit at any one time not to exceed **\$6.5 million**, and said moneys will be deposited subject to Title 5, Division 2, Part 1, Chapter 4, Article 2 (commencing with Section 53630) of the Government Code of the State of California (the “Local Agency Deposit Security Law”).

Section 5.6 Security Interest

To secure all obligations of COL to BANK arising from this Agreement, COL grants to Bank a security interest in all accounts of COL at BANK, all funds in those accounts, any reserve accounts or funds therein, all Items and Entries (including any funds in process of settlement), whether now or hereafter established by or for the benefit of COL at BANK, and all proceeds of the foregoing. BANK’s security interest will survive after termination of this Agreement. This security interest shall be limited to the value of the Normal Security Reserve and is supplemental to and not in lieu of the security interest granted by COL to BANK under any other agreement. In the event a single item is processed in excess of the Normal Security Reserve, BANK’s security interest shall be temporarily increased to the full amount of that single item until 60 days after that single item has cleared, at which time the security interest shall revert to the Normal Security Reserve amount.

ARTICLE 6 COMPENSATION

Section 6.1 Compensation

BANK’s compensation for all Services under or pursuant to this AGREEMENT shall conform to the provisions of the Fee Schedule, attached hereto as Exhibit A and incorporated by this reference.

Section 6.2 Method of Payment

BANK shall be compensated according to those specified in the TERMS AND CONDITIONS and as specified in Exhibit A – Fee Schedule.

Section 6.3 Auditing

COL reserves the right to periodically audit all charges made by BANK to COL for Services under this AGREEMENT. Upon request, BANK will furnish COL, or a designated representative, with necessary information and assistance needed to reasonably conduct such an audit. COL, or its delegate, will have the right to review, obtain and copy all records pertaining to performance of this AGREEMENT subject to applicable California and Federal privacy laws and regulations. BANK will provide COL, or its delegate, with any relevant information reasonably requested, upon reasonable notice, during normal business hours for the purpose of inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this AGREEMENT. BANK further agrees to maintain such records for a period of three (3) years after termination of this AGREEMENT.

ARTICLE 7 MISCELLANEOUS PROVISIONS

Section 7.1 Nondiscrimination

In performing services under this AGREEMENT, BANK shall not discriminate in the employment of its employees or in the engagement of any subcontractor on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 7.2 Acts of God

BANK is not responsible for any loss, delay, cost or liability which arises, directly or indirectly, in whole or in part, from: (a) COL's actions or omissions, or those of third parties which are not within BANK's immediate and reasonable control; (b) COL's negligence or breach of any agreement with BANK; (c) any ambiguity, inaccuracy or omission in any instruction or information provided to BANK; (d) any error, failure or delay in the transmission or delivery of data, records or items due to a breakdown in any computer, utility or communications facility; (e) any error or omission, willful or negligent by any third party, including, without limitation, the Service, equipment malfunction, unusually severe weather conditions, accidents, strikes or labor disputes, war, civil unrest, sabotage, fire, explosion, flood, water damage (e.g., from fire suppression systems), or acts of God; (f) circumstances beyond BANK's reasonable control, including delays by third parties; or (g) the application of any government or funds transfer system rule, guideline, policy or regulation. BANK's performance of our obligations shall be extended to include the period of time that our (or our third party processor, if any) was delayed or prevented from performing their obligations under the AGREEMENT by reason of any of the above causes.

Section 7.3 No Personal Liability

Neither the COL Council, nor any other officer or authorized assistant or agent or COL employee shall be personally responsible for any liability arising under this AGREEMENT.

Section 7.4 Insurance Requirements for BANK

At a minimum, BANK shall take out and maintain during the life of this AGREEMENT, insurance coverage as set forth in Exhibit B attached hereto and incorporated by this reference as requested by HCWD.

Section 7.5 Notices

Any notice required to be given by the terms of this AGREEMENT shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To City: City of Livingston
 1416 "C" Street
 Livingston, CA 95334
 Attention: City Manager

To BANK: Farmers & Merchants Bank of Central California
 PO Box 3000
 Lodi, CA 95241-1902
 Attention: Treasury Management

Nothing in this section shall be construed to prohibit communication by more expedient means, such as by telephone, e-mail, or facsimile transmission, to accomplish timely communication. In the event

of contract termination, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered to constitute effective notice.

Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three (3) days after mailing, unless such date is a date on which there is no mail service. In that event mailing is deemed to occur on the next mail service day.

COL Representative , The Deputy COL Manager or his/her designee (“COL Representative”) shall represent COL in all matters pertaining to the Services to be rendered under or pursuant to this AGREEMENT. All requirements of COL pertaining to the Services and materials to be rendered under this AGREEMENT shall be coordinated through the COL Representative.

BANK Representative Treasury Management Officer (“BANK Representative”) familiar with Public Agencies shall represent BANK in all matters pertaining to the Services and materials to be rendered under this AGREEMENT. All requirements of BANK pertaining to the Services or materials to be rendered under this AGREEMENT shall be coordinated through the BANK Representative.

Section 7.6 Cooperation of COL

COL shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Services.

Section 7.7 BANK is Not an Employee of COL

BANK agrees that in undertaking to provide the Services under this AGREEMENT, it shall act as an independent BANK for and on behalf of COL and not as an employee of COL. COL shall not direct the work and means for accomplishment of the Services and work to be performed under this AGREEMENT. Subject to applicable California and Federal law applicable to federally insured depository institutions, COL, however, retains the right to require that work performed by BANK meet specific standards without regard to the manner and means of accomplishment thereof.

Section 7.8 Termination

BANK and COL may terminate this AGREEMENT by giving the other party at least one hundred eighty (180) days written notice. Notwithstanding any such notice of termination, the provisions of this AGREEMENT shall remain in full force and effect as to all transactions, which shall have occurred prior to the effective date of termination. Upon termination, BANK shall be entitled to payment as set forth in the attached Exhibit A to the extent that Services have been performed. Upon termination, BANK shall immediately suspend all Services. However, COL shall assume no liability for costs, expenses or lost profits resulting from Services not completed or for contracts entered into by BANK with third parties in reliance upon this AGREEMENT.

Section 7.9 Confidentiality

BANK agrees to maintain confidentiality of all work and work products produced under this AGREEMENT, except to the extent otherwise required by law or permitted in writing by COL. COL agrees to maintain confidentiality of any documents owned by BANK and clearly marked by BANK as “Confidential” or “Proprietary”, except to the extent otherwise required by law or permitted in writing by BANK. BANK acknowledges that COL is subject to the California Public Records Act.

Section 7.10 Binding Effect; Successors and Assigns

The provisions of this AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their respective successors, administrators, liquidators, receivers, trustees, assignees, custodians, conservators or other similar officials. COL may not assign its rights or delegate its duties under this AGREEMENT without BANK's consent, and any purported assignment in violation of this provision shall be null and void. With prior notice to the COL, BANK may assign or transfer any or all of BANK's rights and obligations under the AGREEMENT and COL's accounts to any other direct or indirect wholly owned subsidiary of BANK or any other person which acquires all or substantially all of BANK's local agency deposit or cash management business.

Section 7.11 Captions

The captions of the sections and subsections of this AGREEMENT are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent under this AGREEMENT.

Section 7.12 Integration and Modification

This AGREEMENT, and exhibits hereto, and the supplemental TERMS AND CONDITIONS represents the entire and integrated agreement between COL and BANK and supersedes all prior negotiations, representations or agreements, either written or oral. This document may be amended only by written instrument, signed by both COL and BANK. All provisions of this AGREEMENT are expressly made conditions. With respect to any discrepancies between this AGREEMENT, any exhibits, and TERMS AND CONDITIONS referenced herein or any of BANK's Fee Schedules, this AGREEMENT shall prevail.

Section 7.13 Arbitration

This Arbitration Agreement is entered into between you and Farmers & Merchants Bank of Central California in connection with your Banking Services Agreement and the Terms and Conditions herein. Your agreement to the terms of this Arbitration Agreement is a material factor in our agreeing to the Banking Services Agreement and the Terms and Conditions, and to opening and maintaining a deposit account for you.

(a) Dispute Resolution by Arbitration

Any and all claims, controversies, or disputes arising out of or related in any way to the Agreement shall be subject to binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association (AAA) under the Federal Arbitration Act. This includes, without limitation, (1) all issues concerning the transaction in connection with which this Arbitration Agreement has been executed; (2) initial claims, counterclaims, cross-claims, and third-party claims, whether arising in law or equity, and whether based upon federal, state, or local law; contract; tort; fraud or other intentional tort; constitution, common law, or statute; and (3) any issue as to whether any such claims, controversies, or disputes are subject to arbitration.

(b) Consent to Arbitration

You and we understand and agree that we are choosing arbitration rather than litigation to resolve disputes and that such arbitration shall be the sole and exclusive remedy for resolving any and all claims or disputes

covered by this Arbitration Agreement. The decision reached in arbitration shall be final and binding on the parties except as set forth herein.

THEREFORE, YOU AND WE UNDERSTAND THAT BY ENTERING INTO THIS ARBITRATION AGREEMENT, YOU AND WE VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHTS WE HAVE TO A JURY TRIAL AND TO HAVE A COURT RESOLVE ANY DISPUTE UNDER THIS ARBITRATION AGREEMENT.

Section 7.14 Effect of Waiver of Breach or Violation

The waiver by either party or any breach or violation of any term, covenant, or condition of this AGREEMENT or of any provision, ordinance or law shall not be deemed to be a waiver of any other term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or any other term, covenant, condition, ordinance or law. The subsequent acceptance by either party of any fee or other money, which may become due hereunder, shall not be deemed a waiver of any preceding breach or violation by the other party of any term, ordinance or condition of this AGREEMENT or of any applicable law or ordinance.

Section 7.15 Authority

The COL represents and warrants that it has 1) the full power and legal authority to execute, deliver and perform all of its duties and obligations under and pursuant to this AGREEMENT and Terms and Conditions, and 2) has taken all actions and obtained all consents and approvals necessary or desirable to exercise said power and authority to execute, deliver and perform its duties and obligations hereunder and under the AGREEMENT and Terms and Conditions. The undersigned officers and officials have been duly authorized to execute this AGREEMENT and Terms and Conditions on behalf of the relevant party.

Section 7.16 Security Reserve

COL shall maintain a normal security reserve of \$50,000.00 for purposes of the offset rights set forth in this paragraph ("Normal Security Reserve"). If COL's accounts fall below the Normal Security Reserve, COL shall immediately fund the reserve amount with good funds. Bank may withhold and use any amounts due to COL to maintain the Normal Security Reserve amounts. Refer to the Right of Offset Section of the TERMS AND CONDITIONS.

Section 7.17 Relation to Other Agreements

The requirements imposed on COL under this Agreement are cumulative of the requirements imposed on the COL under any other agreements under which the COL has obligations to the Bank. If any conflict arises between the terms of this Agreement and any such other agreement, the terms of this Agreement will prevail except to the extent the conflicting provision in such other agreement is applicable specifically to the subject of that transaction or unless BANK and COL agrees to the contrary in writing which references the inapplicable provisions of this Agreement. This Agreement prevails, to the extent of any inconsistency, over any previous agreement between the parties. This Agreement constitutes the entire and integrated agreement between COL and BANK regarding the matters addressed herein and supersedes all prior negotiations, communications, understandings, and commitments relating to this Agreement, whether written or oral.

IN WITNESS WHEREOF, the COL and BANK have executed this AGREEMENT and Terms and Conditions as of the date first above written.

ATTEST: City of Livingston, a municipal corporation

By: _____
Jose Antonio Ramirez
City Manager

By: _____
Gurpal Samra
Mayor

By: _____
APPROVED AS TO FORM:
Stan Carlson
VP/Treasury Relationship Manager

FARMERS & MERCHANTS BANK OF CENTRAL CALIFORNIA

By: _____
David Zitterow
Executive Vice President
Wholesale Banking

By: _____
Kelly Attebery
SVP/Director of Treasury
Treasury Management

Attachments:
Exhibit A – Fee Schedule
Exhibit B – Insurance

**EXHIBIT A
FEE SCHEDULE**

TREASURY MANAGEMENT SERVICE	UNITS	F&M BANK COST OF SERVICE
BALANCE & COMPENSATION INFORMATION		
Monthly Maintenance % Collected Balance		0.05
GENERAL ACCOUNT & DEPOSITORY SERVICES		
Account Maintenance		18.00
Zero Balance Concentration Account		25.00
Sub-Account Monthly Fee		15.00
Deposits/Credits		1.50
Deposited Items		0.120
ACH Debits/Credits		0.09
Debits - Checks Paid		0.16
CD ROM - Image Statements		30.00
TMO - Stop Payments - 6 Mo. Only		20.00
REMOTE DEPOSIT SERVICE		
Remote Deposit Service		60.00
Remote Deposit Per Item		0.05
Remote Deposit Per Correction		3.00
Remit Plus Scan able Coupon File		250.00
ACH ORIGATION SERVICES		
ACH Module Fee		10.00
ACH Origination Per Batch		2.50
ACH Origination Per Item		0.15
ACH Additional Company ID's (Per Company ID/Profile)		10.00
WIRE TRANSFER SERVICES		
TMO Wire Module		10.00
Outgoing Domestic Wire Manual		35.00
TMO Outgoing Domestic Wire Online		20.00
Incoming Domestic Wire		20.00
Outgoing International Wire Manual		50.00
TMO Outgoing International Wire Online		20.00
Wire Detail Report		20.00
POSITIVE PAY SERVICES		
Positive Pay First Account		50.00
Positive Pay Additional Accounts		25.00
Positive Pay Payee Verification Per Account		20.00
Positive Pay Per Item		0.025
Positive Pay Exception Items		1.00
ACH POSITIVE PAY SERVICES		

TREASURY MANAGEMENT SERVICE	UNITS	F&M BANK COST OF SERVICE
ACH Positive Pay		20.00
ACH Positive Pay Exception Item		1.00
ACH Block		10.00
ACH Block Exception Item		1.00
ACH Filter		15.00
EDI Reporting Electronic Data Interchange Services		10.00
CASH SERVICES		
Deposited Currency - Per \$1		0.0013
Supplied Currency - Per \$1		0.0013
Deposited Bag of Coin (Standard)		5.00
Deposit Mixed Bag of Coin (Non-Standard)		8.00
Coin Deposited/Supplied Per Roll		0.12
Coin Wrappers Supplied (40 Assorted Wrappers) HARD CHARGE		3.00
OVERDRAFT/NSF SERVICES		
Non-Sufficient Funds Items Paid or Returned - HARD CHARGE		32.00
Interest on Negative Collected Balances		9.50%
Interest on Ledger Overdraft		18.00%
Returned Items/Chargebacks - HARD CHARGE		10.00
ACCOUNT RECONCILEMENT ARP SERVICES		
Full Account Reconciliation		50.00
Partial Reconciliation		40.00
Reconciliation Additional Accounts		10.00
Deposit Reconciliation (Per Account)		30.00
Account Reconciliation Per Item (No Charge if on Pos Pay)		0.0025
Special Reports		25.00
BAI File Transmission Service		75.00
LOCKBOX SERVICES		
Monthly Base Wholetail		225.00
Monthly Base Retail		150.00
Per Lockbox Deposit		0.50
Per Item with Image		0.50
Data Capture Per Keystroke (Exception Keying)		0.015
Unprocessable Items/Each		0.35
Matching/Stapling Items Returned to Customer Per Item Re-association		0.25
Correspondence/Envelopes Returned to Customer Per PKG Mailed		5.00
Correspondence/Envelopes Returned to Customer By Courier		AS QUOTED
SWEEP SERVICES		
Two-Way Credit Sweep		100.00

TREASURY MANAGEMENT SERVICE	UNITS	F&M BANK COST OF SERVICE
Investment Sweep		100.00
One-Way Sweep		50.00
Multi-Sweep		175.00
INVESTMENT ANALYSIS SERVICE		
Investment Analysis - 1st Account		50.00
Investment Analysis - Additional Accounts		25.00
TREASURY MANAGEMENT ON-LINE SERVICES		
Treasury Management On-Line		20.00
TMO Extended Storage > 180 Days		25.00
Bill Pay Module (Waived with \$10K Average Balance)		9.95
Bill Pay Per Item > 20 Items Per Mo.		0.50
MISCELLANEOUS		
Chargeback Items*		10.00
Non-Sufficient Funds Items Paid or Returned*		32.00
Deposit Corrections/each*		5.00
Stop Payments Bank (6 Mo)		30.00
Stop Payments Online (6 months only)		20.00
Cashier's Checks for F&M Customers/each*		8.00
Money Orders for F&M Customers/each*		7.00
Account Closure Fee (Checking/Savings) If account closed within 6 months of opening*		25.00
Check Copy Fee/each*		5.00
Deposit Slips*		Prices Vary
Printed Checks		Prices Vary
Statement Holds and Undeliverable Mail/each item/per month*		8.00
Statement Request/each*		7.00
Temporary Checks/10		5.00
Fax Copies/per page*		2.50
Photo Copies/per page*		1.00
Collection Items/Incoming & Outgoing*		30.00
Converting Foreign Currency (plus minimum \$20 shipping)*		10.00
Endorsement Guarantee or Signature Guarantee/each		20.00
Foreign Collections In/Out (plus correspondent bank fees)*		50.00
Foreign Drafts (calculated in \$100 increments; minimum charge \$25)*		1%
Manual Telephone Transfers/each*		5.00
Medallion Stamp Signature Guarantee/each signature (available only to established customers and no charge on F&M Bancorp Stock)*		25.00

TREASURY MANAGEMENT SERVICE	UNITS	F&M BANK COST OF SERVICE
Non-Customer Cashing an F&M Bank Non-Payroll Business Check/each (no fee for cashing payroll checks drawn on F&M Bank)*		7.00
Non-Customer Cashing an F&M Bank Personal Check/each*		7.00
Notary Service/each signature*		15.00
Notice of Escheatment/each*		2.00
Signature Validation/each (excludes F&M Bancorp stock and available only to established clients)*		25.00
Special/Additional Services		AS QUOTED
Safe Deposit Boxes*		AS QUOTED
<i>*All fees noted with an "asterisk*" are Hard Charges</i>		

EXHIBIT B INSURANCE

BANK intends to meet all the insurance requirements of the COL's RFP. BANK offers the following provisions.

BANK shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to COL as may be required by COL. The policies, endorsements or certificates of insurance shall provide that thirty (30) days prior to the effective date of any termination, cancellation or material change in the policy or endorsement, the insurer shall give notice of same to COL by registered mail, return receipt requested.

BANK shall maintain:

Workers' Compensation: Workers' Compensation coverage as may be required by California law, plus employer's liability coverage with a minimum limit of liability of \$1,000,000.

General Liability: General liability insurance with a minimum limit of liability of \$2,000,000 for bodily injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors'; and products and completed operations, as applicable.

Automobile Liability: For automobiles owned by BANK, minimum limit of liability per occurrence of \$1,000,000 for bodily injury and property damage.

Banker's Professional Liability: Banker's professional liability insurance with a minimum limit of \$5,000,000 per claim and policy aggregate. If coverage is on a claims made basis, coverage shall be maintained for at least three (3) years following completion of the work.

Fidelity Bond: Financial Institution's Fidelity Bond with a minimum of \$10,000,000, including coverage for fidelity and crime.

Failure of Proof of Coverage: If at any time any of the policies shall be unsatisfactory to COL, as to form or substance, or if a company issuing such policy shall be unsatisfactory to COL, BANK shall promptly obtain a new policy, submit same to COL for approval and submit a certificate of insurance as above provided. Upon failure of BANK to furnish, deliver or maintain such insurance and certificates as above provided, this AGREEMENT, at the election of COL, may be forthwith declared suspended or terminated. Failure of BANK to obtain and/or maintain any required insurance shall not relieve BANK from any liability under this AGREEMENT, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of BANK concerning indemnification.

Additional Insured; Subrogation: COL, and its agents, officers, employees, and volunteers shall be named as additional insured on all insurance policies required in this AGREEMENT, except Workers' Compensation insurance, Bankers' Professional Liability insurance and Financial Institution's Fidelity Bond. The Workers' Compensation insurer shall agree to waive all rights of subrogation against COL, its agents, officers, employees and volunteers for losses arising from work performed by BANK for COL. BANK'S insurance policy(ies) shall include a provision that the coverage is primary as respects COL; shall

include no special limitations to coverage to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of COL. The BANK must deliver certificates evidencing existence of the insurance to COL prior to the time the AGREEMENT is signed.

BANK will provide COL with a separate endorsement evidencing proof of COL's additional insured status required in this AGREEMENT (both general and automobile liability), as well as a separate endorsement for the Workers' Compensation insurer's waiver of all subrogation rights as stated above. Every endorsement shall identify the policy number.

For any claims related to the Services, the BANK'S insurance coverage shall be primary insurance as respects the COL, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the COL, its officers, officials, employees and volunteers shall be excess of the BANK'S insurance and shall not contribute with it.

Adjustments: COL may from time to time adjust the amount of insurance required under this AGREEMENT. BANK will evidence of the adjusted insurance amounts within thirty (30) days written notice from COL of the adjustments.

Available Insurance: Notwithstanding anything to the contrary in this Exhibit B (Insurance), the COL acknowledges and agrees that due to the nature of the banking relationship contemplated between the parties and/or changes in the insurance markets in the future, certain of the requirements set forth in Exhibit B may not be commercially available, may become commercially unavailable or even if available, the premiums, fees or other costs to the BANK may be prohibitively expensive. Under these circumstances, after appropriate due diligence to determine commercially reasonable alternatives, the BANK will in good faith attempt to secure alternative coverage and terms that are satisfactory under the circumstances and the parties agree in good faith to modify the insurance requirements under this AGREEMENT in a commercially reasonable manner.



City of Livingston

1416 C Street
Livingston, CA 95334

July 19, 2019

Robert Baker
Southern Banking Division Manager
Regional Vice President
1524 McHenry Ave
Modesto, Ca 95350

RE: BANKING SERVICES (RFP) ADDITIONAL INFORMATION REQUEST.

Dear Mr. Baker,

Pursuant to our Request For Proposals for Banking Services and our City Council questions please provide further information as follows:

- When was your last CRA Evaluation and what was the Rating?
- What's the rating on the level of qualified community development investments and grants.
- What types of loans does your lending portfolio consist of?
- What types of small business development initiatives are active locally?
- How are you supporting (capacity) building of our local non-profits?
- Have you adopted any quantitative goals around the bank's home lending, small business lending, community development, philanthropy and supplier diversity that can be considered local?

We would appreciate having these questions answered by COB July 26, 2019. Please feel free to contact me at (209) 394-8041 should you have any questions.

Sincerely,


Gurpal Samra
Mayor

Banking Services

Addendum to the

City of Livingston

Robert Baker

Southern Banking Division Manager, Regional Vice President

Brandon Murane

Vice President, Regional Service Manager

Livingston Branch

640 Main Street, Livingston, California, 95334

Telephone

(209) 394-8422

Fax

(209) 394-8437

July 23, 2019





City of Livingston

1416 C Street
Livingston, CA 95334

July 19, 2019

Robert Baker
Southern Banking Division Manager
Regional Vice President
1524 McHenry Ave
Modesto, Ca 95350

RE: BANKING SERVICES (RFP) ADDITIONAL INFORMATION REQUEST.

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Sincerely,

Gurpal Samra
Mayor

Additional Information

Westamerica would like to express our appreciation for continued dialogue regarding the RFP for the City of Livingston banking relationship. We look forward to continuing this support to Council and staff. Our 30 year relationship has helped strengthen banking and loan services for the many residents and small businesses within the Livingston community. It has been our pleasure to diligently work on the proposal process and look forward to the opportunity to provide additional details for the Mayor, Council and staff.

Additional Information (continued)

When was your last CRA Evaluation and what was the Rating?

The 2014 CRA Public Evaluation states:

- Investments which includes CRA-qualified donations was rated “High Satisfactory.”
- Services (retail delivery systems and volunteerism) were rated “High Satisfactory.”
- The lending test was rated “Low Satisfactory.”

Westamerica Bank is rated “Needs to Improve.” The presence of violations of Section 5(a) of the Federal Trade Commission Act (FTC Act) heavily influenced the overall CRA performance assessment and overshadowed an otherwise satisfactory lending record, which was characterized by:

- Adequate lending levels and responsiveness to assessment area credit needs.
- A good dispersion of loans among geographies; of difference income levels;
- An adequate level of community development loans that helped address a variety of pressing community development needs, including affordable housing and health services for low- and moderate-income families;
- A good level of community development investments that exhibited good responsiveness to the need for affordable housing and services targeted to low- and moderate-income individuals and families.
- Reasonably accessible delivery systems and good levels of community development services.

CRA Lending in recent review period:

Small Business/Small Farm

Merced Assessment Area

Amount Reported: \$60.8MM

Number of Loans: 264

Livingston Area

Amount Reported: \$6.49MM

Number of Loans: 31

Community Development Lending

Merced Assessment Area

Amount Reported: \$37.67MM

Number of Loans: 25

Livingston Area

Amount Reported: \$8.9MM

Number of Loans: 10

Additional Information (continued)

What's the rating on the level of qualified community development investments and grants?

In 2014 Westamerica received the following ratings specific to qualified community development investments and grants:

- An adequate level of community development loans that helped address a variety of pressing community development needs, including affordable housing and health services for low- and moderate-income families;
- A good level of community development investments that exhibited good responsiveness to the need for affordable housing and services targeted to low- and moderate-income individuals and families.

Additional Information (continued)

What types of loans does your lending portfolio consist of?

Consumer Lending Options:

Home Equity Loans & Lines of Credit
Personal Unsecured Lines of Credit
Personal Unsecured Loans
Auto Loans
Boat Loans
Recreational Vehicles
Extra Cash/Overdraft Protection
Secured Loans

Business Lending Options:

Lines of Credit

Operating Lines
Master Equipment Lines
Ag Crop Lines
Ag Feed Lines
Orchard/Vineyard Development Lines
Medical/Professional Operating Lines
Business Overdraft
Stand By Letters of Credit
Municipal/Public Entity Lines

Term Loans

Equipment Loans
Auto Loans
Tenant/Facility Improvement Loans
Dairy/Livestock Loans
Winery Loans
Crop Development Loans
Business Expansion Loans
Business Merger/Acquisition Loans
CD/Money Market/Securities Secured Loans
Municipal/Public Entity Loans

Commercial Real Estate (Owner Occupied/Investment)

Land Acquisition
Commercial Construction
Ag Row Crop Property
Dairy
Commercial Condominium/Offices
Medical Office
Warehouse/Industrial
Anchored Retail
Multi Family/Apartments
Mini-Storage
Vineyard/Orchard Property
Gas Stations
Assisted Living

The above referenced lending options do not encompass all programs or services. Provided are all of the options that best represent products used by Westamerica business customers.

Additional Information (continued)

What types of small business development initiatives are active locally?

Westamerica Bank is committed to helping grow small business in our communities with the direct efforts of in-branch staff and outside Commercial Lenders/Relationship Managers. We seek opportunities to provide direct and in-direct lending, deposit services, and treasury management solutions. We support the Merced Assessment Area with 7 branch locations and the Stanislaus Assessment Area with 8 branch locations.

Westamerica Bank also focuses on opportunities to provide financial solutions by direct involvement in the communities we serve. This includes business development, volunteerism, and serving on boards for local community service organizations.

We provide a list of non-profit organizations for our Commercial Lenders/Relationship Managers to access when seeking opportunities to offer loan and deposit services. We also use lists of local small businesses to offer financial solutions in an effort to help grow small business/small farms.

Each Commercial Lender/Relationship Manager is required to be involved in community service hours and also measured on success towards achieving CRA lending goals. We currently have assigned 3 officers to the greater Livingston market.

Goals specific to achieving CRA volunteer hours are set for each branch within the designated Assessment Areas. Participation from all members of branch staff is required to meet this important initiative. This is a key part of how overall branch success is measured.

Additional Information (continued)

How are you supporting building of our local non-profits?

Westamerica furthers the efforts of local non-profits by having employees serve on community organization boards and committees. Employees provide financial education for adults and youth including basic budgeting/financial literacy classes and seminars to promote strong financial awareness. Leveraging the financial expertise of our well trained banking staff has improved the financial management of many local non-profit organizations.

During the last reporting period Westamerica contributed a total of 711 volunteer hours in the Merced Assessment Area and 565 in the Stanislaus Assessment Area with local businesses, non-profits and community service organizations. In addition, Westamerica Bank made a total of \$80,800 in corporate contributions in the Merced Assessment Area and a total of \$80,000 in Stanislaus. Our goal was to encourage local expansion of community based programs and services.

The following is a partial list of key partnerships in this Assessment Area. These serve as an example of our commitment to a diverse network of community based organizations through volunteer hours and corporate contributions:

Livingston Community Health, Merced County Food Bank, CASA-Merced, Merced Rescue Mission, Junior Achievement, Hinds Hospice, Hilmar Helping Hands, Salvation Army, Habitat for Humanity, Creative Alternatives, Inc., and many more deserving entities.

Local branch staff has committed numerous hours to the following organizations and events in Livingston:

Kops for Kids
Livingston Police Department
Livingston High School
Livingston Relay for Life
Festivals and Parades

Westamerica has actively sought to provide additional deposit, treasury management, and loans in the Assessment Area although we may not have been awarded the account/loan relationship. In the Merced Assessment Area, within the most recent review period, proposals of over \$11MM in new loans, potentially benefitting the Livingston area, were offered yet not accepted. Westamerica supports the competitive bidding process because it generates fair pricing for deposit/loan products that our non-profit and community service organizations need.

Additional Information (continued)

Have you adopted any quantitative goals around banks home lending, small business lending, community development, philanthropy and supplier diversity that can be considered local?

Based on Fair Lending Regulation we have established corporate objectives to outreach to the diverse populations that live and work in the communities we serve. Westamerica is committed to the local community in the form of loans and banking services that are responsive to community needs including affordable housing, economic development and stabilizing and/or revitalizing economically distressed areas. Our group of Commercial Lenders/Relationship Managers and branch staff are trained in outreach to support diverse community needs.

Westamerica is committed to providing services consistent with fair banking, lending, and regulatory guidelines in the communities we serve. We strive to achieve strong and attainable results in all aspects of our objectives and fiduciary responsibility of being a community bank. Our key objective is providing a wide range of financial services in a fair and consistent manner. We are committed to reinvesting in local communities including direct involvement with small business and small farms in this culturally diverse valley.

Our valued employees strive daily to earn more opportunities to deliver on this commitment and will continue those efforts within Livingston and surrounding communities. We take pride in our diverse workforce in the communities we serve and encourage career growth and advancement in line with our corporate objectives.



City of Livingston

1416 C Street
Livingston, CA 95334

July 19, 2019

Jay Colombini
Executive Vice President
F&M Bank
121 West Pine Street
Lodi, Ca 95240

RE: BANKING SERVICES (RFP) ADDITIONAL INFORMATION REQUEST.

Dear Mr. Colombini,

Pursuant to our Request For Proposals for Banking Services and our City Council questions please provide further information as follows:

- When was your last CRA Evaluation and what was the Rating?
- What's the rating on the level of qualified community development investments and grants.
- What types of loans does your lending portfolio consist of?
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- How are you supporting (capacity) building of our local non-profits?
- Have you adopted any quantitative goals around the bank's home lending, small business lending, community development, philanthropy and supplier diversity that can be considered local?

We would appreciate having these questions answered by COB July 26, 2019. Please feel free to contact me at (209) 394-8041 should you have any questions.

Sincerely,

Gurpal Samra
Mayor

CITY OF LIVINGSTON

1416 "C" Street LIVINGSTON, CALIFORNIA 95334 PHONE: (209)394-8041 FAX: (209) 394-4190
www.livingstoncity.com

F&M BANK

FARMERS & MERCHANTS BANK OF CENTRAL CALIFORNIA

121 W. Pine St.
Lodi, CA 95240

July 25, 2019

Mayor Gurpal Samra
City of Livingston
1416 C Street
Livingston, CA 95334

Dear Mr. Samra:

Thank you for your letter regarding the Banking Services (RFP) Additional Information Request dated July 19, 2019. Please find our responses to your inquiries below.

- **When was your last CRA Evaluation and what was the Rating?**

Our last published CRA Exam was dated August 8, 2016 with a rating of "Outstanding" which is the highest possible rating available from the federal examiners. We have held this rating consecutively for both our 2013 and 2016 rating periods. We recently completed our CRA Exam for the rating period ending May 20, 2019 and have again been recommended for an "Outstanding" rating by the Examiners. This rating is so rare, as of 1/14/19 only 9% of all California banks have been awarded an Outstanding rating.

To view our CRA ratings or any other bank's CRA ratings please visit the website below:

<https://www.ffiec.gov/craratings/default.aspx>.

- **What's the rating on the level of qualified community development investments & grants?**

Our rating in this category is also "Outstanding". Since 2010, our employees have contributed over 30,000 volunteer hours in our communities. We have supported more than 250 non-profits, donated over \$2 million, invested over \$60 million, and provided more than \$330 million in community development loans in the communities in which we serve.

For our most recent CRA Exam period, we reported total CRA qualified donations of \$18,355 to organizations in Merced County; \$5,980 of that was to organizations in Livingston. Since our last exam period, we have donated an additional \$2,500 to Livingston Community Health and an additional \$5,000 to United Way of Merced County.



- **What type of loans does your lending portfolio consist of?**

F&M Bank is a full service community bank offering a broad range of consumer, small business, commercial and farm lending products as shown in the chart below.

Commercial Loans	Consumer Loans
Standard Business Advantage Line or Loan	Savings/CD Secured Personal Loans
Business Purpose Vehicle Loans	Personal Loans
Commercial/Agricultural Loans	Personal Line of Credit
Agricultural Real Estate Loans	Auto Loans
Agricultural Development Loans	Recreational Vehicles
Letters of Credit	Home Mortgage Loans
Real Estate Construction Loans	Home Equity Lines of Credit
Commercial Real Estate Loans	Home Equity Loans
Multifamily Real Estate Loans	Construction Loans
Equipment and Term Loans	4H/FFA Loans
SBA 7(a) Loans	New Horizons Loans
SBA 7(a) Term Commercial Real Estate Loans	Habitat for Humanity of Stanislaus County
SBA 504 Loans	Mortgage Loan Program
SBA Export, Express, and Capline	Federal Home Loan Bank of San Francisco –
USDA and FSA Loans	Workforce Initiative Subsidy for
Commercial/Agricultural Leasing	Homeownership Program (WISH)

At F&M Bank, we portfolio all of our own loans. Currently F&M Bank has loans outstanding in Merced County of over \$300 million with \$400 million in total loan commitments. Over the last 3 years we have made nearly \$18 million in community development loans in Merced County with nearly \$2 million specifically in Livingston and have made \$11 million in home, home equity, and other consumer loans.

- **What types of small business development initiatives are active locally?**

F&M Bank is the largest California Capital Guarantee program lender in the State of California. We are an SBA preferred lender. We offer Small Business Leasing programs as well as USDA/FSA Guaranteed Loans. We also have our own Streamlined Small Business loan product.

Over the last 3 years, we have made \$21 million in Small Business loans and \$40 million in Small Farm loans in Merced County. We have also made a \$1 million investment in a local Community Development Financial Institution of which \$500,000 is specifically directed for use in Merced County.

- **How are you supporting (capacity) building of our local non-profits?**

Many of our local employees serve on Boards and contribute to our local communities. For our most recent CRA Exam period we reported 330 hours of CRA qualified community service in Merced County.

F&M also supports United Way of Merced County annually through our Corporate Giving Campaign. Over the last 3 years, we have contributed \$8,161 to United Way of Merced County through this campaign via fundraisers and payroll pledges. These amounts are in addition to the \$18,355 CRA donation figure referenced above.

- **Have you adopted any quantitative goals around the bank's home lending, small business lending, community development, philanthropy and supplier diversity that can be considered local?**

Since the CRA reporting period beginning in 2010, we have received an "Outstanding" rating for Community Reinvestment. Our goal is to always maintain our "Outstanding" CRA rating through continued commitment to home lending, small business, small farm, community development lending and support of local non-profit organizations.

Included in our vendor management program selection criteria is the expectation to prioritize vendors who are local to the community, and are either minority or women owned businesses.

During your last City Council meeting, you asked F & M Bank to make a commitment to locate a branch in Livingston if we are awarded the city of Livingston contract. We are honored by your request to open a branch to help meet the financial needs of the residents, businesses, and farms of Livingston by providing a fully array of banking services, community investment and lending. To us, this request indicates the existing financial institutions are not fully meeting the banking needs or expectations of the Livingston community.

F & M Bank is committed to locating a branch in Livingston assuming we can find a suitable ground level location with easy ingress and egress, adequate parking, good visibility, and located in a commercial/business zone. We would also prefer a location with the capability to provide drive up services to the community.

I appreciate the opportunity to respond to your inquiries and we look forward to a long and prosperous relationship with the City of Livingston. Please feel free to contact me directly with any additional questions.

Sincerely,



Jay Colombini
Executive Vice President
Director of Banking

STAFF REPORT

AGENDA ITEM: Resolution Authorizing the City Manager to Execute an Out Of Boundary Service Agreement with Livingston Farmers Association for Water Services and Authoring the City to Submit an Out of Boundary Service Application to LAFCO for the Provision of Potable Water from the City to the Eucalyptus Avenue Project (APNS 143-020-007-000 & 143-020-021-000)

MEETING DATE: August 20, 2018

PREPARED BY: Jose Antonio Ramirez, City Manager
Jose M. Sanchez, City Attorney

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution ____-2019 Authorizing the City Manager to Execute an Out Of Boundary Service Agreement with Livingston Farmers Association for Water Services and Authoring the City to Submit an Out of Boundary Service Application to LAFCO for the Provision of Potable Water from the City to the Eucalyptus Avenue Project (APNS 143-020-007-000 & 143-020-021-000).

BACKGROUND AND DISCUSSION:

Law

Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“LAFCO Law”), a city may, by resolution adopted by its legislative body, make a proposal to provide new or extended services by way of an agreement to a location outside of its jurisdictional boundaries. The Livingston Farmers Association (“LFA”) has requested that the City provide water services to their operation located outside the City’s boundaries.

Background

LFA currently operates two agricultural processing facilities, one within the City of Livingston located at 641 6th Street, and another in unincorporated Merced County at 11019 Eucalyptus Avenue (“Eucalyptus Ave. Property”). LFA is an agricultural growers’ association that provides vital agricultural processing and storage services to approximately 200 growers in Merced County in the area surrounding Livingston. LFA has proven to be an important component of the City and County’s agricultural economy.

LFA’s existing sweet potato processing, storage, and office activities have outgrown LFA’s 641 6th Street location, and at the same time that the area surrounding the 6th Street location has grown increasingly urban and developed, creating logistical, traffic, and public safety problems. To help alleviate concerns related to traffic and safety, LFA applied for and recently obtained a major modification of an existing conditional use permit (“MM18-007”) from the County of

Merced to consolidate its agricultural processing operations at expanded new facilities to be constructed on the Eucalyptus Ave. Property. This approval was issued by the Merced County Planning Commission (“Planning Commission”) on February 13, 2019, and allows for the construction of approximately 113,530 square feet of new agricultural office, processing, and storage facilities (collectively, “Eucalyptus Ave. Project”).

Prior to the County Planning Commission taking action on said project, the Commission considered and adopted a Mitigated Negative Declaration, which evaluated and disclosed the potential environmental impacts of developing and operating the Eucalyptus Ave. Project, along with recommending feasible mitigation measures to ensure that all impacts would be less than significant. The agricultural processing operations contemplated by the Eucalyptus Ave. Project require a reliable, safe potable water supply. However, tests of the primary existing groundwater well at the Eucalyptus Ave. Property have uncovered concentrations of arsenic that substantially violate applicable state and federal drinking water standards, and LFA has determined that providing sufficient, safe, potable water from groundwater wells at the Eucalyptus Ave. Property is infeasible.

LFA Request to City

To ensure a reliable, safe potable water supply, LFA desires to connect the Eucalyptus Ave. Project to the City of Livingston’s public water service. The City has determined that it has adequate capacity, when considering current needs and anticipated future water needs under normal, single-dry and multiple-dry years, to supply LFA with sufficient water to meet its daily potable water needs at the Eucalyptus Ave. Property without impairing its ability to serve present and planned future growth within the City.

LFA has authorized the City of Livingston to prepare an application to Merced County LAFCO (“LAFCO”) for approval of a proposal for an Out of Boundary Service Agreement to extend potable water from the City’s public water supply to the Eucalyptus Ave. Property. LFA has agreed to sign an Out of Boundary Service Agreement prior to submittal of the Out of Boundary Service Application to LAFCO.

LFA has agreed to pay all costs required to cover engineering, labor, material, and equipment required to construct the potable water service extension contemplated by the Out of Boundary Service Agreement and reimburse the City for all costs associated with the LAFCO application and related processing fees. LFA will also pay all applicable water fees and user charges fees when water service is provided to LFA pursuant to the Out of Boundary Service Agreement.

The attached Resolution authorizes the City Manager to enter into an Out of Boundary Service Agreement with LFA for the provision of potable water to Eucalyptus Ave. Project. The Resolution also authorizes the City to submit an Out of Boundary Service Application to LAFCO for the provision of potable water from the City’s public water supply to the Eucalyptus Ave. Project.

FISCAL IMPACT:

All funding of costs required to construct the potable water service extension will be provided by LFA. In addition LFA will pay connection charges required when connecting to the City's public water supply, monthly user charge fees and LAFCO application and related processing fees.

ATTACHMENTS:

1. A Resolution Authorizing the City Manager to Execute an Out Of Boundary Service Agreement with Livingston Farmers Association for Water Services and Authoring the City to Submit an Out of Boundary Service Application to LAFCO for the Provision of Potable Water from the City to the Eucalyptus Avenue Project (APNS 143-020-007-000 & 143-020-021-000)
2. Out of Boundary Service Agreement
3. Out of Boundary Service Request Letter and Application to LAFCO
4. LFA Service Extension Addendum

3333981.3

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
AUTHORIZING THE CITY MANAGER TO EXECUTE AN OUT OF BOUNDARY
SERVICE AGREEMENT WITH LIVINGSTON FARMERS ASSOCIATION
FOR WATER SERVICES AND AUTHORIZING THE CITY TO SUBMIT AN OUT OF
BOUNDARY SERVICE APPLICATION TO LAFCO FOR THE PROVISION OF
POTABLE WATER FROM THE CITY TO THE EUCALYPTUS AVENUE PROJECT
(APNs 143-020-007-000 & 143-020-021-000)**

WHEREAS, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“LAFCO Law”), a city may, by resolution adopted by its legislative body, make a proposal to provide new or extended services by way of an agreement to a location outside of its jurisdictional boundaries; and

WHEREAS, the Livingston Farmers Association (“LFA”) currently operates two (2) agricultural processing facilities, one (1) within the City of Livingston located at 641 6th Street, and another in unincorporated Merced County at 11019 Eucalyptus Avenue (“Eucalyptus Ave. Property”); and

WHEREAS, LFA is an agricultural growers’ association that provides vital agricultural processing and storage services to approximately two hundred (200) growers in Merced County in the area surrounding Livingston. LFA is a fundamental component of the City and County’s agricultural economy; and

WHEREAS, LFA’s existing sweet potato processing, storage, and office activities have outgrown LFA’s 641 6th Street location, and at the same time the area surrounding the 6th Street location has grown increasingly urban and developed, creating logistical, traffic, and public safety problems; and

WHEREAS, in part to alleviate these logistical, traffic, and safety concerns, LFA applied for and recently obtained a major modification of an existing conditional use permit (“MM18-007”) from the County of Merced to consolidate its agricultural processing operations at expanded new facilities to be constructed on the Eucalyptus Ave. Property. Said approval was issued by the Merced County Planning Commission (“Planning Commission”) on February 13, 2019, at a duly noticed public hearing, and allows for the construction of approximately one hundred thirteen thousand five hundred thirty (113,530) square feet of new agricultural office, processing, and storage facilities (collectively, “Eucalyptus Ave. Project”). Prior to the Planning Commission taking action on said project, the Board considered and adopted a Mitigated Negative Declaration, which evaluated and disclosed the potential environmental impacts of developing and operating the Eucalyptus Ave. Project, along with recommending feasible mitigation measures to ensure that all impacts would be less than significant; and

WHEREAS, the agricultural processing operations contemplated by the Eucalyptus Ave. Project require a reliable, safe potable water supply. However, tests of the primary existing groundwater

well at the Eucalyptus Ave. Property have uncovered concentrations of arsenic that substantially violate applicable state and federal drinking water standards, and LFA has determined that providing sufficient, safe, potable water from groundwater wells at the Eucalyptus Ave. Property is infeasible; and

WHEREAS, to ensure a reliable, safe potable water supply, LFA desires to connect the Eucalyptus Ave. Project to the City of Livingston’s public water service; and

WHEREAS, the City has determined that it has adequate capacity, when considering current needs and anticipated future water needs under normal, single-dry and multiple-dry years, to supply LFA with sufficient water to meet its daily potable water needs at the Eucalyptus Ave. Property without impairing its ability to serve present and planned future growth within the City; and

WHEREAS, LFA desires to connect the Eucalyptus Ave. Property to the City of Livingston’s public water service; and

WHEREAS, LFA has authorized the City of Livingston to prepare an application to Merced County LAFCO (“LAFCO”) for approval of a proposal for an Out of Boundary Service Agreement to extend potable water from the City’s public water supply to the Eucalyptus Ave. Property; and

WHEREAS, LFA has agreed to sign an Out of Boundary Service Agreement prior to submittal of the Out of Boundary Service Application to LAFCO; and

WHEREAS, LFA has agreed to pay all sums costs required to cover engineering, labor, material, and equipment required to construct the potable water service extension contemplated by the Out of Boundary Service Agreement; and

WHEREAS, LFA has agreed to reimburse the City for all costs associated with the LAFCO application and related processing fees; and

WHEREAS, LFA has agreed to pay all applicable water fees, and user charges fees when water service is provided to LFA, pursuant to the Out of Boundary Service Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVINGSTON DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

1. The matter before the City Council is a request to authorize the City to enter into an Out of Boundary Service Agreement allowing for the connection LFA’s Eucalyptus Ave. Project to the City of Livingston’s public water service.
2. The Eucalyptus Ave. Project lies outside of the City of Livingston and its sphere of influence in unincorporated Merced County. Government Code section 56133 (c), and Merced LAFCO Policies allow the City to apply for approval of an Out of Boundary

Service connection when it can be shown that Out of Boundary Service is warranted by a threat to public health and safety.

3. Water quality tests conducted at the Eucalyptus Ave. Property confirm that groundwater from at least one (1) of the wells at the Eucalyptus Ave. Property contains arsenic levels at approximately six (6) to eight (8) times the Maximum Contaminant Levels permitted by state and federal law. New wells in the area are likely to contain problematic levels of arsenic, nitrates, and organic compounds, thus LFA has determined that it cannot practicably provide sufficient, safe, potable water from on-site wells to the Eucalyptus Ave. Project.
4. By authorizing the City to enter into an Out of Boundary Service Agreement with LFA and submit an Out of Boundary Service Application to LAFCO, the City is acting in to avoid threats to public health and safety posed by the lack of potable groundwater at the Eucalyptus Ave. Property. The City is also acting to mitigate the growing traffic and public safety problems that would arise if LFA were not able to move its existing operations at 641 6th Street in the City to the Eucalyptus Ave. Property.
5. The proposed Out of Boundary Service connection between the City's public water supply and the Eucalyptus Ave. Project would consist of an approximately twenty-seven thousand (2,700) foot long, six (6) inch, water supply line that would run from the City's sphere of influence boundary at the intersection of Dwight Way and Olive Avenue, run parallel along the Olive Avenue public right of way, and into the southwestern corner of LFA's Eucalyptus Ave. Property to already approved buildings.
6. The proposal to provide out of boundary service to LFA is part of the Eucalyptus Ave. Project, which consists of approximately one hundred thirteen thousand five hundred thirty (113,530) square feet of new agricultural processing, storage, and office facilities approved by the County of Merced on February 13, 2019, by way of Major Modification No. MM18-007 to Conditional Use Permit CUP-3101 for which an Initial Study and Mitigated Negative Declaration ("IS/MND") were adopted.
7. In compliance with the California Environmental Quality Act ("CEQA") purposes, the City of Livingston has determined that an extension of potable water service will not cause any of the triggers set forth in CEQA Guidelines section 15162 to occur, and has documented these findings pursuant to CEQA Guidelines section 15164 in a CEQA addendum for the Eucalyptus Ave. Project. The CEQA addendum notes that the proposed out-of-service extension would not result in any new significant impacts or increase the severity of any previously identified impacts on the environment as evaluated and disclosed in the previously prepared IS/MND for the Eucalyptus Ave. Project. Therefore, no further environmental review is necessary. Both the County and the City of Livingston have determined that the City should act as the lead agency in preparing this addendum.

8. The City Council hereby authorizes the City Manager to enter into an Out of Boundary Service Agreement with LFA for the provision of potable water to Eucalyptus Ave. Project, in a form approved by the City Attorney.
9. The City Council hereby authorizes the City to submit an out of boundary service application to LAFCO for the provision of potable water from the City's public water supply to the Eucalyptus Ave. Project.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the Out of Boundary Water Supply Agreement in the form presented herewith and in a form approved by the City Attorney.

Passed and adopted this _____ day of _____, 2019, by the following vote:

AYES:
NOES:
ABSENT:

Gurpal Samra,
Mayor of the City of Livingston

ATTEST:

I hereby certify that the foregoing resolution was regularly introduced, passed, and adopted at a regular meeting of the City Council of the City of Livingston this ____ day of _____, 2019.

City Clerk of the City of Livingston

3333955.1

**OUT OF BOUNDARY SERVICE AGREEMENT BETWEEN THE CITY OF
LIVINGSTON AND THE LIVINGSTON FARMERS ASSOCIATION
(APNs 143-020-007-000 & 143-020-021-000)**

THIS AGREEMENT is made and entered into this [REDACTED] day of [REDACTED], 2019 (“Effective Date”), between the CITY OF LIVINGSTON, a California Municipal Corporation, hereinafter referred to as “City”, and the LIVINGSTON FARMERS ASSOCIATION, the owner of certain real property located in the unincorporated area of Merced County, hereinafter referred to as “LFA”.

WHEREAS, LFA is an agricultural growers’ association that provides vital agricultural processing and storage services to approximately 200 growers in Merced County in the area surrounding Livingston. LFA is a fundamental component of the City and County’s agricultural economy; and

WHEREAS, LFA operates two agricultural processing facilities and related storage activities, one within Livingston City limits located at 641 6th Street (“6th Street location”), and another located outside of Livingston City limits and at 11019 Eucalyptus Ave (“Eucalyptus Ave Property”) in unincorporated Merced County; and

WHEREAS, LFA’s existing sweet potato processing and storage activities have outgrown LFA’s 641 6th Street location; and at the same time, the area surrounding the 6th Street location has grown more urban and developed, creating logistical, traffic, and public safety problems that hinder LFA’s operations; and

WHEREAS, in part to alleviate these logistical, traffic, and safety concerns, LFA applied for and recently obtained a major modification of an existing conditional use permit (MM18-007) from the County of Merced to consolidate its agricultural processing operations at expanded new facilities to be constructed on the Eucalyptus Ave Property. Said approval was issued by the Merced County Planning Commission (“Planning Commission”) on February 13, 2019 at a duly-noticed public hearing, and allows for the construction of approximately 113,530 square feet of new agricultural office, processing, and storage facilities (collectively, “Eucalyptus Ave Project”). Prior to the Planning Commission taking action on said project, the Board considered and adopted a Mitigated Negative Declaration, which evaluated and disclosed the potential environmental impacts of developing and operating the Eucalyptus Ave Project, along with recommending feasible mitigation measures to ensure that all impacts would be less than significant; and

WHEREAS, the agricultural processing operations contemplated by the Eucalyptus Ave Project require a reliable, safe potable water supply. However, tests of the primary existing groundwater well at the Eucalyptus Ave Property have uncovered concentrations of arsenic that substantially violate applicable state and federal drinking water standards, and LFA has determined that providing sufficient safe, potable water from groundwater wells at the Eucalyptus Ave Property is infeasible; and

WHEREAS, to ensure a reliable, safe potable water supply, LFA desires to connect the Eucalyptus Ave Project to the City of Livingston’s public water service; and

WHEREAS, the City has determined that it has adequate capacity, when considering current needs and anticipated future water needs under normal, single-dry and multiple-dry years, to supply LFA with sufficient water to meet its daily potable water needs at the Eucalyptus Ave Property without impairing its ability to serve present and planned future growth within the City; and

WHEREAS, the City is willing to furnish said potable water service to the Eucalyptus Ave Property upon the terms hereinafter set forth.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. CITY'S PROVISION AND LFA'S USE OF WATER. Upon the Effective Date (and subject to LAFCO approval of same pursuant to Paragraph 10 below), the City shall be obligated to provide potable water service to LFA to serve the Eucalyptus Ave Project as provided for in this Agreement. The water service provided pursuant to this Agreement shall promptly commence upon the installation of the necessary water service connection, and shall be used solely on the Eucalyptus Ave Property to meet LFA's day-to-day potable water needs to serve the Eucalyptus Ave Project, which consists of LFA's existing and approved agricultural processing uses as well as approved ancillary uses, as more fully described in LFA's application materials for the major modification to existing conditional use permit (MM18-007) and related Mitigated Negative Declaration. The parties understand and agree that the City is under no obligation under this Agreement to provide water services beyond those described in this paragraph 1.

2. LINE CONSTRUCTION. LFA shall select and contract with a qualified, licensed engineer, who will prepare all necessary engineering or other plans for construction of the potable water service connection. LFA shall also select and contract with a qualified, licensed contractor to construct the water service connection contemplated by this agreement. LFA shall obtain all necessary building and other permits from the County to construct the water service connection. LFA shall oversee and ensure that construction of the water service connection is completed in a lawful and reasonably timely manner.

3. LINE EXTENSION COSTS. LFA shall pay any and all sums required to cover the engineering, labor, material, and equipment to construct the potable water service connection from the City's public water service infrastructure to LFA's Eucalyptus Ave Property as generally depicted on the map attached as **Exhibit A** hereto. LFA shall also be responsible for any County building or other permit costs required to complete construction of the water service connection.

4. LFA DEDICATION OF WATER LINE OUTSIDE OF LFA PROPERTY, RETENTION OF PORTIONS ON LFA PROPERTY. Within ninety days after completion of construction of the water service extension, LFA shall dedicate ownership of all of those portions of the water service extension and related infrastructure that are not located on the Eucalyptus Ave Property, to the City. LFA shall retain ownership of those portions of the

water service extension and infrastructure that are installed on the Eucalyptus Ave Property. LFA agrees to grant any reasonably necessary easements or licenses to the City for purpose of allowing the City to perform upkeep and maintenance of the water service extension. LFA shall not unreasonably interfere with the City's access to any portion of the water service extension as necessary to perform maintenance or upkeep of same. [NOTE TO CITY: Will the City perform routine maintenance and upkeep of the water line extension going forward? Including portions of the line on LFA's property?]

5. LAFCO APPLICATION AND PROCESSING FEES. LFA shall reimburse the City for all necessary costs and processing fees that the City incurs in order to submit the Out-of-Boundary service application to LAFCO that is associated with this Agreement.

6. WATER CHARGES. LFA shall be subject to and pay all applicable user charges, rates and fees as are in effect at the time of service, as set forth in the City Code and all implementing resolutions, as may be amended from time to time, without regard to the Eucalyptus Ave Property's location outside of City limits.

7. WATER FEES. LFA shall pay all applicable water fees in accordance with the City Code and all implementing resolutions, as may be amended from time to time, without regard to the Eucalyptus Ave Property's location outside of City limits, including but not limited to connection fees and water development impact fees as are in effect at the time of actual connection of the Eucalyptus Ave Project to the City's water system. LFA shall be subject to the same charges, rates, and fees assessed to other similar classes of use for the use of water services located within the City boundaries without regard to the Eucalyptus Ave Property's location outside of the boundary of the City.

8. PROPERTY DESCRIPTION. The Eucalyptus Ave Property herein referenced is described as follows:

Address: 11019 Eucalyptus Avenue, Merced County, CA
APNs: (APNs 143-020-007-000 & 143-020-021-000)

9. PROSPECTIVE ANNEXATION TO CITY. In the event the Eucalyptus Ave Property is contiguous to incorporated boundaries of the City and brought within the City's Sphere of Influence subsequent to the Effective Date of this Agreement and meets all other statutory standards required to annex the Eucalyptus Ave Property to the incorporated territory of the City, LFA shall not oppose nor protest any proceedings commenced by the City, either before the City or Merced Local Agency Formation Commission ("LAFCO"), to annex the Eucalyptus Ave Property to the incorporated territory of the City.

LFA understands and agrees that this Agreement, and the covenants contained herein, is intended to be and shall act as a complete and irrevocable waiver of all rights to protest annexation of the Eucalyptus Ave Property to the incorporated territory of the City pursuant to the provisions of the Cortese-Knox Local Government Reorganization Act of 2000 (commencing with Section 56000 of the California Government. Code), or any other law of

the State of California pertaining to City annexation proceedings, whether or not such protest rights are sought to be exercised as an owner of property that is the subject of annexation proceedings or as a registered voter residing on property that is the subject of annexation proceedings.

LFA also agrees that any lease, rental agreement or other agreement, including a deed, hereafter executed by LFA, or any person succeeding to LFA's interest in the fee title to the Eucalyptus Ave Property or any part thereof, that grants to a natural person or persons the right to possess and occupy the Eucalyptus Ave Property or any part thereof shall contain the following covenant:

"This Agreement and the right of lessee or tenant to possess and occupy the property leased or rented pursuant to this Agreement shall be subject to the provisions of the Out of Boundary Service Agreement that was executed and recorded against this Property at the time of and as a condition of connecting the Property to the water system owned and operated by the City of Livingston. That Agreement contains a complete and irrevocable waiver of any legal right to protest annexation of the Property leased or rented pursuant to this Agreement to the incorporated territory of the City of Livingston, and is binding on all persons possessing or occupying such Property. That Agreement will preclude any person possessing and occupying the Property leased or rented pursuant to this Agreement from protesting annexation of such property to the incorporated territory of the City of Livingston either before the Merced Local Agency Formation Commission, the City Council of the City of Livingston, or in any other manner authorized by the laws of the State of California pertaining to City annexation proceedings."

10. CONFORMANCE WITH APPLICABLE LAW. Connection of the Eucalyptus Ave Property to the City's public water system shall be made in conformance with all applicable City Code, state and regional water regulations and standards, and building code standards. During the entire time that potable water is supplied to LFA's Eucalyptus Ave Project pursuant to this Agreement, LFA agrees to comply with all applicable system wide regulations now or hereafter adopted by the City, including but not limited to Chapter 5, Title 9, of the City Code, that bear on the provision of potable water to property and improvements connected to the City water system. LFA shall be subject to the same regulations applied to other similar classes of use for the use of water service within City boundaries and without regard to its location outside the City and its sphere of influence.

This Agreement, along with the City water service to the Eucalyptus Ave Project that is provided for hereunder, shall only become effective and shall be expressly contingent on the approval by LAFCO in the manner required by Section 56133 of the California Government Code. In the event that LAFCO imposes conditions on the extension of service to the Eucalyptus Ave Project, which in the discretion of either party is unacceptable, either party may terminate this Agreement upon fifteen days' written notice to the other party. In

the event LAFCO denies approval of this Agreement, then this Agreement shall automatically terminate and be of no force and effect.

11. VIOLATIONS. In the event that City water service is utilized for existing and approved uses and structures at the Eucalyptus Ave Property in violation of the provisions of this Agreement, the City shall cause notice of the violation to be served on LFA, the person(s) succeeding to LFA's interest in the Eucalyptus Ave Property or that portion of the Eucalyptus Ave Property in violation of this Agreement, or the occupant(s) of the Eucalyptus Ave Property or portion of the Property in violation of this Agreement.

The notice of violation shall be served by first class mail addressed LFA's main office or address reasonably calculated to notify LFA or its successor(s) in interest of such violation. The notice shall describe the nature of the violation and provide such person(s) with at least fifteen (15) days from the date of the notice to cure the violation. In the event such person(s) fails to cure the default within the time set forth in the notice of violation, the City's Public Works Director shall discontinue water service to the Eucalyptus Ave Property without further notice until such time as the violation has been cured. A waiver by the City of a violation of any provision of this Agreement shall not be deemed a waiver of any subsequent violation of the same or a similar provision, regardless of whether the violation is of the same or a similar character.

12. AGREEMENT TO NOTIFY PURCHASER OR GRANTEE. In the event that the Eucalyptus Ave Property, or any lot or parcel thereof, is to be sold or conveyed, LFA agrees to notify said purchaser or grantee of the terms and conditions of this Agreement; provided, however, the binding effect of this Agreement upon said purchaser or grantee shall not be lessened by any failure of LFA to give such notice.

13. RECORDATION: COVENANT RUNNING WITH THE PROPERTY. LFA understands and agrees that the City shall record this Agreement against the Eucalyptus Ave Property and that this Agreement will run with the Eucalyptus Ave Property and each part thereof until terminated in the manner provided herein, and shall be binding on all persons all persons or legal entities succeeding to LFA's interest in and to the Eucalyptus Ave Property or any part thereof.

14. TERMINATION OF AGREEMENT. This Agreement shall remain in effect until terminated. Following termination of this Agreement, for whatever reason, the Parties will execute and record a Notice of Termination. This Agreement may be terminated in the following manners:

(a) By mutual written agreement of the Parties or their successors and/or assigns;

(b) In the event of annexation of the Eucalyptus Ave Property to the incorporated territory of the City, this Agreement and all of LFA's duties and obligations hereunder shall terminate, in that at such time, LFA shall become entitled to receive City water service on the Eucalyptus Ave Property subject to the same terms and conditions as any other owner of property located within the incorporated territory of City;

(c) LFA may, without cause, terminate this Agreement prior to completion of construction of the water service extension by providing written notice of the termination to the City; or

(d) Should any party seek to terminate this Agreement for any reason except those outlined in Paragraph 14 subparts (a)-(c) above, the dispute resolution procedures set forth in Paragraph 15 of this Agreement will apply.

15. DISPUTE RESOLUTION.

(a) General. This Paragraph 15 establishes the exclusive process by which disputes among the Parties concerning or relating to this Agreement will be resolved. The dispute resolution process established herein will apply to disputes related to the interpretation or enforcement of, or compliance with, the terms and provisions of this Agreement.

(b) Informal Conferral. If a dispute arises as described above in Section 15(a), the parties to the dispute will first attempt to resolve it through informal discussions.

(c) Mediation. In the event a dispute cannot be resolved through informal conferral within twenty-one (21) calendar days, the aggrieved party, the City acting through its governing body, or, in the case of LFA, through its authorized representative, shall give written notice to the other party, setting forth the nature of and basis for the dispute and facts demonstrating that such aggrieved party is materially and adversely affected thereby. The Parties, acting through their designated representatives, including counsel, will endeavor to settle the dispute by mediation. The Disputing Parties will select a neutral third party with appropriate expertise to mediate the dispute.

(d) Judicial Review. The dispute resolution process described above shall be undertaken in good faith and exhausted prior to resort to judicial review; provided, however, that by agreeing to this dispute resolution process, no Party hereby loses or waives its right to sue under any applicable statute of limitations or loses or waives its right to assert the operation of any applicable statute of limitations as an affirmative defense.

15. ENTIRE AGREEMENT. This Agreement represents the entire agreement between the City and LFA regarding the provision of City water service to the Eucalyptus Ave Property and /or the Eucalyptus Ave Project. No verbal agreement or representation regarding this Agreement or city water and wastewater service provided pursuant to this Agreement shall be held to vary the provisions of this Agreement.

IN WITNESS HEREOF, the City and LFA have executed this Agreement on the date set forth above.

City of Livingston

A California Municipal Corporation

By: [INSERT NAME AND POSITION]

Attest:
CITY CLERK

[INSERT NAME]

The Livingston Farmers Association

Date: _____

[INSERT NAME]

[CITY LETTERHEAD]

July____, 2019

VIA E-MAIL AND U.S. MAIL

Bill Nicholson
Executive Officer
Local Agency Formation Organization of
Merced County ("LAFCO")
2222 M Street
Merced, CA 95340

E-Mail: BNicholson@cosb.us

Re: Out of Boundary Service Application Materials for Livingston Farming Association Facilities at 11019 Eucalyptus Avenue

Dear Mr. Nicholson:

The City of Livingston hereby submits an application for an Out-of-Boundary Service request proposing to connect the City's public water supply to the Livingston Farmers Association's (LFA) approved and existing agricultural processing, storage, and office facilities located at 11019 Eucalyptus Avenue in unincorporated Merced County ("Eucalyptus Ave Property"). The Eucalyptus Ave Property lies outside of City's sphere of influence; however, as explained more fully in the enclosed application materials, an out-of-boundary service connection supplying potable water is needed to avoid threats to public health and safety posed by unsafe well water supplies on-site. This Out of Boundary Service request is therefore authorized by Government Code 56113(c) and LAFCO's implementing regulations.

Consistent with LAFCO's application requirements, please find the following application materials enclosed with this letter:

1. A completed Out-of-Boundary Service request application form.
2. A certified resolution adopted by the City Council of the City of Livingston on _____, 2019, approving an out of boundary service agreement with LFA and authorizing submittal of this application to LAFCO to initiate LAFCO proceedings.

3. A copy of a signed Out-of-Boundary Service Agreement between LFA and the City of Livingston, executed on _____, 2019.
4. Copies of a map depicting the proposed water line connecting the City's public water service to LFA's Eucalyptus Ave Property, and the City of Livingston's existing water service and sphere of influence boundaries.
5. A copy of the City of Livingston's _____, 2019 addendum to the Initial Study/Mitigated Negative Declaration ("IS/MND") initially adopted by the County for LFA's Eucalyptus Avenue Expansion Project ("CEQA Addendum"). As explained more fully in the CEQA Addendum, the City has determined that none of the triggers set forth in CEQA Guidelines Section 15162 would occur with implementation of the Eucalyptus Ave Project, and has documented these findings pursuant to CEQA Guidelines Section 15164 in the CEQA Addendum. As described more fully in the CEQA Addendum, the proposed out-of-service extension would not result in any new significant impacts or increase the severity of any previously identified impacts on the environment as evaluated and disclosed in the IS/MND and therefore no further environmental review is necessary.
6. A copy of the staff report submitted by City staff to the City Council of the City of Livingston for its public meeting held on _____, 2019 and relating to the City Council's approval of the Out of Boundary Service Agreement and proposed Out of Boundary service request Application.
7. Copies of letters from the Merced County Public Health Department and State Water Quality Control Board that discuss the threat to public health and safety posed to LFA employees if an out-of-boundary service connection is not provided.
8. A copy of mailing labels of property owners in the project area and other entities interested in receiving public notice of this application pursuant to applicable requirements.

Please do not hesitate to contact us if you have any questions or concerns.

Very truly yours,

CITY OF LIVINGSTON

[INSERT NAME]
[INSERT TITLE]

FILING REQUIREMENTS
Out-Of-Boundary Service Requests

Applications for Out-of-Boundary Service requests will be deemed complete only if the following requirements are fulfilled:

1. One copy of a completed *Out-of-Boundary Service* request Application form.
2. One copy a certified resolution from the agency requesting LAFCO action.
3. One copy of signed contract between agency and property owners seeking service. The contract must stipulate the terms and conditions of extending services to the property and indicate service is contingent upon LAFCO approval.
4. One copy of maps depicting properties seeking service and existing city, urban service area and sphere of influence boundaries.
5. One copy of the LAFCO Environmental Information Form if requesting categorical exemption from CEQA. If project is not categorically exempt, please submit 10 copies of a certified environmental document. Negative declarations must include a copy of the Initial Study.

If there is a question regarding whether or not LAFCO will be lead agency or whether the proposal is categorically exempt, an Environmental Information Form will need to be completed and signed before meeting with LAFCO staff to determine lead agency status.

6. One copy of any staff report submitted to agency's council or board pertaining to the proposal.
7. If proposal is requested to address a health and safety concern, a letter describing the situation is required from County Environmental Health Department or other appropriate agency.
8. One set of mailing labels of property owners in the project area, all affected cities and special districts and any other entities interested in receiving public notice.

**OUT-OF-BOUNDARY SERVICE
APPLICATION**

Date: _____

Agency seeking LAFCO Approval:

Name: City of Livingston
Address: 1416 C Street, Livingston, CA 95334
Phone: (209)-394-8041
Contact Person: Filomena Arredondo

Property Owner Information:
Attach additional sheets as needed

Name: The Livingston Farmers Association
Phone: (209) 394-7941
APN: 143-020-007-000, 143-020-021-000
Property Address: 11019 Eucalyptus Ave, Livingston, CA 95334

Project Information
Please answer all relevant questions. Attach additional sheets as needed

1. Types of public service(s) that are to be provided? The City proposes extending domestic, potable water service to the Livingston Farmers Association's (LFA) soon-to-be constructed expansion of its sweet potato and almond processing, storage, and office facilities at Eucalyptus Avenue in unincorporated Merced County (Eucalyptus Ave Project). Water would be delivered by way of a six-inch water line running a length of approximately 2,700 feet from a City water main to the Eucalyptus Ave Project. Sufficient water would be provided to meet the day-to-day potable water needs at the Eucalyptus Ave site.

2. Reason for out-of-boundary service contract, (why the service is needed)? LFA's operations have outgrown its current, primary agricultural processing, storage, and office facilities at 641 6th Street in the City at the same time that the surrounding area has grown more crowded and urbanized, creating public safety and traffic concerns. In addition to the 641 6th street location, LFA also owns a property at 11019 Eucalyptus Avenue in the unincorporated County ("Eucalyptus Ave Property") where it wishes to move, consolidate, and expand its agricultural processing, storage, and office operations on a single site. A recently drilled and existing well at the Eucalyptus Avenue Site, that LFA initially intended to utilize to secure potable water, exhibits approximately eight times the maximum contaminant level (MCL) of arsenic under state and federal law. Because of this, and similar ground water quality issues in the area, including heightened levels of arsenic, nitrates, and organic compounds, LFA cannot feasibly provide potable water from groundwater sources at the Eucalyptus Ave Site. A connection between the Eucalyptus Ave Site and the City's public water system is therefore necessary to protect public health and safety. The proposed out of boundary service connection is supported by the City of

Livingston, the State Water Resources Control Board, and the Merced County Farm Bureau.

3. Provide a detailed description and map(s) of how services are to be extended to the property(ies) (e.g., distance to water or sewer connections, cost of improvements, method of financing, etc.): A map outlining the proposed location and path of the proposed water line are attached as Exhibit A. As shown on Exhibit A, the water line would connect with the City's public water supply near the corner of Dwight Way and Olive Avenue ("Connection Site"). The Connection Site lies outside of Livingston City limits and at the edge the City's sphere of influence identified on its current general plan map. From the Connection Site, the water line would run parallel along Olive Ave within the public right of way until crossing onto the southwestern corner of the Eucalyptus Ave Property. The water line between the Eucalyptus Ave Site and the Connection Site would be approximately 2,700 feet long (note: the length of out-of-boundary service extension will actually run approximately 1.7 miles from the nearest City boundary to the Eucalyptus Ave Project) . Pursuant to the enclosed Out of Boundary Service Agreement, LFA will be responsible for all permitting, environmental review, and water line construction and connection costs.

4. Is the territory within the Agency's sphere of influence? (If no, a sphere amendment should be requested concurrent with this application): The subject property is not within the City's sphere of influence. However, the lack of available potable water at the Eucalyptus Ave Property poses a threat to health and safety. As such, Government Code section 56133 (c) and Merced LAFCO's implementing regulations permit the extension of water service to the Eucalyptus Ave Site as documented in these application materials and attachments thereto.

5. Describe threat to public health and safety if request is made under emergency conditions (and provide information documenting the circumstances such as County Health Department Notice): Recent tests performed at one of the existing wells that were meant to serve the Eucalyptus Ave Site exhibited eight times the Maximum Contaminant Levels of arsenic allowed under state and federal law. Groundwater supplies in the area of the Eucalyptus Ave Site are un-reliable and if LFA were to attempt to drill new wells, there is a high likelihood that such wells would contain heightened levels of nitrates, arsenic, and/or organic compounds making them unsuitable for domestic use. As a result, it is not feasible for LFA to supply domestic water to the Eucalyptus Ave Project with water extracted from on-site wells.

6. Explain why annexation is not being considered as an alternative to providing services outside the agency's jurisdictional boundaries at this time: Annexation is not being considered at this time. Although LFA serves as an important employer and economic engine for Livingston and the surrounding area, Livingston's most recent General Plan Map does not anticipate that development will spread to the Eucalyptus Ave Site in the next three

decades. Neither LFA nor the City believe that annexation is appropriate or needed at this time.

7. Is annexation of the project area anticipated in the future? If yes, what are the agency's plans and timelines for annexation? Provide relevant information that demonstrates that the service contract is in anticipation of a future annexation: The City of Livingston's current General Plan does not anticipate development growth in the area of the Eucalyptus Ave Property through at least 2050. Nonetheless, the Out of Boundary Service Agreement entered into between LFA and the City provides that in the event that the Eucalyptus Ave Site becomes contiguous with the City, the annexation process would begin. The Agreement also provides that LFA will not protest such future annexation.

8. If new development is proposed, provide a description of the proposed project: The Eucalyptus Ave Project involves the relocation, expansion, and consolidation of LFA's operations on the Eucalyptus Ave Property so that LFA can perform its agricultural processing, storage, and administrative work more efficiently and effectively in a single location. The Eucalyptus Ave Project will involve the construction of a new 31,690 square foot sweet potato processing facility with an office, two new sweet potato storage buildings, each 14,400 square feet in size, and a new 53,040 square foot almond hulling and processing building. Once the Eucalyptus Avenue Project is completed, a total of 45-100 employees will be employed at the Eucalyptus Ave Property, with the total number of employees varying based on season. The Eucalyptus Ave Project was approved by the County of Merced by way of a major modification of an existing conditional use permit (No. 3101-Livingston Farmers Association). The Out-of-Boundary Service Agreement provides that the out-of-boundary water connection will involve a small, six-inch diameter water line, and ensures that the extension will only provide water to the Eucalyptus Ave Project, and only as actually needed by the Project.

9. Identify Lead Agency for environmental review of the project: Merced County prepared an IS/MND for the Eucalyptus Expansion Project before LFA determined that supplying the Eucalyptus Ave Project with water supplied from on-site wells would be unsafe and infeasible. Because the Outside of Area Service Connection would not result any new, significant environmental impacts, the City of Livingston has determined that an addendum to the IS/MND prepared for the Eucalyptus Ave Project will meet CEQA requirements. The addendum will be prepared by the City consistent with CEQA Guidelines 15162 (b) and 15164.

**Addendum to February 13, 2019 Initial Study/Mitigated Negative Declaration for Merced
County Major Modification No. MM18-007 to Conditional Use Permit No. CUP 3101-
Livingston Farmers Association**

I. Introduction

This addendum is prepared as part of the Livingston Farmers Association's ("LFA") request to obtain water service from the City of Livingston's public water supply to LFA's property at 11019 Eucalyptus Avenue, Merced (the "Eucalyptus Ave Property"), which is located in unincorporated Merced County (the "Service Extension" or "Extension"), via approval of an out-of-service area agreement. The Service Extension would be located entirely underground within the existing utility right of way that runs along Olive Avenue and would cross onto the Eucalyptus Ave Property and to its previously-approved agricultural storage, office, and processing facilities there. The Service Extension would be comprised of a six-inch diameter water line that would run approximately 2,700 feet west to east between the corner of Dwight Way and Olive Ave ("Connection Site") onto LFA's Property. The water line would then extend approximately 2,500 feet across LFA's property to LFA's soon to-be-expanded agricultural and office facilities on Eucalyptus Avenue ("Eucalyptus Ave Project" or "Project"). The extension would result in an approximately 1.7 mile out-of-boundary service extension from the nearest Livingston City limits to the Eucalyptus Ave Property.

On February 13, 2019, the County approved the Eucalyptus Ave Project by way of a major modification of conditional use permit no. 3101. In connection therewith, on the same date, the County considered and adopted an initial study and mitigated negative declaration for the Project, which concluded that, with incorporated mitigation measures, the Project would not result in any significant impacts on the environment (the "IS/MND").

The Service Extension would result in a minor change to the Eucalyptus Ave Project as it was originally contemplated and analyzed in the IS/MND. However, the Extension would *not* significantly alter the Eucalyptus Ave Project, result in any new significant impacts, or any significant change to or more severe environmental impacts identified in the IS/MND. As such, approval of the Service Extension would not trigger any additional environmental review, as more fully documented in this CEQA addendum.

CEQA Guideline 15164 expressly allows responsible agencies to prepare addenda to EIRs or MNDs that were initially prepared by other agencies. (14 CCR § 15164 (a).) Because the City of Livingston has discretionary approval power over the Out-of-Boundary Service Extension Agreement that will be integral to the Project, it is a responsible agency and may appropriately prepare this addendum. (See 14 CCR § 15381.)

II. Project Information

A. Background and the Eucalyptus Ave Project

LFA currently operates two agricultural processing sites that serve approximately 200 area growers. One of these sites is located in the City of Livingston (the "City Site"). Since 1967, the City Site has operated as a sweet potato processing and sales location. Presently, the City Site employs around 40 employees engaged in agricultural processing and office activities. In recent years, LFA's operations have outgrown the City Site, while at the same time the

surrounding area has grown more urban. As a result, it has become increasingly unsafe and difficult for large trucks to continue loading and unloading there.

LFA also has an existing operation at 11019 Eucalyptus Avenue in unincorporated Merced County. The Eucalyptus Ave Property is approximately 100 acres in size and currently includes a peach receiving station and almond hulling plant. For approximately four to five months a year, as many as 58 employees work at the Eucalyptus Ave Property, with fewer employees in remaining months.

The Eucalyptus Ave Project aims to address LFA's existing facility shortages and shortcomings by increasing LFA's storage capacity and centralizing and optimizing its operations. The Eucalyptus Ave Project will involve construction of an approximately 31,690 square foot sweet potato processing facility and office, two new approximately 14,400 square foot sweet potato storage buildings, and an approximately 53,040 square foot almond hulling and processing facility. Initial plans for the Project contemplated that on-site wells would provide potable water for use on-site; for the reasons described herein and LFA's application materials, it was subsequently determined that reliance on on-site wells would not be feasible to serve the Project..

B. The Service Extension

Currently, water is supplied to the Eucalyptus Ave Property primarily by way of a recently drilled groundwater well. However, after determining that arsenic levels reach approximately six to eight times the acceptable levels in this well, LFA, in consultation with the State Water Quality Control Board, has determined that ground water wells at the site cannot feasibly supply potable water to the Project.

The Service Extension would remedy the above water problems and result in a minor change to the Eucalyptus Ave Project. The Extension would involve connecting a new six-inch diameter water line to an existing 12 inch diameter water main at the corner of Dwight Way and Olive Ave ("Connection Site") in the unincorporated County. The new water line would be sized to serve only the Project and would run from west to east to the Eucalyptus Ave Property, at a total length of approximately 2,700 feet. The total length of the Extension would be approximately 1.7 miles from the nearest City boundary.¹

Construction of the Service Extension would involve digging an approximately 48 inch deep trench (with at least a 36 inch cover) along Olive Ave using standard trenching techniques. The trench and water line would fall entirely within the existing public right of way immediately adjacent to Olive Avenue. The water line would run along Olive Ave from its intersection with Dwight Way, and run approximately 2,700 feet to the western terminus of LFA's Eucalyptus Ave Property. Once crossing onto LFA's Property, the water line would extend approximately 2,500 feet northward along the western boundary of the Eucalyptus Ave Property and then eastward to connect with the Eucalyptus Ave Project.

¹ For this reason, the City is not seeking to rely on a categorical exemption under CEQA Guideline 15282(k) for "installation of new pipeline...[that] does not exceed one mile in length."

The entire length of the water line extension that runs along Olive Avenue would be located within the public right of way, immediately adjacent to the asphalt roadway surface. The impacted area is characterized by already-disturbed sand, gravel, and asphalt that is mostly devoid of vegetation. Once the water line is placed in its trench the impacted areas would be restored to preconstruction conditions.

III. The Out-of-Boundary Service Extension Involves Such A Minor Amendment To The Project That Was Previously Evaluated In The Original IS/MND That Further Environmental Review Is Not Triggered.

The CEQA Guidelines (Sections 15162 and 15164) provide that an addendum to an adopted IS/MND may be prepared if only minor technical changes or additions are necessary to ensure the original CEQA analysis remains adequate for the modified project being considered, but none of the following conditions triggering additional environmental review has occurred:

- (1) Substantial changes in the project that require major revisions to the MND due to the involvement of new significant environmental effects not discussed in the MND;
- (2) the project will result in impacts more severe than those disclosed in the MND;
- (3) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measure or alternative; or
- (4) mitigation measures or alternatives that are considerably different from those analyzed in the MND would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternative.

As explained more fully herein, no further environmental review is required for purposes of considering and approving the Service Extension since none of the above conditions is applicable. Accordingly, the Service Extension does not trigger further environmental review and an addendum is appropriate.

IV. Environmental Comparative Analysis, Versus Original Project Approval

To document that no further environmental review is triggered for purposes of considering and approving the Service Extension, this section analyzes each of the environmental issue areas identified in Appendix G of the 2019 State CEQA Guidelines. For each category / issue area of potentially significant impacts in each subpart of Appendix G, this section summarizes the IS/MND's findings, and then provides an analysis and conclusion as to how the Service Extension would not result in any new significant impacts, or increase the severity of any previously approved significant impacts.

1. Aesthetics.

Appendix G Checklist	Conclusion in IS/MND	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Have a substantial adverse effect on a scenic vista?	No Impact.	N	N	N
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	No Impact.	N	N	N
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	Less than Significant Impact.	N	N	N
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	Less than Significant Impact.	N	N	N

Discussion.

Aesthetic impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a. Summary of the IS/MND.

The IS/MND analyzed whether the Eucalyptus Ave Project would have a substantial impact on scenic vistas. In this process, the IS/MND noted that the land surrounding the Project site has already been highly modified for agricultural production. As a result, the surrounding terrain is very flat, with most native trees and vegetation removed. The IS/MND also noted that there are no unique visual features or scenic vistas in the Project area, with no designated scenic roadways nearby. Accordingly, the IS/MND concluded that no impacts for this issue area would occur.

Proposed Service Extension Analysis and Conclusion.

The Service Extension proposes to install an entirely below ground water line within an already existing public right of way. The Service Extension would not have any impact on views or scenic vistas. No additional analysis is required.

b. Summary of the IS/MND.

The IS/MND noted that there are no officially designated State Scenic Highways or Routes in the Project vicinity. Accordingly, the IS/MND concluded that the Eucalyptus Ave Project would have no impact on scenic resources such as rock outcroppings, trees, or historic buildings within view of such scenic highways.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be located entirely below ground. Accordingly, the Project would not result in any new significant or more severe impacts and no further analysis is required.

c. Summary of the IS/MND.

The IS/MND noted that the Eucalyptus Ave Project would be located on a project site that has housed LFA packing and storage facilities since 1956. Said facilities have been partially visible from adjacent roadways and residences since that time. The IS/MND further noted that views of the Project area are of other agricultural operations, with similar visual elements to the Project nearby. As a result, the IS/MND concluded that the Eucalyptus Ave Project would have less than significant impacts on the existing visual character of the Project site and vicinity.

Proposed Service Extension Analysis and Conclusion

The Service Extension would be located entirely underground and have no new or more significant impacts on the Project site and the surrounding area's visual character. No additional analysis is required.

d. Summary of the IS/MND.

The IS/MND did not identify any significant light or glare impacts associated with the Eucalyptus Ave Project. The IS/MND noted that new sources of nighttime lighting from the Project would be created by way of 50 exterior lights, however exterior lighting is already in place on existing buildings, with lighting at surrounding residences also already contributing to artificial nighttime light. Because similar lighting already exists at the Project site and lights from other land uses already exist in the Project's vicinity, the project's contribution to existing sources, the IS/MND concluded that the Project's impacts in this category would be minimal and less than significant.

Proposed Service Extension and Conclusion.

The Service Extension would be located below-ground and would not create any new or more severe light or glare impacts. No additional analysis is required.

2. Agricultural Resources.

Appendix G Checklist	Conclusion in IS/MND	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	Less than Significant Impact.	N	N	N
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	No impact.	N	N	N
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	No impact.	N	N	N

Discussion.

Agricultural impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a. Summary of IS/MND.

The IS/MND recognized that the Eucalyptus Ave Project site includes approximately six acres of "Prime Farmland", approximately 12 acres of "Farmland of Statewide Importance" and approximately 22 acres of "Semi-Agricultural and Rural Commercial Land." The Project would ultimately result in the conversion of approximately three acres of "Semi Agricultural and Rural Commercial" land where four Project buildings would be constructed. However, the IS/MND noted that the proposed agricultural storage and processing facilities included in the Project would actually aid in the preservation of farmland overall by lending support services to the agricultural industry in Merced County and throughout the Central Valley Region. Because the Project would result in limited conversion of agricultural land that would be used to support nearby agricultural land, the IS/MND concluded that the conversion of limited acreage of the Eucalyptus Ave Property would amount to a less than significant impact in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be located within an already existing right of way that is under or immediately adjacent to Olive Way and will result in limited disturbance of a small portion of the Eucalyptus Ave Property to allow for construction of the water line across the Eucalyptus Ave Property. Given its location in a public right of way and proximity to the road, water line construction adjacent to Olive Ave would not result in conversion of farmland. Similarly, water line construction across the Eucalyptus Ave Property would not result in a significant conversion of farmland. The water line will be located below ground and, like the rest of the Eucalyptus Ave Project, will support existing and future farm and agricultural operations in Merced County and throughout the Central Valley. The Service Extension would not result in any new or more severe environmental impacts in this category and no further analysis is required.

b. Summary of IS/MND.

The IS/MND noted that no Williamson Act contracts exists for any part of the Eucalyptus Ave Property. The IS/MND also noted that the project is consistent with existing agricultural land use and zoning designations, supports agricultural operations, and is not expected to encourage non-renewal or cancellation of other Williamson Act contracts. As a result, the IS/MND concluded that no impacts would occur in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would not be constructed on any Williamson Act contracted property. Like other aspects of the Eucalyptus Ave Project, the Service Extension will support and not encourage non-renewal or cancellation of nearby Williamson Act contracted lands. Because the Service Extension would not result in any new or more severe environmental impacts in this category no further analysis is required.

c. Summary of IS/MND.

The IS/MND noted that the Eucalyptus Ave Project would not involve development of any use that would be inconsistent with the agricultural zoning or general plan designation of the Project Site, and would not result in development of non-agricultural uses that could result in the conversion of adjacent agricultural lands.

Proposed Service Extension Analysis and Conclusion.

Like other aspects of the Project, the proposed Service Extension would not involve development of any use inconsistent with the agricultural zoning or general plan designation of the Project Site and would not result in development of non-agricultural uses that could result in the conversion of adjacent agricultural lands. Because the Service Extension would not result in any new or more severe impacts in this category, no further analysis is required.

3. Air Quality

Appendix G Checklist	Conclusion in IS/MND	Does the Service Extension involve new significant impacts or	Any new circumstances involving new significant impacts or more severe	Any new information requiring new analysis or verification?

		more severe impacts?	impacts?	
a) Conflict with or obstruct implementation of the applicable air quality plan?	Less than Significant with Mitigation.	N	N	N
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	Less than Significant Impact.	N	N	N
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	Less than Significant Impact.	N	N	N
d) Expose sensitive receptors to substantial pollutant concentrations?	Less than Significant Impact.	N	N	N
e) Create objectionable odors affecting a substantial number of people?	Less than Significant Impact.	N	N	N

Discussion.

Air Quality impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories, when taking into account an incorporated mitigation measure, from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a. Summary of IS/MND

The IS/MND noted that the Eucalyptus Ave Project would be consistent with the San Joaquin Valley Air Pollution Control District’s (SJVAPCD) air quality attainment plans for the San Joaquin Valley. The IS/MND noted that the Project was not expected to exceed thresholds set by the SJVAPCD based on project size and proposed operations, however the County incorporated Mitigation Measure AQ-1 to ensure that air quality impacts in this category would remain insignificant.

Mitigation Measure AQ-1.

Pursuant to Mitigation Measure AQ-1, LFA is required to contact the SJVAPCD to identify applicable SJVAPCD rules and regulations applicable to the Project. Pursuant to AQ-1, LFA would also need to demonstrate that it complies with applicable SJVAPCD rules and guidelines before issuance of a building permit.

Proposed Service Extension Analysis and Conclusion

Although the Service Extension may result in emissions associated with construction of the water line, it would not involve any long-term or operational emissions. Moreover, the Service Extension would be subject to Mitigation Measure AQ-1 that will ensure the entire Eucalyptus Ave Project complies with all applicable SJVAPCD regulations, and air quality attainment plans. The Service Extension would not result in any new or more severe environmental impacts in this category and no further analysis is required.

b-c. Summary of IS/MND

The IS/MND noted that the Project would result in construction and operational emissions, however it would not exceed SJVAPCD thresholds of significance. LFA would also be required to comply with SJVAPCD Regulations regarding control measures for construction and earthmoving activities. These measures would ensure that SJVAPCD significance thresholds are not exceeded during construction. Because construction and operational emissions would not exceed SJVAPCD significance thresholds, the IS/MND concluded that Project impacts in this category would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would not result in any new operational emissions, but may result in some additional construction emissions. However, like all aspects of the Project, the Service Extension would be required to abide by SJVAPCD regulations that would require construction emissions to remain below SJVAPCD significance criteria. The Service Extension would not result in any new significant or more significant impacts in this category. No further analysis is required.

d. Summary of IS/MND.

The IS/MND noted that because of the Project size and short duration of construction activities with potential to generate toxic air emissions (primarily diesel particulate matter from construction vehicles and engines), it is highly unlikely that Project construction would pose a toxic risk to nearby residents. Accordingly the IS/MND concluded that no significant impacts would occur.

Proposed Service Extension Analysis and Conclusion.

The only possible impacts in this category resulting from the Service Extension would be related to construction as there would be no operational emissions from the water line. As noted in the IS/MND, given the limited project size and short duration of construction activities, the Service Extension would not result in any new, or more severe impacts in this category. No further analysis is required.

e. Summary of IS/MND.

The IS/MND noted that the only potential odors associated with the Project would be from diesel exhaust and the application of paint during Project construction. These odors, if perceptible, are common in the environment and would dissipate rapidly as they mix with surrounding air and would be of very limited duration. As a result, the IS/MND concluded that such impacts would be less than significant.

Proposed Service Extension Analysis and Conclusion

Like other aspects of the Project, the only potentially new odors associated with the Service Extension would be from diesel exhaust emitted during construction. As noted in the IS/MND, these odors are common in the environment and would dissipate rapidly as they mix with surrounding air. As a result, the Service Extension would not result in any new significant impacts or severely increase impacts in this category from the Project. No further analysis is required.

4. Biological Resources.

Appendix G Checklist	Conclusion in IS/MND	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	Less than Significant Impact.	N	N	N
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	Less than Significant Impact.	N	N	N
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	Less than Significant Impact.	N	N	N

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	Less than Significant Impact.	N	N	N
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	Less than Significant Impact.	N	N	N
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	Less than Significant Impact.	N	N	N

Discussion.

Biological Resources impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a-f. Summary of IS/MND

The IS/MND determined that the Project would have an insignificant impact on biological resources. In reaching this determination, the IS/MND noted that the Project site is already highly disturbed with sandy soils historically consisting of alkali desert scrub. The IS/MND noted that there have been no sensitive species identified on-site and the project site is not located near federally protected wetlands. Accordingly the Project would not result in any significant impacts in this category.

Proposed Service Extension Analysis and Conclusion

Along Olive Ave, the Service Extension would be constructed entirely within the paved right of way or the disturbed area immediately adjacent to the pavement, neither of which are known to be home to any sensitive or special species. As noted in the IS/MND, those areas where the Service Extension will be constructed on the Eucalyptus Ave Property are already disturbed and devoid of sensitive or special species. Moreover, the Service Extension would not cross any federally protected wetlands, and would not have a substantial adverse effect on special status species, riparian habitat, other sensitive natural communities, or protected wetlands. The Service Extension would not interfere with the movement of native resident or migratory fish, wildlife species, or established native resident or migratory wildlife corridors. The Service extension would not conflict with any local policies or ordinances protecting biological resources; or provisions of an adopted Habitat Conservation Plan, Natural Community conservation Plan;

or, other approved local, regional, or state habitat conservation plan. Accordingly, the Service Extension would not result in any new significant impacts, or more severe impacts in this category and no further analysis is required.

5. Cultural Resources.

Appendix G Checklist	Conclusion from the IS/MND	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	Less than Significant Impact.	N	N	N
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	Less than Significant Impact.	N	N	N
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	Less than Significant Impact.	N	N	N
d) Disturb any human remains, including those interred outside of formal cemeteries?	Less than Significant Impact.	N	N	N

Discussion.

Cultural Resources impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a-b. Summary of IS/MND.

The IS/MND noted that there are no recorded significant historical resources or archaeological sites on the Eucalyptus Ave Property, and given the already disturbed nature of the Project Site from prior construction and agricultural use, the IS/MND concluded that impacts in this category would be less than significant.

Proposed Service Extension Analysis and Conclusion

Most of the water line for the Service Extension would be constructed immediately adjacent to Olive Ave in an already disturbed area that has been impacted by road construction and maintenance. Those areas of the Service Extension on LFA property are similarly already

graded and disturbed. Accordingly, the Service Extension would not result in any new significant, or more severe impacts in this category and no further analysis is required.

c. Summary of IS/MND.

The IS/MND noted that the Eucalyptus Ave Project would be constructed on a site that is already disturbed, with no known cultural resources located on site. As a result, the IS/MND concluded that no significant impacts would occur.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would similarly be constructed on a site that is already disturbed, with no known cultural resources located in the areas where the Service Extension would be constructed. Accordingly, no new significant impacts, or more severe impacts would occur in this category and further analysis is not required.

d. Summary of IS/MND.

The IS/MND recognized that there are no known human remains at the Project Site. If human remains or unrecorded resources are exposed during construction, Section 7050.5 of the California Health and Safety Code would be implemented, which requires all construction and excavation be stopped until the county coroner can determine whether the remains are of a Native American, and if so, the California Native American Heritage Commission will be contacted. Taking this into account, the IS/MND concluded there would be no significant impacts in this category.

Proposed Service Extension Analysis and Conclusion.

No known human remains are present where the Service Extension will be constructed, therefore no impact is expected. In the event that human remains are found during construction of the Service Extension, Section 7050.5 will be implemented. Accordingly, the Service Extension would not result in any new significant impacts or any more severe impacts. No further analysis is required.

6. Geology and Soils.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	Less than Significant Impact.	N	N	N
i) Rupture of a known earthquake fault, as delineated on the most	Less than Significant Impact.	N	N	N

recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				
ii) Strong seismic ground shaking?	Less than Significant Impact.	N	N	N
iii) Seismic-related ground failure, including liquefaction?	Less than Significant Impact.	N	N	N
iv) Landslides?	Less than Significant Impact.	N	N	N
b) Result in substantial soil erosion or the loss of topsoil?	Less than Significant Impact.	N	N	N
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	Less than Significant Impact.	N	N	N
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	Less than Significant Impact.	N	N	N
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	Less than Significant Impact.	N	N	N

Discussion.

Geology and Soil impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a.i. Summary of IS/MND.

The IS/MND recognized that there are no known faults within Merced County that will affect the Project site. The IS/MND identified the nearest faults to Merced County as including: the San Andreas Fault approximately 15 miles to the west of the County, the Hayward, Greenville, and Calaveras Faults to the Northwest, and the Bear Mountain Fault Zone about five miles east of

the County. The IS/MND concluded that given the fact that no faults exist in the County, and existing faults are in fact miles from County boundaries, no impacts related to the rupture of a known earthquake fault are expected from the Project.

Proposed Service Extension Analysis and Conclusion.

Similar to other aspects of the Project, the Service Extension would be constructed an area that lies miles from the nearest fault. Accordingly, no new significant or substantially severe impacts in this category would occur and no further analysis is required.

a.ii. Summary of IS/MND.

The IS/MND noted that the faults listed in part a.i. above have and will continue to be the principal sources of seismic activity affecting the County. Based on very limited fault activity in the County, and limited external fault impacts that may impact the County, the IS/MND concluded that any impacts from strong seismic ground shaking resulting from the Project would be less than significant.

Proposed Service Extension Analysis and Conclusion.

Similar to other aspects of the Project, the Service Extension will be located in an area with limited fault activity and limited external fault impacts. The Service Extension would not result in any new significant impacts or any more severe impacts in this category and no further analysis is required.

a.iii. Summary of IS/MND.

The IS/MND noted that according to the County General Plan, no specific liquefaction hazard areas have been identified in the County. Since the Project site is not in a designated liquefaction area, there is no anticipated threat from damage caused by subsidence and the IS/MND concluded that Project impacts in this category would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The area impacted by the Service Extension does not include any designated liquefaction areas. Accordingly, the Service Extension would not result in any new significant impacts or any more severe impacts in this category, and further analysis is not required.

a.iv. Summary of IS/MND. The IS/MND noted that the Project site is not expected to encounter landslides because the project site and surrounding land are relatively flat, with no substantial slopes nearby. Appropriately, the IS/MND concluded that the risk that Project impacts would result in landslides would be less than significant.

Proposed Service Extension Analysis and Conclusion.

Like other areas of the Project, the Service Extension would be constructed entirely on land that is relatively flat with no substantial slopes in the vicinity. Taking this into account, the Service Extension would not result in any new significant impacts or more severe impacts in this category. No further analysis is required.

b. Summary of IS/MND.

The IS/MND took into account the fact that the project site has been previously cleared and graded, with portions previously paved. The IS/MND noted that the Project could result in temporary topsoil loss and erosion due to construction, however, the Project site is already level and relatively flat and would not result in significant modification of the site's existing topography or ground surface. As such, the IS/MND concluded that no significant impacts in this category would occur.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would similarly be constructed immediately adjacent to a roadway surface in a public right of way that has already been cleared and graded. Those areas of the Service Extension on the Eucalyptus Ave Property have already been cleared and graded for agricultural activities and for existing facilities. The Service Extension would therefore not result in any new significant, or more severe impacts in this category. No further analysis is required.

c. Summary of IS/MND.

The IS/MND noted that soils in the general vicinity of the Project area are typically categorized as sandy, with few building limitations. Such limitations would be minimized by project design and a soil report would be prepared by a licensed soils engineer for any new construction as required by the California Building Code. As such, the IS/MND concluded that impacts from landslide, lateral spreading, subsidence, liquefaction or collapse would be less than significant.

Proposed Service Extension Analysis and Conclusion.

Like other aspects of the Project, the Service Extension would be constructed in compliance with the California Building Code in a manner that would ensure impacts from landslide, lateral spreading, subsidence, liquefaction, or collapse would be less than significant. As a result, the Service Extension would not result in new significant impacts or more severe impacts in this category. No further analysis is required.

d. Summary of IS/MND.

The IS/MND noted that Project compliance with the California Building Code would reduce risks on the Project site from shrink-swell potential to levels considered acceptable for the state and region, and risks from expansive soils. Accordingly, the IS/MND concluded that impacts in this category would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be limited to installation of a six inch diameter water line that would not be highly susceptible to shrink-swell potential. Moreover, the Service Extension would comply with the California Building Code which includes measures to prevent impacts from shrink-swell. As a result, the Service Extension would not result in new significant impacts or more severe impacts in this category. No further analysis is required.

e. Summary of IS/MND.

The IS/MND determined that the Project would not result in any significant impact resulting from soils incapable of adequately supporting septic tanks or alternative wastewater disposal systems.

Proposed Service Extension Analysis and Conclusion.

The Service Extension will be constructed consistent with the California Building Code and subject to County building department approval subject to all County health and building requirements. As a result, the Service Extension would not result in any new significant impacts or more severe impacts in this category. No further analysis is required.

7. Greenhouse Gas Emissions.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.	Less than significant.	N	N	N
Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.	Less than Significant.	N	N	N

Discussion.

Greenhouse Gas Emissions impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a. Summary of IS/MND.

The IS/MND noted that although the project would result in operational greenhouse gas emissions, and emissions related to construction activities, the Project size (113,530 square feet) is substantially below the SJVAPCD’s screening level (400,000 square feet of industrial/manufacturing land use) for projects expected to emit a substantial amount of criteria pollutants. Based on these numbers, the Project would not be subject to a quantitative air quality analysis under the SJVAPCD. Similarly, the Project would result in a relatively small contribution to GHG emissions, and as a result GHG emissions were not quantified.

Given the correspondingly low levels of GHG emissions from the Project, the IS/MND concluded that the Project would not make a substantial contribution to GHG emissions, resulting in a less than significant impact.

Proposed Service Extension Analysis and Conclusion.

The Service Extension involving a six-inch diameter water line at a total length of approximately 5,200 feet would not result in an overall project size, when added to the 113,530 square feet of the already approved Project, exceeding 400,000 square feet, which is the SJVAPCD’s screening level for criteria pollutants. Moreover the Service Extension would not result in any operational emissions of greenhouse gases. For the foregoing reasons, the Service Extension would not result in any new significant impacts or more severe impacts in this category and no further analysis is required.

b. Summary of IS/MND.

The IS/MND noted that Merced County has not adopted a Climate Action Plan or any GHG reduction measures other than enforcing the provisions of the Green Building Standards Code and the California Energy Code (Title 24). The IS/MND noted that the Project would locate LFA’s agricultural processing facilities nearer to the crops it serves and result in greater efficiency for LFA’s already existing agricultural processing activities, including maximization of transportation efficiency and reduction of potential emissions. As a result, the IS/MND concluded that the Project would generate a less than significant level of GHG emissions, and would not conflict with statewide or regional GHG reduction plans and policies adopted by the California Air Resources Board and SJVAPCD.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would not increase operational greenhouse gas emissions, and would only increase greenhouse gas emissions during construction of the Service Extension. Construction related emissions would be temporary and would not result in a significant emission of greenhouse gasses. Ultimately, the Service Extension would support the Project, which would maximize LFA’s operational and transportation efficiency. As a result, the Service Extension would not create any new significant or more severe impacts in this category. No further analysis is required.

8. Hazards and Hazardous Material.

Appendix G Checklist	Conclusion from IS/MND	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	Less than significant.	N	N	N
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	Less than significant.	N	N	N

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	No impact.	N	N	N
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	No impact.	N	N	N
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	Less than significant.	N	N	N
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	Less than significant.	N	N	N
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	Less than significant.	N	N	N
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	No impact.	N	N	N

Discussion.

Hazards and Hazardous Materials impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a-b. Summary of IS/MND.

The IS/MND noted that during routine operations and construction of the Project, any and all hazardous materials would be stored and/or transported consistent with relevant California

Occupational Safety and Health Administration (CAL/OSHA) regulations, and Merced County Health standards and procedures. As a result, the IS/MND concluded that the risk of hazards to the public or to environmental conditions from hazardous materials as a result of transport, use, storage, or disposal of hazardous materials would be less than significant. Similarly, the IS/MND concluded that the risks of hazards to the public or environmental conditions related to accident conditions would be less than significant.

Proposed Service Extension Analysis and Conclusion.

Construction of the Service Extension would be done in compliance with CAL/OSHA regulations and subject to approval by relevant County building authorities. Operation of the Service Extension, which would supply potable water, would not result in any appreciable transport, storage, use, or disposal of hazardous materials. The Service Extension would therefore not involve new significant impacts or more severe impacts in this category. No further analysis is required.

c. Summary of IS/MND.

The IS/MND noted that given the agricultural nature of the Project, it is reasonable to conclude that the project would not emit hazardous emissions or handle hazardous or acutely hazardous materials or substances that would have the potential to affect nearby schools. As a result the IS/MND concluded that no impact would be anticipated in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension, which would involve transport of potable water associated with agricultural use, would not emit hazardous emissions, or result in the handling of hazardous materials or substances that would have the potential to affect nearby schools. The Service Extension would not result in new significant impacts or more severe impacts in this category. No further analysis is required.

d. Summary of IS/MND.

The IS/MND noted that no portion of the Eucalyptus Ave Property is on the California Department of Toxic Substance's Hazardous Waste and Substances Site List ("Cortese List"), and that a Hazardous Waste and Substance Statement on file with the County indicates that the Project site is not included on a list of hazardous materials sites under Government Code section 65962.5. Considering this, the IS/MND concluded that no impacts would occur in this category.

Proposed Service Extension Analysis and Conclusion.

Neither the right of way along Olive Ave, nor the Eucalyptus Ave Property, where the Service Extension will be installed, are listed on the Cortese List. Moreover, the areas where the Service Extension will be installed are not included on the list of hazardous materials sites pursuant to Government Code section 65962.5. As a result, no new significant impacts, nor any more severe impacts would occur under this category. No further analysis is required.

e-f. Summary of IS/MND.

The IS/MND noted that the Project Site is located miles from the nearest airport and is not located within any adopted airport land use plan or within an airport compatibility zone. The IS/MND also noted that the approximately 35 foot high buildings constructed for the project would not be used for habitation and would not pose a meaningful risk to airport traffic. As a result, the IS/MND concluded that the potential for aircraft related accidents affecting the site, or likelihood of resulting aircraft safety issues is very low, and the project would have a less than significant impact in these categories.

Proposed Service Extension Analysis and Conclusion.

Once completed, the Service Extension would be located entirely below ground and would have no conceivable impact on airport traffic or aircraft safety. As a result, the Service Extension would not result in any new significant impacts or more severe impacts in these categories. No further analysis is required.

g. Summary of IS/MND.

The IS/MND noted that the Eucalyptus Ave Project would not include any modification of existing area roadways or intersections and the project would not add significant amounts of traffic that would interfere with emergency response or evacuation. As a result, the Eucalyptus Ave Project would not result in any significant impacts.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would not result in any long-term modification of existing area roadways or intersections, and would not add significant amounts of traffic that would interfere with emergency response or evacuation. A single lane may be temporarily impacted during construction of the Service Extension, which would be constructed either under, or immediately adjacent to Olive Ave from Dwight Way to the Eucalyptus Ave Property. However, given the limited time-frame in which construction of the Service Extension would be completed, the Service Extension would not result in any new significant impacts or more severe impacts in this category. No further analysis is required.

h. Summary of IS/MND.

The IS/MND noted that the Project Site is bordered by irrigated agricultural land, which is not highly susceptible to wildland fires. The IS/MND also noted that the Project Site is not categorized as wildlands under the County's General Plan, and is within a Local Response Area (LRA) serviced by the Merced County Fire Department and where Fire Hazards are reduced due to fire prevention measures. As a result, the IS/MND concluded that the Eucalyptus Ave Project would not result in any impacts in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be constructed entirely below ground and would result in installation of a six-inch water line used solely to transmit potable water. Construction activities required to install the below ground water line along a public right of way and across the Eucalyptus Ave Property would not create any significant risk of wildfire to people or structures. Once operational, the below ground water Service Extension would not expose people or structures to a risk of loss from wildfire. Accordingly, the Service Extension would not create

any new significant impacts or more severe impacts in this category. No further analysis is required.

9. Hydrology and Water Quality.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Violate any water quality standards or waste discharge requirements?	Potentially Significant Unless Mitigation Incorporated.	N	N	N
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	Less than Significant Impact.	N	N	N
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	Less than Significant Impact.	N	N	N
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	Less than Significant Impact.	N	N	N
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional	Less than Significant Impact.	N	N	N

sources of polluted runoff?				
f) Otherwise substantially degrade water quality?	Potentially Significant Unless Mitigation Incorporated.	N	N	N
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	Less than Significant Impact.	N	N	N
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	Less than Significant Impact.	N	N	N
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	Less than Significant Impact.	N	N	N
j) Inundation by seiche, tsunami, or mudflow?	No Impact.	N	N	N

Discussion.

Hydrology and Water Quality impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts, when incorporating Mitigation Measure HYD-1, utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a.f. Summary of IS/MND.

The IS/MND concluded that the proposed project would not violate water quality standards or waste discharge requirements, or substantially degrade water quality. However, because the project would disturb more than one acre of land, LFA would need to obtain a General Construction Activity Storm Water Permit from the California State Water Resources Control Board (SWRCB), that would require the implementation of a Storm Water Pollution Prevention Plan (SWPPP). As a result, the IS/MND incorporated Mitigation Measure HYD-1.

Mitigation Measure HYD-1.

Mitigation measure HYD-1 requires LFA to submit permit registration documents for Construction General Permit Order 2009-0009-DWQ to the SWRCB, and comply with all requirements of the general permit, including all procedural requirements for submittal of permit registration documents.

The IS/MND concluded that with implementation of Mitigation Measure HYD-1, the Eucalyptus Ave Project would not violate any water quality standards or waste discharge requirements. Thus, the IS/MND concluded that the Project would not result in any significant impacts in this category

Proposed Service Extension Analysis and Conclusion.

The Service Extension would disturb some areas in addition to those disturbed by other aspects of the Eucalyptus Ave Project. This would result in a total area of more than one acre disturbed by the overall project. Pursuant to SWRCB regulations, LFA would need to obtain coverage under General Construction Permit Order 2009-0009-DWQ for the Service Extension, just as it is required to obtain coverage for the already approved portions Eucalyptus Ave Project. For the Service Extension, this may involve submittal of an additional form under General Construction Permit Order 2009-0009 for linear underground construction.

Mitigation Measure HYD-1 would thus apply to the Service Extension. With the implementation of Mitigation Measure HYD-1 to the Service Extension in the same manner that it applies already approved portions of the Project, the Service Extension would not result in new significant or more severe impacts in this category. No further analysis is required.

b. Summary of IS/MND.

The IS/MND assumed that the Eucalyptus Ave Project would be supplied by existing on-site wells and utilize groundwater to meet the Project's water needs. Based on an estimate that the Project would utilize approximately 3,700 gallons of groundwater daily, the IS/MND concluded that the Project would result in less than significant impacts on groundwater supplies or interference with groundwater recharge.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would result in minor technical changes to the Eucalyptus Ave Project that would no longer call for depletion of groundwater resources for the Project's potable water needs. Instead, the Project's potable water needs would be met by the City of Livingston's public water system. This would result in less significant groundwater impacts than analyzed in the IS/MND, which assumed that on-site wells would supply Project water. Accordingly, the Service Extension would not result in any new significant impacts or any more severe impacts in this category. No further analysis is required.

c. Summary of IS/MND.

The IS/MND noted that the Eucalyptus Ave Project would alter approximately three acres of already graded and disturbed land. Although the Project's new buildings would result in more storm water runoff, such runoff would be appropriately directed to an existing storm water basin on the east side of Sultana Drive. As a result, the IS/MND concluded that the Project would not result in significant impacts in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would similarly alter areas, that both on Olive Way and LFA's property, have already been graded and disturbed, and would not result in additional storm water runoff. As a result, minimal if any new erosion or siltation would occur. The Service Extension would not result in new significant impacts or more severe impacts in this category. No further analysis is required.

d. Summary of IS/MND.

The IS/MND noted that the Project would need to meet drainage standards of the California Building Code and Merced County as well as California Department of Food and Agriculture to avoid pooling of water around storage and processing areas. This would prevent alteration of existing drainage patterns of the site that would result in substantial erosion, siltation, or flooding. Accordingly, the IS/MND concluded that impacts in this category would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would need to meet drainage standards outlined in the California Building Code and required by Merced County before the necessary permits for construction of the Service Extension would be issued. As a result, substantial erosion, siltation, or flooding would not likely result from the Service Extension. As such, the Service Extension would not result in new significant impacts or more severe impacts in this category and no further analysis is required.

e. Summary of IS/MND.

The IS/MND noted that while the Project would result in an addition of three acres of impervious surface (new buildings and paved areas), the Project would include design features that would direct storm water to an existing storm water basin. The IS/MND further determined that the existing storm water basin has sufficient capacity to absorb Project storm water. As a result, impacts in this category were found to be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be located underneath permeable surfaces immediately adjacent to the roadway and across the Eucalyptus Ave Property. Once construction is complete, the surface above the water line would be returned to its pre-construction condition, with surface materials such as sand, gravel, asphalt, or soil replaced to match pre-existing conditions. As a result, the Service Extension would not result in new significant impacts or more severe impacts in this category. No additional analysis is required.

g-i. Summary of IS/MND.

The IS/MND noted that the Project site is located outside of 100-year flood hazard areas. While the IS/MND acknowledged that the Project site is within an area of possible inundation from dam failure, there is a very low likelihood of such occurrence. As a result, the IS/MND concluded that the Project would not result in significant impacts in these categories.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would involve the installation of a below-ground water line that will transport potable water. The Service Extension would not place any housing, or above-ground structures within a 100 year floodplain. The Service Extension will similarly not expose people or structures to significant risks of loss, injury, or death involving flooding. As a result, the Project would not result in any new significant impacts or more severe impacts in these categories. No additional analysis is required.

j. Summary of IS/MND.

The IS/MND found no impact would occur in this category because the Project site is on flat ground and is not threatened by seiche, tsunami, or mudflow hazards.

Proposed Service Extension Analysis and Conclusion.

The area where the Service Extension would be constructed is also primarily on flat ground, and is not threatened by seiche, tsunami, or mudflow hazards. As a result, the Project would not result in any new significant impacts or more severe impacts in this category and no further analysis is required.

10. Land Use and Planning.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Physically divide an established community?	No impact.	N	N	N
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	No impact.	N	N	N
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	No impact.	N	N	N

Discussion.

Land Use and Planning impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a. Summary of IS/MND.

The IS/MND concluded that because there is no established community in the Project area, the Eucalyptus Ave Project would not divide an established community. As a result, the IS/MND determined that no adverse impacts would result for this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be placed within an already existing right of way and on portions of the Eucalyptus Ave Property where no established communities are located. Therefore, the Service Extension would not result in any new significant or more substantially severe impacts in this category and no further analysis is required.

b. Summary of IS/MND.

The IS/MND noted that the Eucalyptus Ave Project would be located in areas designated Agricultural in the General Plan and zoned A-1 (General Agricultural) under the zoning code. The Project would therefore be a continuation of an agricultural support use consistent with the zoning code and general plan. As a result, the IS/MND concluded that no significant impacts would occur.

Proposed Service Extension Analysis and Conclusion

The Service Extension would be located in areas with the same agricultural land use and zoning designations as other aspects of the Eucalyptus Ave Project. The Service Extension would be utilized for agricultural support purposes and is consistent with existing land use and zoning designations. No new significant nor more severe impacts would occur in this category. No further analysis is required.

c. Summary of IS/MND.

The IS/MND noted that the Eucalyptus Ave Project is not located in an area covered by an adopted Habitat Conservation Plan or Natural Community Conservation Plan. As such, the IS/MND determined that no significant impact would occur in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be installed primarily on areas that are already highly disturbed, and would be located entirely underground. No new significant or more severe impacts would result in this category. No further analysis is required.

11. Mineral Resources.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	No impact.	N	N	N
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific	No impact.	N	N	N

plan or other land use plan?				
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Discussion.

Mineral Resources impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential impacts utilizing the above environmental categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a-b. Summary of IS/MND.

The IS/MND noted that sand and gravel are the most valuable mineral resources in the County, and that the Project site is not located within any sand or gravel resource identified in the General Plan or State Mineral Resources Map. The IS/MND further noted that no mineral extraction activities exist on the project site. As a result, the IS/MND concluded that no significant impacts in these categories would occur.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be installed in areas that are not suitable for mining and/or not located in an area identified as a sand or gravel resource. The Service Extension would not result in any new significant or more severe impacts in these categories. No further analysis is required.

12. Noise.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	Less than Significant.	N	N	N
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	Less than Significant.	N	N	N
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	Less than Significant.	N	N	N

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	Less than Significant.	N	N	N
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	No Impact.	N	N	N
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	No Impact.	N	N	N

Discussion.

Noise impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potential significant impacts utilizing the above environmental categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a-d. Summary of IS/MND.

The IS/MND noted that construction noise from the Eucalyptus Ave Project would temporarily increase noise levels in the project vicinity during construction. The IS/MND noted that construction would result in intermittent noise, and that ground borne vibration would be minimal because the Project Site is already predominately graded and developed. The IS/MND further noted that noise impacts would be kept below significant levels because construction would only be allowed during daytime hours outlined in the County’s noise ordinance. As a result, the IS/MND concluded that no significant impacts would occur in these categories .

Proposed Service Extension Analysis and Conclusion

The Service Extension would only create noise impacts during construction, and would not result in operational noise. Construction of the water line is expected to move quickly, without running past any sensitive noise receptors near Olive Ave or elsewhere. Accordingly The Service Extension would not result in any new significant impacts or any more severe impacts in this category. No further analysis is required.

e-f. Summary of IS/MND.

The IS/MND concluded that because the project is not located within an airport land use plan area, or within the vicinity of a public or private airstrip, no impacts under this category would occur.

Proposed Service Extension Analysis and Conclusion.

The service extension would not be located within an airport land use plan area, or within the vicinity of a public or private airstrip. As a result, no new significant, or more severe impacts in these categories would occur. No further analysis is necessary.

13. Population and Housing Impacts.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	No Impact.	N	N	N
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	Less than Significant Impact.	N	N	N
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	Less than Significant Impact.	N	N	N

Discussion.

Population and Housing impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potentially significant impacts utilizing the above environmental categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a. Summary of IS/MND.

The IS/MND noted that construction of the Eucalyptus Ave Project would not result in population growth, and would primarily enhance storage and production capabilities associated existing operations. The IS/MND concluded that no impacts would occur in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would not result in population growth, and would only result in a minor change to the approved Eucalyptus Ave Project that would change the source of its potable water supply. Accordingly, no new significant or more severe impacts in this category would occur. No further analysis is required.

b-c. Summary of IS/MND.

The IS/MND noted that no dwellings are located on the Project Site and that residences on adjacent parcels would not be altered as a result of the Project. The IS/MND concluded that project level impacts to housing would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be located below ground and would not displace any nearby housing or people. Accordingly no new significant or more severe impacts in this category would occur and no further analysis is required.

14. Public Services.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	No Impact.	N	N	N
a) Fire protection?	Less than Significant Impact.	N	N	N
b) Police protection?	Less than Significant Impact.	N	N	N
c) Schools?	No impact.	N	N	N
d) Parks?	Less than significant impact.	N	N	N
e) Other public facilities?	Less than significant impact.	N	N	N

Discussion.

Public Facilities impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potentially significant impacts utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a. Summary of IS/MND.

The IS/MND considered response times for Merced County Fire Station 96, which serves the Project area, fire suppression infrastructure included in the Project design, as well as the fact that the Project construction would be required to comply with state and local fire codes. As a result, the IS/MND concluded that no significant impacts in this category would be anticipated.

Proposed Service Extension Analysis and Conclusion

The Service Extension would result in a minor change to the Project that will alter the source of the Project's day-to-day potable water supply. The Service Extension is not anticipated to interfere with or alter fire protection to the facilities constructed as part of the Project, and would be located entirely underground with minimal risk of fire or other emergencies associated resulting from installation of the water line. No new significant, or more severe impacts in this category would occur. No further analysis is required.

b. Summary of IS/MND.

The IS/MND noted that although the Eucalyptus Ave Project is not typically the type of use that creates an environment associated with unlawful activities, the Project would require the attention of County Sheriffs in the event that unlawful activities impact new Project buildings. The IS/MND concluded that these needs would be minor and/or temporary if any, and would not result in significant impacts.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be located entirely underground and consist of a six-inch water line. In the unlikely event that unlawful or other activity required law enforcement services, such need would be minor and/or temporary. No new significant, or more severe impacts in this category would occur and no further analysis is required.

c. Summary of IS/MND.

The IS/MND concluded that the Eucalyptus Ave Project would not include any new housing units. The IS/MND also noted that the County does not require the payment of education development fees for agricultural support service projects that do not involve new housing. Last, the IS/MND noted that jobs provided as a result of the project would be filled by local residents. As a result, the IS/MND concluded that no impacts would occur in this this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would result in a minor change to the Project that would alter the source of the Project's day-to-day potable water supply. The Service Extension would not generate any new students or school aged children. No new significant, or more severe impacts in this category would occur. No further analysis is required.

d. Summary of IS/MND.

The IS/MND noted that the project would not result in any new dwelling units or substantial physical impacts to the provision of new library services. As a result, the IS/MND concluded that such impacts would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would result in a minor change to the Project that will alter the source of the Project’s day-to-day potable water supplies. The Service Extension would not generate significant impacts on local libraries or public parks. No new significant, or more severe impacts in this category would occur. No further analysis is required.

e. Summary of IS/MND.

The IS/MND noted that the full-time jobs provided as a result of the Project would be filled by local residents. The IS/MND further noted that the addition of 45-55 seasonal employees to LFA’s existing work force would not represent a substantial increase with respect to currently available health services, meaning that impacts in this category would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would result in a minor change to the Project that will alter the source of the Project’s day-to-day potable water supply. The Service Extension would not generate significant impacts to other public services. No new significant, or more severe impacts in this category would occur. No further analysis is required.

15. Recreation.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	No Impact.	N	N	N
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	No Impact.	N	N	N

Discussion.

Recreation impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potentially significant impacts utilizing the above environmental categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a. Summary of IS/MND.

The IS/MND determined that the proposed project would not generate new demand for local parkland usage, including the use of the nearest park located 2.5 miles away. Thus, the IS/MND concluded that no project-level impacts to neighborhood or regional parks would occur.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would result in a minor alteration to the project that would change the already approved Project’s day-to-day potable water supply. The Service Extension would be located entirely underground and would not impact usage of nearby recreational facilities. No new significant impacts or more severe impacts in this category would occur.

b. Summary of IS/MND.

The IS/MND noted that because the Eucalyptus Ave Project does not propose any residential development, and parkland dedication or in-lieu fees would not be required. Accordingly, no project level impacts to this category were found.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would result in a minor alteration to the Project that would change source of potable water for its day-to-day operations. The Service Extension would be located entirely underground and would not result in the construction of new residential facilities or require such facilities to be constructed. No new significant impacts or more severe impacts in this category would occur. No further analysis is required.

16. Transportation/Traffic.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or	Less than Significant Impact.	N	N	N

congestion at intersections)?				
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	Less than Significant Impact.	N	N	N
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	No Impact.	N	N	N
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	Less than Significant Impact.	N	N	N
e) Result in inadequate emergency access?	Less than Significant Impact.	N	N	N
f) Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)	No Impact	N	N	N

Discussion.

Transportation/Traffic impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potentially significant impacts utilizing the above categories from Appendix G of the 2019 State CEQA Guidelines as thresholds of significance.

a-b. Summary of IS/MND.

The IS/MND determined that at full project buildout, the Eucalyptus Ave Project would result in an average of 55 truck trips per day for loading and/or unloading during harvest. The County Roads division determined that due to low levels of traffic in the vicinity, and limited seasonal nature of new trips that would result from the Project, impacts to traffic service levels on Eucalyptus Ave and Sultana Drive would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would result in a minor change to the water supply for the Project and would not result in any appreciable addition to traffic or truck trips in the vicinity. Once construction of the Service Extension is completed, all affected surfaces on or adjacent to Olive

Ave would be returned to pre-construction condition. The Service Extension would not result in any new significant, or more severe impacts in these categories. No further analysis is required.

c. Summary of IS/MND.

The IS/MND considered the height of the structures to be constructed as part of the Project and concluded that the Project would not affect air traffic patterns at any regional airports. Accordingly, the IS/MND determined there would be no impacts in this category.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be located entirely below ground and not affect air traffic patterns at any regional airports. The Service Extension would not result in any new significant, or more severe impacts in this category. No further analysis is required.

d,e. Summary of IS/MND.

The IS/MND noted that the County General Plan contemplates that freeways and major county roads, which are not located in the immediate Project vicinity, are to function as the primary evacuation routes in the County. The IS/MND further noted that the project would not alter existing roadways, and that construction of the Project would allow for access of emergency vehicles and not increase roadway hazards. The Project would also be required to comply with county roadway and emergency access standards.. As a result, the IS/MND concluded that no significant impacts would occur in this category.

Proposed Service Extension Analysis and Conclusion.

After construction of the Service Extension, all impacted adjacent to Olive Ave will be returned to pre-construction condition. Although construction of the Service Extension may impact one lane of traffic on Olive Way, this disruption will be short-term and temporary, and is not anticipated to interfere with emergency access or increase hazards on Olive Ave. Like remaining portions of the Eucalyptus Ave Project, the Service Extension will comply with all county roadway and emergency access standards. Accordingly, the Service Extension is not anticipated to result in any new significant, or more severe impacts in these categories and no further analysis is required.

f. Summary of IS/MND.

The IS/MND noted that under the Merced County General Plan, neither Eucalyptus Avenue nor Sultana Drive include infrastructure for bicycles, pedestrians, or other alternative means of transport. As a result, the IS/MND concluded that the Project would not interfere with alternative modes of transportation, nor would it conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities.

Proposed Service Extension Analysis and Conclusion.

Olive Ave, where most of the Service Extension would be located, does not include infrastructure for bicycles, pedestrians, or other alternative transport under the County's General Plan. Regardless, the Service Extension will be located entirely below ground and have no

long-term impact on alternative means of transport, or conflict with related policies, plans or programs. Accordingly, the Service Extension would not result in any new significant, or more severe impacts in this category. No further analysis is required.

17. Utilities and Service Systems.

Appendix G Checklist	IS/MND Conclusion	Does the Service Extension involve new significant impacts or more severe impacts?	Any new circumstances involving new significant impacts or more severe impacts?	Any new information requiring new analysis or verification?
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	Less than Significant Impact.	N	N	N
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	Less than Significant Impact.	N	N	N
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	Less than Significant Impact.	N	N	N
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	Less than Significant Impact.	N	N	N
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	Less than Significant Impact.	N	N	N

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	No Impact.	N	N	N
g) Comply with federal, state, and local statutes and regulations related to solid waste?	Less than Significant Impact.	N	N	N

Discussion.

Utilities and Service Systems impacts associated with the Service Extension would be consistent with those identified in the IS/MND. The IS/MND identified no potentially significant impacts utilizing the above environmental categories from Appendix G of the *2019 State CEQA Guidelines* as thresholds of significance.

a,b,e. Summary of IS/MND.

The IS/MND assumed that all of the Eucalyptus Ave Project's water needs would be met by on-site wells. The IS/MND noted that despite the Project's creation of 53,000 square feet of sweet potato storage space, the amount of sweet potatoes processed at the Eucalyptus Ave Property would not actually increase as a direct result of the Project, and would merely eliminate the need for off-site storage. The IS/MND also took into account that almond processing does not require water, and would not increase the amount of water used at the site.

Regarding wastewater facilities, the IS/MND considered existing LFA employee use of bathroom facilities and determined that the Project would not exceed wastewater treatment requirements or result in the need for new or expanded wastewater facilities.

Accordingly, the IS/MND concluded that no significant impacts would occur in these categories.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would fundamentally change the potable water source for the Project. In so doing, the Service Extension will allow LFA to avoid use of contaminated ground water on-site by connecting the Eucalyptus Ave Project to the City of Livingston's public water service, which would provide all of LFA's day-to-day potable water needs at the Eucalyptus Ave Property. Although the Service Extension will result in increased use of, and demand for City water, the City has determined that it has adequate capacity when considering its existing water treatment facilities and water supply and storage to meet all of LFA's projected needs at the Eucalyptus Ave Property. When making this determination, the City specifically considered current needs and anticipated future water needs under normal, single-dry and multiple-dry years. The City determined that it can supply LFA's Eucalyptus Ave Property without impairing its ability to serve present and planned future growth within the City.

In conjunction with the Service Extension, LFA and the City will execute an out of boundary service extension agreement. Pursuant to this agreement, LFA will be required to comply with all applicable City, state, and regional regulations. LFA will also be required to pay all

costs associated with construction of the Service Extension and will pay all applicable user charges and fees associated with use of City water.

The Service Extension would not include any changes to the Eucalyptus Ave Project's plans for wastewater.

As a result of the above, the Service Extension would not result in any new significant or more severe impacts in these impact categories. No further analysis is required.

c. Summary of IS/MND.

The IS/MND noted that the Project would result in an increase in impervious areas (new buildings and pavement) and result in a concurrent increase in storm water runoff. However, because the Project design would route such runoff into a nearby drainage basin, and would comply with County requirements to manage storm water, the IS/MND determined that no significant impacts in this category would occur.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would be located underneath permeable surfaces immediately adjacent to the roadway and across the Eucalyptus Ave Property. Once construction is complete, the surface above the water line will be returned to its pre-construction condition, with surface materials such as sand, gravel, asphalt, or topsoil put in place. As a result, the Service Extension would not result in new significant impacts or more severe impacts in this category. No additional analysis is required.

d. Summary of IS/MND.

The IS/MND assumed that water would be supplied to the Eucalyptus Ave Project via three existing water wells. Based on this assumption, the IS/MND concluded that the Project would not result in substantial new demand, or require a new source of water resulting in insignificant impacts.

Proposed Service Extension Analysis and Conclusion.

Because of potentially dangerous levels of arsenic found to exist in on-site well water, the Service Extension would result in a change in the supply of potable water to the Eucalyptus Ave Project. The Service Extension would result in a connection of the City of Livingston's public water service to the Eucalyptus Ave Property, which would meet LFA's day-to-day potable water needs. As indicated above, the City has determined that it has adequate capacity, based on existing water treatment, storage, and supply, to meet LFA's needs at the Eucalyptus Ave Property when considering the City's current and projected future water needs. LFA would also be required to comply with all applicable City, regional, and state regulations and pay all applicable user charges and fees in effect.

The Service Extension would require approval by the Merced County Local Agency Formation Commission of an Out-of-Boundary Service Application filed by the City. The Service Extension

would also require the City's approval and execution of an Out-of-Boundary Service Agreement with LFA.

Based on the foregoing, the Service Extension would not result in significant new impacts or more severe impacts in this category. No further analysis is required.

f. Summary of IS/MND.

The IS/MND considered existing capacity at the County's Highway 59 disposal site which would meet the Project's solid waste disposal needs. The IS/MND determined that the Highway 59 disposal site has sufficient landfill capacity to accommodate growth projected in the General Plan and concluded that no impact to solid waste disposal systems or to regulatory compliance would occur.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would consist entirely of a potable water line that would not have any appreciable impact on solid waste disposal at the Eucalyptus Ave Project. As a result, the Service Extension would not result in new significant impacts or more severe impacts in this category. No additional analysis is required.

g. Summary of IS/MND.

The IS/MND noted that the Project would not produce significant amounts of solid waste, and would comply with all state and local waste diversion requirements, including the Merced County Solid Waste Management Plan and Merced County Code 18.44 regarding trash and recycling areas. As a result, the IS/MND concluded that impacts in this category would be less than significant.

Proposed Service Extension Analysis and Conclusion.

The Service Extension would consist entirely of a potable water line that would not have any appreciable impact on solid waste disposal at the Eucalyptus Ave Project. As a result, the Service Extension would not result in new significant impacts or more severe impacts in this category. No additional analysis is required.

Environmental Determination

Based upon the evidence in light of the whole record documented in the attached environmental checklist explanation, cited incorporations and attachments, I find that the Project:

- Has NOT been previously analyzed as part of an earlier CEQA document (which either mitigated the project or adopted impacts pursuant to findings) adopted/certified pursuant to CEQA Guidelines. Preparation of adequate CEQA environmental documentation is required.
- Has previously been analyzed as part of an earlier CEQA document (which either mitigated the project or adopted impacts pursuant to findings) adopted/certified pursuant to CEQA Guidelines.
- The proposed project is a component of the whole action analyzed in the previously adopted/certified CEQA document. No additional CEQA documentation is required.
- Has previously been analyzed as part of an earlier CEQA document (which either mitigated the project or adopted impacts pursuant to findings) adopted/certified pursuant to CEQA Guidelines.
- Minor additions and/or clarifications are needed to make the previous documentation adequate to cover the project which are documented in this addendum to the earlier CEQA document (CEQA §15164). No additional CEQA documentation is required.
- Has previously been analyzed as part of an earlier CEQA document (which either mitigated the project or adopted impacts pursuant to findings) adopted/certified pursuant to State and County CEQA Guidelines. However, there is important new information and/or substantial changes have occurred requiring the preparation of an additional CEQA document (ND, MND, or EIR) pursuant to CEQA Guidelines Sections 15162 through 15163.

Signed

Name and Title Date

STAFF REPORT

AGENDA ITEM: Resolution Approving a Fire Suppression Services Liability Agreement between the City of Livingston and Merced County and Authorizing the City Manager to Execute the Agreement

MEETING DATE: August 20, 2019

PREPARED BY: Jose Antonio Ramirez, City Manager
Jose M. Sanchez, City Attorney

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution ____-2019 approving a Fire Suppression Services Liability Agreement between the City of Livingston and Merced County and Authorizing the City Manager to Execute the Agreement.

BACKGROUND AND DISCUSSION:

The City possesses fire suppression services equipment but does not employ personnel to operate such equipment. The City provides fire suppression services to its residents through a contractual arrangement with the County. County paid Call Firefighters and CAL FIRE employees provide fire suppression services within the City using County-owned and City-owned equipment.

The City and the County desire that County and CAL FIRE employees continue to utilize City-owned equipment when providing fire suppression services within the City and in the unincorporated areas of the County. A Fire Suppression Services Liability Agreement is needed in order to provide clear responsibilities related to liability in case accidents/damages occur. The attached Liability Agreement is meant to define what entity is responsible in case damages occur while providing fire suppression services. This Liability Agreement will allow services to continue while the Parties develop a comprehensive agreement for the provision of those services.

The Liability Agreement requires the City to indemnify, defend, and hold harmless, the County from and against any and all claims arising out of or in any way connected with the County providing fire suppression services within the City's jurisdictional boundaries by the County or CAL FIRE employees, unless the jury or judge determines that any damage was the sole and legal result of the willful misconduct of the County.

The County is required to indemnify, defend and hold harmless, the City from and against any and all claims arising from the County's use of City-owned equipment to provide fire suppression services outside the City's jurisdictional boundaries by CAL FIRE employees or

County Firefighters, unless the jury or judge determines that any damage was the sole and legal result of the willful misconduct of the City.

Regarding equipment, the City shall be solely responsible for the cost to repair or replace damaged or destroyed City-owned equipment used under the Liability Agreement. The County shall not be responsible for property damage sustained to City-owned equipment that is used by County Firefighters or CAL FIRE employees within the City's jurisdiction or in the unincorporated areas of the County. Likewise, the County shall be solely responsible for the cost to repair or replace damaged or destroyed County-owned equipment used under the Liability Agreement.

FISCAL IMPACT:

N/A.

ATTACHMENTS:

1. Resolution Approving a Fire Suppression Services Liability Agreement between the City of Livingston and Merced County and Authorizing the City Manager to Execute the Agreement
2. Fire Suppression Services Liability Agreement between the City of Livingston and Merced County

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING A FIRE SUPPRESSION SERVICES LIABILITY AGREEMENT
BETWEEN THE CITY OF LIVINGSTON AND MERCED COUNTY AND
AUTHORIZING
THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Livingston (“City”) possesses fire suppression services equipment but does not employ personnel to operate such equipment; and

WHEREAS, the County of Merced (“County”) paid Call Firefighters and CAL FIRE employees to provide fire suppression services within the City of Livingston using County-owned and City-owned equipment; and

WHEREAS, the Parties desire that the County and CAL FIRE employees continue to utilize City-owned equipment when providing fire suppression services within the City and in the unincorporated areas of the County; and

WHEREAS, it is the Parties’ intent for the County to continue to provide fire suppression services within the physical limits of the City while the Parties develop a comprehensive agreement for the provision of those services.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Livingston as follows:

1. The City approves the Fire Suppression Services Liability Agreement, in the form attached hereto as Attachment 1.
2. The City Manager is authorized to execute the Fire Suppression Services Liability Agreement, substantially in the form attached as Attachment 1, and as approved by the City Attorney.

Passed and adopted this 20th day of August, 2019, by the following vote:

AYES:

NOES:

ABSENT:

Gurpal Samra, Mayor
of the City of Livingston

ATTEST:

I hereby certify that the foregoing Resolution was regularly introduced, passed, and adopted at a regular meeting of the City Council of the City of Livingston this 20th day of August, 2019.

Monica Cisneros, Deputy City Clerk
of the City of Livingston

3334470.1

**FIRE SUPPRESSION SERVICES LIABILITY AGREEMENT BETWEEN
THE CITY OF LIVINGSTON
AND
MERCED COUNTY**

THIS AGREEMENT, made and entered into this 27th day of **August 2019**, by and between the City of Livingston (hereinafter referred to as “City”) and the County of Merced (hereinafter referred to as “County”). Collectively, City and County shall hereinafter be referred to as the “Parties.”

WITNESSETH:

WHEREAS, the City possesses fire suppression services equipment but does not employ personnel to operate such equipment; and

WHEREAS, County Paid Call Firefighters and CAL FIRE employees provide fire suppression services within the City of Livingston using County-owned and City-owned equipment; and

WHEREAS, the Parties desire that County and CAL FIRE employees continue to utilize City-owned equipment when providing fire suppression services within the City of Livingston and in the unincorporated areas of Merced County; and

WHEREAS, it is the Parties’ intent for the County to continue to provide fire suppression services within the physical limits of the City while the Parties develop a comprehensive agreement for the provision of those services.

NOW, THEREFORE, in consideration of their mutual covenants, the Parties hereto agree as follows:

PROVISION OF FIRE SUPPRESSION SERVICES

City requests that County, with County Paid Call Firefighters and CAL FIRE employees, continue to provide fire suppression services within the limits of the City of Livingston using County-owned equipment, as well as, City-owned equipment. City also expressly grants County permission and authority to use City-owned equipment when responding to calls for service outside the City of Livingston in the unincorporated areas of Merced County.

The City-owned equipment subject to this Agreement that may be used by County Paid Call Firefighters and CAL FIRE employees is identified and listed in Exhibit A to this Agreement, which is attached and incorporated into this Agreement by reference.

INDEMNIFICATION

Nothing in the provisions of this Agreement is intended to affect the legal liability of either party by imposing any standard of care different from the standard of care imposed by law. Each party shall bear its own exposure for Workers’ Compensation on its own personnel while furnished to the other party or likewise.

City shall indemnify, defend and hold harmless, the County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the County providing fire suppression services within City's jurisdictional boundaries by CAL FIRE employees or County Paid Call Firefighters, whether in tort, contract or otherwise. This shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of City.

City's obligation shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. City's obligation shall arise at the first claim or allegation of liability against County. City will on request and at its expense, defend any action, suit, or proceeding arising hereunder. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

County shall indemnify, defend and hold harmless, the City, its officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the County's use of City-owned equipment to provide fire suppression services outside the City's jurisdictional boundaries by CAL FIRE employees or County Paid Call Firefighters, whether in tort, contract or otherwise. This shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of County.

County's obligation shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of City. County's obligation shall arise at the first claim or allegation of liability against County. County will on request and at its expense, defend any action, suit, or proceeding arising hereunder. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

PROPERTY DAMAGE TO CITY OR COUNTY-OWNED PROPERTY/EQUIPMENT

Notwithstanding anything stated under the INDEMNIFICATION heading above, City shall be solely responsible for the cost to repair or replace damaged or destroyed City-owned equipment used under this Agreement. County shall not be responsible for property damage sustained to City-owned equipment that is used by County Paid Call Firefighters or CAL FIRE employees within the City's jurisdiction or in the unincorporated areas of Merced County.

Further, City hereby releases, waives, discharges, and promises not to sue County for any property damage that may be sustained by City-owned equipment used by County Paid Call Firefighters or CAL FIRE employees. Such release shall apply whether the City-owned equipment is used within the City's jurisdiction or in the unincorporated areas of Merced County.

Notwithstanding anything stated under the INDEMNIFICATION heading above, County shall be solely responsible for the cost to repair or replace damaged or destroyed County-owned equipment used under this Agreement. City shall not be responsible for property damage sustained to County-owned equipment that is used by County Paid Call Firefighters or CAL FIRE employees within the City's jurisdiction or in the unincorporated areas of Merced County.

Further, County hereby releases, waives, discharges, and promises not to sue City for any property damage that may be sustained to County-owned equipment used by County Paid Call Firefighters or CAL FIRE employees. Such release shall apply when the County-owned equipment is used within the City's jurisdiction or in the unincorporated areas of Merced County.

TERM

The Agreement shall commence when signed by both Parties, and the effective date of this Agreement shall be the latest date stated with the Parties' signatures below. The Agreement shall remain in full force and effect unless terminated as provided herein.

This Agreement may be terminated without cause by either City or County upon written notice of termination given to the other party at least thirty (30) days in advance of the effective date of termination. Notice of termination shall be personally served or mailed, postage prepaid to the address designated beneath the signature of the Parties hereto; or to such other address as may be designated by written notice.

ENTIRE AGREEMENT

This Agreement and any additional or supplementary document(s) incorporated herein by specific reference (Exhibit A) contain all the terms and conditions agreed upon by the Parties. No other contracts, oral or otherwise, regarding the subject matter of this Agreement shall have any validity or bind any of the Parties unless specifically identified within the Agreement.

NOTICES

Information for notice to the Parties to this Agreement at the time of endorsement of the Agreement is as follows:

Merced County Fire Department
3500 N Apron Ave
Atwater, CA 95301
(209) 385-7344

City of Livingston
1416 C St
Livingston, CA. 95334
(209) 394-8041

Any party may change its address or phone number by giving the other party notice of the change in any manner permitted by this agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as the day and year first hereinabove written.

CITY OF LIVINGSTON

COUNTY OF MERCED

By: _____
Gurpal Samra
Mayor
City of Livingston

By: _____
Lloyd Pareira, Chariman
Board of Supervisors
Merced County

Date: _____

Date: _____

By: _____
Jose Ramirez, City Manager
City of Livingston

By: _____
Mike van Loben Sels, Fire Chief
Merced County Fire Department

Date: _____

Date: _____

Exhibit A to the Fire Suppression Services Liability Agreement

The Fire Suppression Services Liability Agreement between the City of Livingston and Merced County references City-owned equipment that the City has authorized and desires the County to use. The equipment subject to that Agreement is listed and described as follows:

- Fire Engine 96E1 Year: 2000 Vin: 1HTSDADR81H346542 Lic#: 1065426
- Fire Truck 96T1 Year: 1990 Vin: 1FDYD80U3LVA44182 Lic#: 338324
- Fire Engine E-696 Year: 2018 Vin: 3C7WRNEL4JG110680 Lic#: 1411783

STAFF REPORT

AGENDA ITEM: Resolution Approving an Amendment to an Agreement with Gouveia Engineering, Inc. to extend the Agreement for an additional three (3) years, and Authorizing the City Manager to Execute Amendment.

MEETING DATE: August 20, 2019

PREPARED BY: Jose Antonio Ramirez City Manager

REVIEWED BY: Jose M. Sanchez, City Attorney

RECOMMENDATION:

Adopt Resolution No. 2019-____, approving an amendment to an Agreement with Gouveia Engineering, Inc. to extend the term for an additional three (3) years, and authorizing the City Manager to execute the Amendment.

BACKGROUND:

The City of Livingston has outsourced its engineering services for several years. The City of Livingston issued two Requests for Proposals (RFP) in mid-2013 and again in late 2013. Gouveia Engineering, Inc. was selected for a three-year contract following an interview process that included City Council participation. The term of the original professional services agreement was from October 1, 2013 through October 1, 2016 with an extension for another 3 years which is set to expire October 2, 2019.

Gouveia Engineering's scope of work includes, but is not limited to, the following: overseeing the City's engineering functions, assisting City Manager with Public Works and Community Development functions such as project reviews, permit processing, capital project designs, bidding, contract and grant administration, inspections, grant application preparation, utility studies, groundwater system analysis and design and assisting with service and infrastructure needs, assist in developing capital improvement plans.

Gouveia Engineering has provided great levels of support during the initial three years under contract. The firm has achieved great results here in Livingston and has always managed to perform within budget(s). The majority of costs associated with Gouveia Engineering's agreement have been paid by other non-general fund sources including development fees and state and federal grants.

Gouveia Engineering has assisted with design and management of the following City projects: water well improvements on a number of city Wells, Downtown Beautification Street/sidewalk improvements, street improvements, Joseph Gallo Park improvements and the round-a-bout on B Street and Main Street.

In addition, Gouveia Engineering has assisted in managing the following City projects: Well# 8 TCP project and several federal (Caltrans) grant projects. The Gouveia Engineering team has also assisted in recent economic development projects, such as, the Livingston Commons, Rancho San Miguel, CVS Pharmacy, AutoZone, Livingston Community Health Center, and several housing development projects. The Gouveia team is currently working on a number of proposed projects like the Triple AAA truck wash, the truck stop and Arco Station.

DISCUSSION & RECOMMENDATION:

Council to consider approving an amendment to a Professional Services Agreement with Gouveia Engineering Inc. to extend Agreement for three (3) additional years, and authorizing the City Manager to execute amendment.

No fee increase has been proposed by Gouveia Engineering, Inc. during this additional three-year period.

FISCAL IMPACT:

The three-year contract extension does not reflect a fee increase. Estimated annual fiscal impact on the General Fund is \$75,000. Resources from grants, Enterprise funds, Special revenue funds including street funds will cover all other related contract costs and will be budgeted accordingly in the 2019-20 operating budget.

ATTACHMENTS:

- 1) Resolution 2019- Approving an Amendment to an Agreement with Gouveia Engineering Inc. to extend the Agreement for an additional three years, and Authorizing the City Manager to Execute Amendment.
- 2) Three-Year Professional Services Agreement
- 3) Second Amendment to the Professional Services Agreement
- 4) Staff Report – October 1, 2013
- 5) Resolution No. 2013-50

RESOLUTION NO. 2019-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING AN AMENDMENT TO AN AGREEMENT WITH GOUVEIA
ENGINEERING INC. TO EXTEND THE AGREEMENT AN ADDITIONAL THREE
YEARS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT**

WHEREAS, the City of Livingston currently has a Professional Services Agreement (Agreement) with Gouveia Engineering Inc. to provide contract engineering staff support services; and

WHEREAS, Gouveia Engineering Inc. was selected as a consultant after the City issued two Requests for Proposals for Engineering Staff Support Services in accordance with the Caltrans Local Assistance Procedures Manual in 2013; 2019; and

WHEREAS, Council approved Resolution No. 2013-50 authorizing the City Manager to execute a three-year agreement with Gouveia Engineering Inc. to commence on October 1, 2013; October 1, 2016; October 3, 2019; and

WHEREAS, the Agreement is set to expire on October 2, 2021 and the City wishes to continue to retain the services of Gouveia Engineering Inc.;

WHEREAS, the City and Gouveia Engineering have agreed that an amendment to the Agreement is needed in order to extend the term of the Agreement for an additional three years and that the scope of work and compensation set forth in the Agreement shall remain the same during the extended term; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livingston hereby adopts Resolution No. 2019-00 approving an Amendment to an Agreement with Gouveia Engineering Inc. to extend the term for an additional three (3) years, and authorizing the interim city manager to execute amendment in a form approved by the City Attorney.

Passed and adopted this 20th day of August, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gurpal Samra, Mayor
of the City of Livingston

ATTEST:

I, hereby certify that the foregoing resolution was regularly introduced, passed and adopted at a regular meeting of the City Council of the City of Livingston this 20th day of August, 2019.

Monica Cisneros, Deputy City Clerk
of the City of Livingston

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF LIVINGSTON AND GOUVEIA ENGINEERING, INC.
TO PROVIDE CONTRACT ENGINEERING
STAFF SUPPORT SERVICES**

THIS AGREEMENT for consulting services is made by and between the City of Livingston ("City") and Gouveia Engineering, Inc. as of October 3, 2019 and ending October 3, 2021.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, City Engineer shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

Section 2. TERM. The term of this Agreement shall begin on the date first noted above and shall end upon termination of the Agreement by either the City or City Engineer, as provided for in Resolution No. 2019-00.

Section 3. STANDARD OF PERFORMANCE. Engineer shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which City Engineer is engaged in the geographical area in which City Engineer practices its profession. City Engineer shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Engineer's profession.

Section 4. COMPENSATION. City hereby agrees to pay City Engineer (see individual proposal fee schedule). City Engineer shall only be compensated for work the City requests. City is not obligated to provide City Engineer with a specific amount of work. City will only require City Engineer's services as needed and as determined by the City Manager.

4.1 Invoices. City Engineer shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date, which describe the work performed by City Engineer. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay City Engineer.

4.2 Reimbursable Expenses. During the term of this Agreement, City Engineer is responsible for all expenses relating to his duties with the exception of travel outside of Merced County. Travel expenses shall include out-of-pocket expenses which are incurred in connection with the performance of the duties under this Agreement. They include parking, bridge tolls, and automobile mileage (at the current IRS rate), hotel and meal expenses at cost but not to exceed the published guidelines for Federal employees of similar status. In no circumstance shall reimbursable expenses include time of the City Engineer in traveling to and from the City of Livingston.

4.3 Payment of Taxes. City Engineer is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

Section 5. FACILITIES AND EQUIPMENT. Except as set forth herein, City Engineer shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to City Engineer only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for City Engineer's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including, but not limited to, computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 6. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, City Engineer, at its own cost and expense, shall procure insurance (commercial general insurance, automobile liability insurance, workers' compensation and professional liability insurance) against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the City Engineer and its agents, representatives, employees, and subcontractors. City Engineer shall provide proof satisfactory to City of such insurance satisfactory in all respects to the City prior to providing serviced under this Agreement. City Engineer shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be City Engineer's responsibility. City Engineer shall not allow any subcontractor to commence work on any subcontract until City Engineer has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

Section 7. INDEMNIFICATION. To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), City Engineer shall indemnify, defend with counsel selected by the City, and hold harmless the City and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused by the willful misconduct or negligent acts or omissions of City Engineer or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Engineer shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises from the negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of City Engineer or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of City Engineer to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve City Engineer from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, City Engineer acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

Section 8. STATUS OF CONSULTANT. At all times during the term of this Agreement, City Engineer shall be an independent contractor and shall not be an employee of City. Except as City may specify in writing, City Engineer shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. City Engineer shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever. City shall have the right to control City Engineer only insofar as the results of City Engineer's services rendered pursuant to this Agreement; however, otherwise City shall not have the right to control the means by which City Engineer accomplishes services rendered pursuant to this Agreement.

Section 9 LEGAL REQUIREMENTS.

- 9.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 9.2 Compliance with Applicable Laws.** City Engineer and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. City Engineer's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 9.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, City Engineer and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 9.4 Licenses and Permits.** City Engineer represents and warrants to City that City Engineer and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. City Engineer represents and warrants to City that City Engineer and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, City Engineer and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 9.5 Nondiscrimination and Equal Opportunity.** City Engineer shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by City Engineer under this Agreement. City Engineer shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of City Engineer thereby.

City Engineer shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 10. TERMINATION AND MODIFICATION.

- 10.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to City Engineer.

City Engineer may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, City Engineer shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon City Engineer delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to City Engineer or prepared by or for City Engineer or the City in connection with this Agreement.

- 10.2 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 10.3 Assignment and Subcontracting.** City and City Engineer recognize and agree that this Agreement contemplates personal performance by City Engineer and is based upon a determination of City Engineer's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of City Engineer. City Engineer may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. City Engineer shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

- 10.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and City Engineer shall survive the termination of this Agreement.

Section 11. KEEPING AND STATUS OF RECORDS.

- 11.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Engineer prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. City Engineer hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including, but not limited to, those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and City Engineer agree that, until final approval by City, all data, plans, specifications, reports and other

documents are confidential and will not be released to third parties without prior written consent of both parties.

- 11.2 **Engineer's Books and Records.** City Engineer shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the City Engineer to this Agreement.
- 11.3 **Inspection and Audit of Records.** Any records or documents that Section 10.2 of this Agreement requires City Engineer to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 12 MISCELLANEOUS PROVISIONS.

- 12.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 12.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Merced or in the United States District Court for the Eastern District of California.
- 12.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 12.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 12.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 12.6 **Conflict of Interest.** City Engineer may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place

City Engineer in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

City Engineer shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

City Engineer hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If City Engineer was an employee, agent, appointee, or official of the City in the previous twelve months, City Engineer warrants that it did not participate in any manner in the forming of this Agreement. City Engineer understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and City Engineer will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and City Engineer will be required to reimburse the City for any sums paid to the City Engineer. City Engineer understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 12.7 Contract Administration.** This Agreement shall be administered by the City Manager ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 12.8 Notices.** Any written notice to City Engineer shall be sent to:

Any written notice to City shall be sent to:

City of Livingston
1416 C Street
Livingston, CA 95334

- 12.9 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A represents the entire and integrated agreement between City and Engineer and supersedes all prior negotiations, representations, or agreements, either written or oral.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above, which date shall be considered by the Parties to be the effective date of this Agreement.

CITY OF LIVINGSTON

CITY ENGINEER

Jose A. Ramirez, City Manager

Date: _____

Date: _____

Attest:

Monica Cisneros, Deputy, City Clerk

Date: _____

Approved as to Form:

Jose M. Sanchez, City Attorney

Date: _____

**SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF LIVINGSTON AND GOUVEIA ENGINEERING, INC. TO PROVIDE
CONTRACT ENGINEERING STAFF SUPPORT SERVICES**

This Second Amendment to the Agreement for Professional Services (this "**Amendment**"), is made by and between the City of Livingston, a California municipal corporation (the "**City**"), and Gouveia Engineering, Inc. ("**Professional**") as of October 3, 2019. The City and Professional are hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Parties entered into a Professional Services Agreement ("**Agreement**") dated October 1, 2013 and a First Amendment October 1, 2016 for the purpose of providing professional engineering services to City, including serving as City Engineer for a term of three (3) years as approved by Council via Resolution No. 2019-00; and

WHEREAS, City is satisfied with Professional's services and wishes to continue to retain the services of Professional for an additional three (3) years; and

WHEREAS, this Amendment will extend the term of the existing Agreement. All other provisions of the Agreement will remain the same including compensation.

NOW, THEREFORE, the Parties, for the consideration hereinafter described, mutually agree as follows:

AGREEMENT

1. Section 2 of the Agreement, "Term," provides that the Agreement shall terminate in accordance with Resolution No. 2019-00. The Parties hereby agree to amend Section 2 of the Agreement to read as follows:

"The term of this Agreement shall begin on October 3, 2019 and shall end on October 3, 2021, unless terminated or modified by the Parties in accordance with Section 10 of the Agreement."

2. All other terms and conditions in the Agreement shall remain in full force and effect to the extent they are not in conflict with this Amendment.
3. The signatures of the Parties to this Amendment may be executed and acknowledged on separate pages or in counterparts which, when attached to this Amendment, shall constitute one complete Amendment.

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IN WITNESS WHEREOF, the Parties have executed this Amendment on the day and year first above written.

CITY OF LIVINGSTON

GOUVEIA ENGINEERING INC.

Jose Antonio Ramirez, City Manager

Mario Gouveia, City Engineer

Date: _____

Date: _____

Attest:

Monica Cisneros, Deputy City Clerk

Date: _____

Approved as to Form:

Jose M. Sanchez, City Attorney

Date: _____

STAFF REPORT

AGENDA ITEM: Resolution Approving A Professional Services Agreement to Provide Contract Engineering Staff Support Services for the City of Livingston and, Authorizing the City Manager to Execute the Agreement, In a Form Acceptable to the City Attorney.

MEETING DATE: October 1, 2013

PREPARED BY: Jose Antonio Ramirez, City Manager

REVIEWED BY: Jose Antonio Ramirez, City Manager

RECOMMENDATION:

Staff recommends that City Council adopt a Resolution to approve a Professional Services Agreement to provide Contract Engineering Staff Support Services. Please select one of the following Engineering Firms:

- 1) SNG & Associates, Inc. (“SNG”).
- 2) Gouveia Engineering, Inc. (“GE”).
- 3) Provost & Prichard Engineering, Inc.

- The City Council consider a (3) year contract, expiring October 1, 2016.

BACKGROUND:

Every 5 years CALTRANS requires that the City of Livingston go out to Request for Proposals (RFPs) in order to comply with its consultant retention policies. Failure to comply with these requirements jeopardizes federal and state reimbursements. CALTRANS requires that a competitive selection process be used as outlined in their Local Assistance Procedures Manual.

The City of Livingston in complying with CALTRANS’ Local Assistance Procedures Manual sent out an RFP for Professional Engineering Services on June 5, 2013. Before the due date the City received five inquiries.

DISCUSSION:

On July 5, 2013, only 2 proposals were submitted and interviews were scheduled for July 23, 2013 in front of the City Council. Engineering proposals were provided to the City Council and interviews were conducted. The City Council had the opportunity to ask questions and review provided material. On August 6, 2013, the City Council decided not to select any of the Engineering Firms and directed staff to send out an RFP for Professional Engineering Services for a 30-day timeframe once again.

On September 23, 2013, staff received proposals from a total of three firms and at least 3 inquiries from other engineering firms that didn't submit.

FISCAL IMPACT:

Costs for services provided by Professional Engineering Services are paid from an array of funding sources, General Fund, Enterprise Funds, New Development, Special Projects and Grants.

ATTACHMENTS:

1. Resolution No. 2013-__
2. Professional Engineering Proposals (Previously submitted to City Council)
3. Professional Services Agreement

RESOLUTION NO. 2013-50

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH GOUVEIA
ENGINEERING, INC. TO PROVIDE CONTRACT ENGINEERING STAFF SUPPORT
SERVICES FOR THE CITY OF LIVINGSTON AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT IN A FORM APPROVED BY THE
CITY ATTORNEY**

WHEREAS, in order to comply with Caltrans Local Assistance Procedures Manual, the City issued a Request for Proposals for Engineering Staff Support Services. Proposals were due on July 5, 2013; and

WHEREAS, on July 23, 2013, the City Council interviewed the firms that submitted proposals; and

WHEREAS, on August 6, 2013, the City Council decided not to make a selection and directed staff to once again send out an RFP for Professional Engineering Services for a 30-day timeframe with a due date of September 23, 2013; and

WHEREAS, only one new firm submitted a proposal by the September 23, 2013, due date; and

WHEREAS, on October 1, 2013, the City Council interviewed the firm that submitted the proposal, but will consider the previous two firms; and

WHEREAS, the City Council desires to enter into a Professional Services Agreement with Gouveia Engineering, Inc. to provide contract engineering staff support services to the City from October 1, 2013 to October 1, 2016; and

WHEREAS, Gouveia Engineering, Inc. will be responsible for overseeing the functions of the Engineering Division and assisting the City Manager in the functions of the Public Works Department and Community Development Department; and

WHEREAS, Gouveia Engineering, Inc. will be providing development review, permit processing, capital projects design, bidding, contract administration, inspections, grant application preparation and grant administration for the City of Livingston and other duties as assigned; and

WHEREAS, the City desires to enter into a Professional Engineering Services Agreement for a term of (3) years between the City of Livingston and Gouveia Engineering, Inc.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livingston hereby adopts Resolution No. 2013-50 approving an Agreement with Gouveia Engineering, Inc. to provide engineering contract staff support services, and authorizing the City Manager to

execute the Professional Engineering Services Agreement in a form approved by the City Attorney.

Passed and adopted this 1st day of October, 2013, by the following vote:

AYES: Mayor Espinoza and Council Members Mendoza, Sicairos and Soria
NOES: Mayor Pro-Tem Samra
ABSENT: None

Rodrigo Espinoza, Mayor
of the City of Livingston

ATTEST:

I, hereby certify that the foregoing resolution was regularly introduced, passed and adopted at a Regular Meeting of the City Council of the City of Livingston this 1st day of October, 2013.
2013.

Betty Cota, Deputy City Clerk
of the City of Livingston